

major league baseball team. The legislation subjects the owners to the antitrust laws when they unilaterally decide to eliminate or relocate a team.

In all other respects, the bill tracks the Curt Flood Act of 1997, which repealed the antitrust laws as they apply to the employment of major league baseball players. As with the Curt Flood Act, the bill is carefully crafted to ensure that it does not limit any prerogatives of the minor leagues.

We proceed from a pragmatic desire to achieve a broad base of support in Congress. With the help of the Administration, we could push this measure forward.

As Senator DAYTON and I noted last week in a letter to the President, achieving Congressional action on this legislation will be exceedingly difficult in view of other urgent legislative issues facing Congress and the Administration. We will need the President to weigh in on this and I once again call on him to do so.

Mr. President, we must act to hold major league baseball owners accountable for their decisions. I urge my colleagues to join us in co-sponsoring this measure.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2122. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table.

SA 2123. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2124. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2125. Mr. BAUCUS proposed an amendment to the bill H.R. 3090, supra.

SA 2126. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2127. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2128. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2129. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2130. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2131. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2132. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2133. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2134. Mr. SMITH of Oregon submitted an amendment intended to be proposed by

him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2135. Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2136. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2137. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2138. Mr. GRAHAM (for himself, Mrs. LINCOLN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2139. Mr. GRAHAM (for himself and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2140. Mr. KERRY (for himself, Mr. LIEBERMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2141. Ms. COLLINS (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2142. Mr. SMITH of New Hampshire (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2143. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2144. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2145. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2146. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2147. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

SA 2148. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by him to the bill H.R. 3090, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2122. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . MODIFICATIONS TO SMALL ISSUE BOND PROVISIONS.

(a) INCREASE IN AMOUNT OF QUALIFIED SMALL ISSUE BONDS PERMITTED FOR FACILITIES TO BE USED BY RELATED PRINCIPAL USERS.—

(1) IN GENERAL.—Clause (i) of section 144(a)(4)(A) (relating to \$10,000,000 limit in certain cases) is amended by striking “\$10,000,000” and inserting “\$20,000,000”.

(2) COST-OF-LIVING ADJUSTMENT.—Section 144(a)(4) is amended by adding at the end the following:

“(G) COST-OF-LIVING ADJUSTMENT.—In the case of a taxable year beginning in a calendar year after 2002, the \$20,000,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by
“(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.”

(3) CLERICAL AMENDMENT.—The heading of paragraph (4) of section 144(a) is amended by striking “\$10,000,000” and inserting “\$20,000,000”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to—

(A) obligations issued after the date of the enactment of this Act, and

(B) capital expenditures made after such date with respect to obligations issued on or before such date.

(b) DEFINITION OF MANUFACTURING FACILITY.—

(1) IN GENERAL.—Section 144(a)(12)(C) (relating to definition of manufacturing facility) is amended to read as follows:

“(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term ‘manufacturing facility’ means any facility which is used in—

“(i) the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property),

“(ii) the manufacturing, development, or production of specifically developed software products or processes if—

“(I) it takes more than 6 months to develop or produce such products,

“(II) the development or production could not with due diligence be reasonably expected to occur in less than 6 months, and

“(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

“(iii) the manufacturing, development, or production of specially developed biobased or bioenergy products or processes if—

“(I) it takes more than 6 months to develop or produce,

“(II) the development or production could not with due diligence be reasonably expected to occur in less than 6 months, and

“(III) the biobased or bioenergy product or process comprises products, processes, programs, routines, and attendant documentation developed and maintained for the utilization of biological materials in commercial or industrial products, for the utilization of renewable domestic agricultural or forestry materials in commercial or industrial products, or for the utilization of biomass materials.

“(D) RELATED FACILITIES.—For purposes of subparagraph (C), the term ‘manufacturing facility’ includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

“(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

“(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility, but shall not include a facility used solely for research and development activities.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to obligations issued after the date of the enactment of this Act.

SA 2123. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. 9 . FEDERAL-AID HIGHWAY PROGRAMS.

(a) INCREASE IN OBLIGATION AUTHORITY.—

(1) IN GENERAL.—In addition to any obligation authority provided by any other law enacted before, on, or after the date of enactment of this Act, \$5,000,000,000 in obligation authority shall be made available for fiscal year 2002 for obligation of funds apportioned under section 104(b) of title 23, United States Code.

(2) DISTRIBUTION OF OBLIGATION AUTHORITY.—The obligation authority made available by paragraph (1) shall be distributed—

(A) to each State in accordance with the percentage specified for the State in section 105(b) of title 23, United States Code; and

(B) subject to the redistribution of unused obligation authority using the method prescribed in section 1102(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 117).

(b) TEMPORARY INCREASE OF FEDERAL SHARE.—

(1) DEFINITION OF QUALIFYING PROJECT.—In this section, the term “qualifying project” means a construction project under title 23, United States Code, with respect to which a project agreement is executed during the period beginning October 1, 2001, and ending September 30, 2002.

(2) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share of the cost of a qualifying project shall be a percentage of the cost of the qualifying project specified by the State, up to 100 percent.

(3) REPAYMENT.—

(A) IN GENERAL.—A State that receives an increased Federal share under paragraph (2) with respect to 1 or more qualifying projects shall repay to the United States the total amount of the increased Federal share with respect to all such qualifying projects of the State not later than September 30, 2003.

(B) TREATMENT.—Each repayment by a State under subparagraph (A) shall be deposited in the Highway Trust Fund and credited to the appropriate apportionment accounts of the State.

SA 2124. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following and redesignate accordingly:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Securing America’s Future Energy Act of 2001” or the “SAFE Act of 2001”.

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

- Sec. 1. Short title and table of contents.
Sec. 2. Energy policy.

DIVISION A

Sec. 100. Short title.

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

Sec. 101. Authorization of appropriations.

Subtitle B—Federal Leadership in Energy Conservation

Sec. 121. Federal facilities and national energy security.

Sec. 122. Enhancement and extension of authority relating to Federal energy savings performance contracts.

Sec. 123. Clarification and enhancement of authority to enter utility incentive programs for energy savings.

Sec. 124. Federal central air conditioner and heat pump efficiency.

Sec. 125. Advanced building efficiency testbed.

Sec. 126. Use of interval data in Federal buildings.

Sec. 127. Review of Energy Savings Performance Contract program.

Sec. 128. Capitol complex.

Subtitle C—State Programs

Sec. 131. Amendments to State energy programs.

Sec. 132. Reauthorization of energy conservation program for schools and hospitals.

Sec. 133. Amendments to Weatherization Assistance Program.

Sec. 134. LIHEAP.

Sec. 135. High performance public buildings.

Subtitle D—Energy Efficiency for Consumer Products

Sec. 141. Energy Star program.

Sec. 141A. Energy sun renewable and alternative energy program.

Sec. 142. Labeling of energy efficient appliances.

Sec. 143. Appliance standards.

Subtitle E—Energy Efficient Vehicles

Sec. 151. High occupancy vehicle exception.

Sec. 152. Railroad efficiency.

Sec. 153. Biodiesel fuel use credits.

Sec. 154. Mobile to stationary source trading.

Subtitle F—Other Provisions

Sec. 161. Review of regulations to eliminate barriers to emerging energy technology.

Sec. 162. Advanced idle elimination systems.

Sec. 163. Study of benefits and feasibility of oil bypass filtration technology.

Sec. 164. Gas flare study.

Sec. 165. Telecommuting study.

TITLE II—AUTOMOBILE FUEL ECONOMY

Sec. 201. Average fuel economy standards for nonpassenger automobiles.

Sec. 202. Consideration of prescribing different average fuel economy standards for nonpassenger automobiles.

Sec. 203. Dual fueled automobiles.

Sec. 204. Fuel economy of the Federal fleet of automobiles.

Sec. 205. Hybrid vehicles and alternative vehicles.

Sec. 206. Federal fleet petroleum-based non-alternative fuels.

Sec. 207. Study of feasibility and effects of reducing use of fuel for automobiles.

TITLE III—NUCLEAR ENERGY

Sec. 301. License period.

Sec. 302. Cost recovery from Government agencies.

Sec. 303. Depleted uranium hexafluoride.

Sec. 304. Nuclear Regulatory Commission meetings.

Sec. 305. Cooperative research and development and special demonstration projects for the uranium mining industry.

Sec. 306. Maintenance of a viable domestic uranium conversion industry.

Sec. 307. Paducah decontamination and decommissioning plan.

Sec. 308. Study to determine feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites.

Sec. 309. Prohibition of commercial sales of uranium by the United States until 2009.

TITLE IV—HYDROELECTRIC ENERGY

Sec. 401. Alternative conditions and fishways.

Sec. 402. FERC data on hydroelectric licensing.

TITLE V—FUELS

Sec. 501. Tank draining during transition to summertime RFG.

Sec. 502. Gasoline blendstock requirements.

Sec. 503. Boutique fuels.

Sec. 504. Funding for MTBE contamination.

TITLE VI—RENEWABLE ENERGY

Sec. 601. Assessment of renewable energy resources.

Sec. 602. Renewable energy production incentive.

Sec. 603. Study of ethanol from solid waste loan guarantee program.

Sec. 604. Study of renewable fuel content.

TITLE VII—PIPELINES

Sec. 701. Prohibition on certain pipeline route.

Sec. 702. Historic pipelines.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Waste reduction and use of alternatives.

Sec. 802. Annual report on United States energy independence.

Sec. 803. Study of aircraft emissions.

DIVISION B

Sec. 2001. Short title.

Sec. 2002. Findings.

Sec. 2003. Purposes.

Sec. 2004. Goals.

Sec. 2005. Definitions.

Sec. 2006. Authorizations.

Sec. 2007. Balance of funding priorities.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

Sec. 2101. Short title.

Sec. 2102. Definitions.

Sec. 2103. Pilot program.

Sec. 2104. Reports to Congress.

Sec. 2105. Authorization of appropriations.

Subtitle B—Distributed Power Hybrid Energy Systems

Sec. 2121. Findings.

Sec. 2122. Definitions.

Sec. 2123. Strategy.

Sec. 2124. High power density industry program.

Sec. 2125. Micro-cogeneration energy technology.

Sec. 2126. Program plan.

Sec. 2127. Report.

Sec. 2128. Voluntary consensus standards.

Subtitle C—Secondary Electric Vehicle Battery Use

Sec. 2131. Definitions.

Sec. 2132. Establishment of secondary electric vehicle battery use program.

Sec. 2133. Authorization of appropriations.

Subtitle D—Green School Buses

Sec. 2141. Short title.

Sec. 2142. Establishment of pilot program.

Sec. 2143. Fuel cell bus development and demonstration program.

Sec. 2144. Authorization of appropriations.

Subtitle E—Next Generation Lighting Initiative

Sec. 2151. Short title.

Sec. 2152. Definition.

Sec. 2153. Next Generation Lighting Initiative.

Sec. 2154. Study.

Sec. 2155. Grant program.

- Subtitle F—Department of Energy
Authorization of Appropriations
- Sec. 2161. Authorization of appropriations.
- Subtitle G—Environmental Protection Agency Office of Air and Radiation
Authorization of Appropriations
- Sec. 2171. Short title.
- Sec. 2172. Authorization of appropriations.
- Sec. 2173. Limits on use of funds.
- Sec. 2174. Cost sharing.
- Sec. 2175. Limitation on demonstration and commercial applications of energy technology.
- Sec. 2176. Reprogramming.
- Sec. 2177. Budget request format.
- Sec. 2178. Other provisions.
- Subtitle H—National Building Performance Initiative
- Sec. 2181. National Building Performance Initiative.
- TITLE II—RENEWABLE ENERGY**
- Subtitle A—Hydrogen
- Sec. 2201. Short title.
- Sec. 2202. Purposes.
- Sec. 2203. Definitions.
- Sec. 2204. Reports to Congress.
- Sec. 2205. Hydrogen research and development.
- Sec. 2206. Demonstrations.
- Sec. 2207. Technology transfer.
- Sec. 2208. Coordination and consultation.
- Sec. 2209. Advisory Committee.
- Sec. 2210. Authorization of appropriations.
- Sec. 2211. Repeal.
- Subtitle B—Bioenergy
- Sec. 2221. Short title.
- Sec. 2222. Findings.
- Sec. 2223. Definitions.
- Sec. 2224. Authorization.
- Sec. 2225. Authorization of appropriations.
- Subtitle C—Transmission Infrastructure Systems
- Sec. 2241. Transmission infrastructure systems research, development, demonstration, and commercial application.
- Sec. 2242. Program plan.
- Sec. 2243. Report.
- Subtitle D—Department of Energy
Authorization of Appropriations
- Sec. 2261. Authorization of appropriations.
- TITLE III—NUCLEAR ENERGY**
- Subtitle A—University Nuclear Science and Engineering
- Sec. 2301. Short title.
- Sec. 2302. Findings.
- Sec. 2303. Department of Energy program.
- Sec. 2304. Authorization of appropriations.
- Subtitle B—Advanced Fuel Recycling Technology Research and Development Program
- Sec. 2321. Program.
- Subtitle C—Department of Energy
Authorization of Appropriations
- Sec. 2341. Nuclear Energy Research Initiative.
- Sec. 2342. Nuclear Energy Plant Optimization program.
- Sec. 2343. Nuclear energy technologies.
- Sec. 2344. Authorization of appropriations.
- TITLE IV—FOSSIL ENERGY**
- Subtitle A—Coal
- Sec. 2401. Coal and related technologies programs.
- SUBTITLE B—OIL AND GAS
- Sec. 2421. Petroleum-oil technology.
- Sec. 2422. Natural gas.
- Sec. 2423. Natural gas and oil deposits report.
- Sec. 2424. Oil shale research.
- Subtitle C—Ultra-Deepwater and Unconventional Drilling
- Sec. 2441. Short title.
- Sec. 2442. Definitions.
- Sec. 2443. Ultra-deepwater program.
- Sec. 2444. National Energy Technology Laboratory.
- Sec. 2445. Advisory Committee.
- Sec. 2446. Research Organization.
- Sec. 2447. Grants.
- Sec. 2448. Plan and funding.
- Sec. 2449. Audit.
- Sec. 2450. Fund.
- Sec. 2451. Sunset.
- Subtitle D—Fuel Cells
- Sec. 2461. Fuel cells.
- SUBTITLE E—DEPARTMENT OF ENERGY
AUTHORIZATION OF APPROPRIATIONS
- Sec. 2481. Authorization of appropriations.
- TITLE V—SCIENCE**
- Subtitle A—Fusion Energy Sciences
- Sec. 2501. Short title.
- Sec. 2502. Findings.
- Sec. 2503. Plan for fusion experiment.
- Sec. 2504. Plan for fusion energy sciences program.
- Sec. 2505. Authorization of appropriations.
- Subtitle B—Spallation Neutron Source
- Sec. 2521. Definition.
- Sec. 2522. Authorization of appropriations.
- Sec. 2523. Report.
- Sec. 2524. Limitations.
- Subtitle C—Facilities, Infrastructure, and User Facilities
- Sec. 2541. Definition.
- Sec. 2542. Facility and infrastructure support for nonmilitary energy laboratories.
- Sec. 2543. User facilities.
- Subtitle D—Advisory Panel on Office of Science
- Sec. 2561. Establishment.
- Sec. 2562. Report.
- Subtitle E—Department of Energy
Authorization of Appropriations
- Sec. 2581. Authorization of appropriations.
- TITLE VI—MISCELLANEOUS**
- Subtitle A—General Provisions for the Department of Energy
- Sec. 2601. Research, development, demonstration, and commercial application of energy technology programs, projects, and activities.
- Sec. 2602. Limits on use of funds.
- Sec. 2603. Cost sharing.
- Sec. 2604. Limitation on demonstration and commercial application of energy technology.
- Sec. 2605. Reprogramming.
- Subtitle B—Other Miscellaneous Provisions
- Sec. 2611. Notice of reorganization.
- Sec. 2612. Limits on general plant projects.
- Sec. 2613. Limits on construction projects.
- Sec. 2614. Authority for conceptual and construction design.
- Sec. 2615. National Energy Policy Development Group mandated reports.
- Sec. 2616. Periodic reviews and assessments.
- DIVISION D**
- Sec. 4101. Capacity building for energy-efficient, affordable housing.
- Sec. 4102. Increase of CDBG public services cap for energy conservation and efficiency activities.
- Sec. 4103. FHA mortgage insurance incentives for energy efficient housing.
- Sec. 4104. Public housing capital fund.
- Sec. 4105. Grants for energy-conserving improvements for assisted housing.
- Sec. 4106. North American Development Bank.
- DIVISION E**
- Sec. 5000. Short title.
- Sec. 5001. Findings.
- Sec. 5002. Definitions.
- Sec. 5003. Clean coal power initiative.
- Sec. 5004. Cost and performance goals.
- Sec. 5005. Authorization of appropriations.
- Sec. 5006. Project criteria.
- Sec. 5007. Study.
- Sec. 5008. Clean coal centers of excellence.
- DIVISION F**
- Sec. 6000. Short title.
- TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY**
- Sec. 6101. Study of existing rights-of-way on Federal lands to determine capability to support new pipelines or other transmission facilities.
- Sec. 6102. Inventory of energy production potential of all Federal public lands.
- Sec. 6103. Review of regulations to eliminate barriers to emerging energy technology.
- Sec. 6104. Interagency agreement on environmental review of interstate natural gas pipeline projects.
- Sec. 6105. Enhancing energy efficiency in management of Federal lands.
- Sec. 6106. Efficient infrastructure development.
- TITLE II—OIL AND GAS DEVELOPMENT**
- Subtitle A—Offshore Oil and Gas
- Sec. 6201. Short title.
- Sec. 6202. Lease sales in Western and Central Planning Area of the Gulf of Mexico.
- Sec. 6203. Savings clause.
- Sec. 6204. Analysis of Gulf of Mexico field size distribution, international competitiveness, and incentives for development.
- Subtitle B—Improvements to Federal Oil and Gas Management
- Sec. 6221. Short title.
- Sec. 6222. Study of impediments to efficient lease operations.
- Sec. 6223. Elimination of unwarranted denials and stays.
- Sec. 6224. Limitations on cost recovery for applications.
- Sec. 6225. Consultation with Secretary of Agriculture.
- Subtitle C—Miscellaneous
- Sec. 6231. Offshore subsalt development.
- Sec. 6232. Program on oil and gas royalties in kind.
- Sec. 6233. Marginal well production incentives.
- Sec. 6234. Reimbursement for costs of NEPA analyses, documentation, and studies.
- Sec. 6235. Encouragement of State and provincial prohibitions on offshore drilling in the Great Lakes.
- TITLE III—GEOTHERMAL ENERGY DEVELOPMENT**
- Sec. 6301. Royalty reduction and relief.
- Sec. 6302. Exemption from royalties for direct use of low temperature geothermal energy resources.
- Sec. 6303. Amendments relating to leasing on Forest Service lands.
- Sec. 6304. Deadline for determination on pending noncompetitive lease applications.
- Sec. 6305. Opening of public lands under military jurisdiction.
- Sec. 6306. Application of amendments.
- Sec. 6307. Review and report to Congress.
- Sec. 6308. Reimbursement for costs of NEPA analyses, documentation, and studies.
- TITLE IV—HYDROPOWER**
- Sec. 6401. Study and report on increasing electric power production capability of existing facilities.

- Sec. 6402. Installation of powerformer at Folsom power plant, California.
- Sec. 6403. Study and implementation of increased operational efficiencies in hydroelectric power projects.
- Sec. 6404. Shift of project loads to off-peak periods.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

- Sec. 6501. Short title.
- Sec. 6502. Definitions.
- Sec. 6503. Leasing program for lands within the Coastal Plain.
- Sec. 6504. Lease sales.
- Sec. 6505. Grant of leases by the Secretary.
- Sec. 6506. Lease terms and conditions.
- Sec. 6507. Coastal Plain environmental protection.
- Sec. 6508. Expedited judicial review.
- Sec. 6509. Rights-of-way across the Coastal Plain.
- Sec. 6510. Conveyance.
- Sec. 6511. Local government impact aid and community service assistance.
- Sec. 6512. Revenue allocation.

TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

- Sec. 6601. Energy conservation by the Department of the Interior.
- Sec. 6602. Amendment to Buy Indian Act.

TITLE VII—COAL

- Sec. 6701. Limitation on fees with respect to coal lease applications and document.
- Sec. 6702. Mining plans.
- Sec. 6703. Payment of advance royalties under coal leases.
- Sec. 6704. Elimination of deadline for submission of coal lease operation and reclamation plan.

TITLE VIII—INSULAR AREAS ENERGY SECURITY

- Sec. 6801. Insular areas energy security.

DIVISION G

- Sec. 7101. Buy American.

SEC. 2. ENERGY POLICY.

It shall be the sense of the Congress that the United States should take all actions necessary in the areas of conservation, efficiency, alternative energy sources, technology development, and domestic production to reduce the United States dependence on foreign energy sources from 56 percent to 45 percent by January 1, 2012, and to reduce United States dependence on Iraqi energy sources from 700,000 barrels per day to 250,000 barrels per day by January 1, 2012.

DIVISION A

SEC. 100. SHORT TITLE.

This division may be cited as the “Energy Advancement and Conservation Act of 2001”.

TITLE I—ENERGY CONSERVATION

Subtitle A—Reauthorization of Federal Energy Conservation Programs

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 660 of the Department of Energy Organization Act (42 U.S.C. 7270) is amended as follows:

- (1) By inserting “(a)” before “Appropriations”.
- (2) By inserting at the end the following new subsection:

“(b) There are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002, \$950,000,000; for fiscal year 2003, \$1,000,000,000; for fiscal year 2004, \$1,050,000,000; for fiscal year 2005, \$1,100,000,000; and for fiscal year 2006, \$1,150,000,000, to carry out energy efficiency activities under the following laws, such sums to remain available until expended:

“(1) Energy Policy and Conservation Act, including section 256(d)(42 U.S.C. 6276(d))

(promote export of energy efficient products), sections 321 through 346 (42 U.S.C. 6291–6317) (appliances program).

“(2) Energy Conservation and Production Act, including sections 301 through 308 (42 U.S.C. 6831–6837) (energy conservation standards for new buildings).

“(3) National Energy Conservation Policy Act, including sections 541–551 (42 U.S.C. 8251–8259) (Federal Energy Management Program).

(4) Energy Policy Act of 1992, including sections 103 (42 U.S.C. 13458) (energy efficient lighting and building centers), 121 (42 U.S.C. 6292 note) (energy efficiency labeling for windows and window systems), 125 (42 U.S.C. 6292 note) (energy efficiency information for commercial office equipment), 126 (42 U.S.C. 6292 note) (energy efficiency information for luminaires), 131 (42 U.S.C. 6348) (energy efficiency in industrial facilities), and 132 (42 U.S.C. 6349) (process-oriented industrial energy efficiency).”

Subtitle B—Federal Leadership in Energy Conservation

SEC. 121. FEDERAL FACILITIES AND NATIONAL ENERGY SECURITY.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting “, and generally to promote the production, supply, and marketing of energy efficiency products and services and the production, supply, and marketing of unconventional and renewable energy resources” after “by the Federal Government”.

(b) ENERGY MANAGEMENT REQUIREMENTS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended as follows:

- (1) In subsection (a)(1), by striking “during the fiscal year 1995” and all that follows through the end and inserting “during—
- “(1) fiscal year 1995 is at least 10 percent;
- “(2) fiscal year 2000 is at least 20 percent;
- “(3) fiscal year 2005 is at least 30 percent;
- “(4) fiscal year 2010 is at least 35 percent;
- “(5) fiscal year 2015 is at least 40 percent;
- and

“(6) fiscal year 2020 is at least 45 percent, less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985. To achieve the reductions required by this paragraph, an agency shall make maximum practicable use of energy efficiency products and services and unconventional and renewable energy resources, using guidelines issued by the Secretary under subsection (d) of this section.”.

(2) In subsection (d), by inserting “Such guidelines shall include appropriate model technical standards for energy efficiency and unconventional and renewable energy resources products and services. Such standards shall reflect, to the extent practicable, evaluation of both currently marketed and potentially marketable products and services that could be used by agencies to improve energy efficiency and increase unconventional and renewable energy resources.” after “implementation of this part.”.

(3) By adding at the end the following new subsection:

“(e) STUDIES.—To assist in developing the guidelines issued by the Secretary under subsection (d) and in furtherance of the purposes of this section, the Secretary shall conduct studies to identify and encourage the production and marketing of energy efficiency products and services and unconventional and renewable energy resources. To conduct such studies, and to provide grants to accelerate the use of unconventional and renewable energy, there are authorized to be appropriated to the Secretary \$20,000,000 for each of the fiscal years 2003 through 2010.”.

(c) DEFINITION.—Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259) is amended as follows:

(1) By striking “and” at the end of paragraph (8).

(2) By striking the period at the end of paragraph (9) and inserting “; and”.

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

“(10) the term “unconventional and renewable energy resources” includes renewable energy sources, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.”.

(d) EXCLUSIONS FROM REQUIREMENT.—The National Energy Conservation Policy Act (42 U.S.C. 7201 and following) is amended as follows:

(1) In section 543(a)—

(A) by striking “(1) Subject to paragraph (2)” and inserting “Subject to subsection (c)”; and

(B) by striking “(2) An agency” and all that follows through “such exclusion.”.

(2) By amending subsection (c) of such section 543 to read as follows:

“(c) EXCLUSIONS.—(1) A Federal building may be excluded from the requirements of subsections (a) and (b) only if—

“(A) the President declares the building to require exclusion for national security reasons; and

“(B) the agency responsible for the building has—

“(i) completed and submitted all federally required energy management reports; and

“(ii) achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law;

“(iii) implemented all practical, life cycle cost-effective projects in the excluded building.

“(2) The President shall only declare buildings described in paragraph (1)(A) to be excluded, not ancillary or nearby facilities that are not in themselves national security facilities.”.

(3) In section 548(b)(1)(A)—

(A) by striking “copy of the”; and

(B) by striking “sections 543(a)(2) and 543(c)(3)” and inserting “section 543(c)”.

(e) ACQUISITION REQUIREMENT.—Section 543(b) of such Act is amended—

(1) in paragraph (1), by striking “(1) Not” and inserting “(1) Except as provided in paragraph (5), not”; and

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

“(5)(A)(i) Agencies shall select only Energy Star products when available when acquiring energy-using products. For product groups where Energy Star labels are not yet available, agencies shall select products that are in the upper 25 percent of energy efficiency as designated by FEMP. In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficiency motors that meet a standard designated by the Secretary, and shall replace (not rewind) failed motors with motors meeting such standard. The Secretary shall designate such standard within 90 days of the enactment of paragraph, after considering recommendations by the National Electrical Manufacturers Association. The Secretary of Energy shall develop guidelines within 180 days after the enactment of this paragraph for exemptions to this section when equivalent products do not exist, are impractical, or do not meet the agency mission requirements.

“(ii) The Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency), with assistance from the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall create clear catalogue listings that designate Energy Star products in both print and electronic formats. After any existing

federal inventories are exhausted, Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency) shall only replace inventories with energy-using products that are Energy Star, products that are rated in the top 25 percent of energy efficiency, or products that are exempted as designated by FEMP and defined in clause (i).

“(iii) Agencies shall incorporate energy-efficient criteria consistent with Energy Star and other FEMP designated energy efficiency levels into all guide specifications and project specifications developed for new construction and renovation, as well as into product specification language developed for Basic Ordering Agreements, Blanket Purchasing Agreements, Government Wide Acquisition Contracts, and all other purchasing procedures.

“(iv) The legislative branch shall be subject to this subparagraph to the same extent and in the same manner as are the Federal agencies referred to in section 521(1).

“(B) Not later than 6 months after the date of the enactment of this paragraph, the Secretary of Energy shall establish guidelines defining the circumstances under which an agency shall not be required to comply with subparagraph (A). Such circumstances may include the absence of Energy Star products, systems, or designs that serve the purpose of the agency, issues relating to the compatibility of a product, system, or design with existing buildings or equipment, and excessive cost compared to other available and appropriate products, systems, or designs.

“(C) Subparagraph (A) shall apply to agency acquisitions occurring on or after October 1, 2002.”

(f) **METERING.**—Section 543 of such Act (42 U.S.C. 8254) is amended by adding at the end the following new subsection:

“(f) **METERING.**—(1) By October 1, 2004, all Federal buildings including buildings owned by the legislative branch and the Federal court system and other energy-using structures shall be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2).

“(2) Not later than 6 months after the date of the enactment of this subsection, the Secretary, in consultation with the General Services Administration and representatives from the metering industry, energy services industry, national laboratories, colleges of higher education, and federal facilities energy managers, shall establish guidelines for agencies to carry out paragraph (1). Such guidelines shall take into consideration each of the following:

“(A) Cost.
“(B) Resources, including personnel, required to maintain, interpret, and report on data so that the meters are continually reviewed.

“(C) Energy management potential.

“(D) Energy savings.

“(E) Utility contract aggregation.

“(F) Savings from operations and maintenance.

“(3) A building shall be exempt from the requirement of this section to the extent that compliance is deemed impractical by the Secretary. A finding of impracticability shall be based on the same factors as identified in subsection (c) of this section.”

(g) **RETENTION OF ENERGY SAVINGS.**—Section 546 of such Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

“(e) **RETENTION OF ENERGY SAVINGS.**—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only

for energy efficiency or unconventional and renewable energy resources projects.”

(h) **REPORTS.**—Section 548 of such Act (42 U.S.C. 8258) is amended as follows:

(1) In subsection (a)—

(A) by inserting “in accordance with guidelines established by and” after “to the Secretary.”;

(B) by striking “and” at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting a semicolon; and

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

“(3) an energy emergency response plan developed by the agency.”.

(2) In subsection (b)—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

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

“(5) all information transmitted to the Secretary under subsection (a).”.

(3) By amending subsection (c) to read as follows:

“(c) **AGENCY REPORTS TO CONGRESS.**—Each agency shall annually report to the Congress, as part of the agency’s annual budget request, on all of the agency’s activities implementing any Federal energy management requirement.”.

(i) **INSPECTOR GENERAL ENERGY AUDITS.**—Section 160(c) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(c)) is amended by striking “is encouraged to conduct periodic” and inserting “shall conduct periodic”.

(j) **FEDERAL ENERGY MANAGEMENT REVIEWS.**—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

“(g) **PRIORITY RESPONSE REVIEWS.**—Each agency shall—

“(1) not later than 9 months after the date of the enactment of this subsection, undertake a comprehensive review of all practicable measures for—

“(A) increasing energy and water conservation, and

“(B) using renewable energy sources; and

“(2) not later than 180 days after completing the review, develop plans to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review. The agency shall implement such measures as soon thereafter as is practicable, consistent with compliance with the requirements of this section.”.

SEC. 122. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO FEDERAL ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) **EXPANSION OF DEFINITION OF ENERGY SAVINGS TO INCLUDE WATER.**—

(1) **ENERGY SAVINGS.**—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

“(2) The term “energy savings” means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

“(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

“(ii) the increased efficient use of existing energy sources by solar and ground source geothermal resources, cogeneration or heat recovery (including by the use of a Stirling heat engine), excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

“(iii) the increased efficient use of existing water sources.”.

(2) **ENERGY SAVINGS CONTRACT.**—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

“(3) The terms “energy savings contract” and “energy savings performance contract” mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.”.

(3) **ENERGY OR WATER CONSERVATION MEASURE.**—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

“(4) The term “energy or water conservation measure” means—

“(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

“(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.”.

(4) **CONFORMING AMENDMENT.**—Section 801(a)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(C)) is amended by inserting “or water” after “financing energy”.

(b) **EXTENSION OF AUTHORITY.**—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) **CONTRACTING AND AUDITING.**—Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following new subparagraph:

“(E) A Federal agency shall engage in contracting and auditing to implement energy savings performance contracts as necessary and appropriate to ensure compliance with the requirements of this Act, particularly the energy efficiency requirements of section 543.”.

SEC. 123. CLARIFICATION AND ENHANCEMENT OF AUTHORITY TO ENTER UTILITY INCENTIVE PROGRAMS FOR ENERGY SAVINGS.

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended as follows:

(1) In paragraph (3) by adding at the end the following: “Such a utility incentive program may include a contract or contract term designed to provide for cost-effective electricity demand management, energy efficiency, or water conservation.”.

(2) By adding at the end of the following new paragraph:

“(6) Federal agencies are encouraged to participate in State or regional demand side reduction programs, including those operated by wholesale market institutions such as independent system operators, regional transmission organizations and other entities. The availability of such programs, and the savings resulting from such participation, should be included in the evaluation of energy options for Federal facilities.”.

SEC. 124. FEDERAL CENTRAL AIR CONDITIONER AND HEAT PUMP EFFICIENCY.

(a) **REQUIREMENT.**—Federal agencies shall be required to acquire central air conditioners and heat pumps that meet or exceed the standards established under subsection (b) or (c) in the case of all central air conditioners and heat pumps acquired after the date of the enactment of this Act.

(b) **STANDARDS.**—The standards referred to in subsection (a) are the following:

(1) For air-cooled air conditioners with cooling capacities of less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12.0.

(2) For air-source heat pumps with cooling capacities less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12 SEER, and a Heating Seasonal Performance Factor of 7.4.

(c) MODIFIED STANDARDS.—The Secretary of Energy may establish, after appropriate notice and comment, revised standards providing for reduced energy consumption or increased energy efficiency of central air conditioners and heat pumps acquired by the Federal Government, but may not establish standards less rigorous than those established by subsection (b).

(d) DEFINITIONS.—For purposes of this section, the terms “Energy Efficiency Ratio”, “Seasonal Energy Efficiency Ratio”, “Heating Seasonal Performance Factor”, and “Coefficient of Performance” have the meanings used for those terms in Appendix M to Subpart B of Part 430 of title 10 of the Code of Federal Regulations, as in effect on May 24, 2001.

(e) EXEMPTIONS.—An agency shall be exempt from the requirements of this section with respect to air conditioner or heat pump purchases for particular uses where the agency head determines that purchase of a air conditioner or heat pump for such use would be impractical. A finding of impracticability shall be based on whether—

(1) the energy savings pay-back period for such purchase would be less than 10 years;

(2) space constraints or other technical factors would make compliance with this section cost-prohibitive; or

(3) in the case of the Departments of Defense and Energy, compliance with this section would be inconsistent with the proper discharge of national security functions.

SEC. 125. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate government and industry building efficiency concepts, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health as well as flexibility and technological change to improve environmental sustainability.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university having demonstrated experience with the application of intelligent workplaces and advanced building systems in improving the quality of built environments. Such university shall also have the ability to combine the expertise from more than 12 academic fields, including electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section \$18,000,000 for fiscal year 2002, to remain available until expended, of which \$6,000,000 shall be provided to the lead university described in subsection (b), and the remainder shall be provided equally to each of the other participants referred to in subsection (b).

SEC. 126. USE OF INTERVAL DATA IN FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following

new subsection: “(h) USE OF INTERVAL DATA IN FEDERAL BUILDINGS.—Not later than January 1, 2003, each agency shall utilize, to the maximum extent practicable, for the purposes of efficient use of energy and reduction in the cost of electricity consumed in its Federal buildings, interval consumption data that measure on a real time or daily basis consumption of electricity in its Federal buildings. To meet the requirements of this subsection each agency shall prepare and submit at the earliest opportunity pursuant to section 548(a) to the Secretary, a plan describing how the agency intends to meet such requirements, including how it will designate personnel primarily responsible for achieving such requirements, and otherwise implement this subsection.”

SEC. 127. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 128. CAPITOL COMPLEX.

(a) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capitol Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(b) AUTHORIZATION.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section, not more than \$2,000,000 for fiscal years after the enactment of this Act.

Subtitle C—State Programs

SEC. 131. AMENDMENTS TO STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended by inserting “Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of the enactment of Energy Advancement and Conservation Act of 2001,

shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2010 as compared to the calendar year 1990, and may contain interim goals.” after “contain interim goals.”

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary” and inserting “\$75,000,000 for fiscal year 2002, \$100,000,000 for fiscal years 2003 and 2004, \$125,000,000 for fiscal year 2005”.

SEC. 132. REAUTHORIZATION OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended by striking “2003” and inserting “2010”.

SEC. 133. AMENDMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary” and inserting “\$273,000,000 for fiscal year 2002, \$325,000,000 for fiscal year 2003, \$400,000,000 for fiscal year 2004, and \$500,000,000 for fiscal year 2005”.

SEC. 134. LIHEAP.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: “There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), \$3,400,000,000 for each of fiscal years 2001 through 2005.”

(b) GAO STUDY.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which Low-Income Home Energy Assistance (LIHEAP) and other government energy subsidies paid to consumers discourage or encourage energy conservation and energy efficiency investments when compared to structures of the same physical description and occupancy in compatible geographic locations;

(2) the extent to which education could increase the conservation of low-income households who opt to receive supplemental income instead of Low-Income Home Energy Assistance funds;

(3) the benefit in energy efficiency and energy savings that can be achieved through the annual maintenance of heating and cooling appliances in the homes of those receiving Low-Income Home Energy Assistance funds; and

(4) the loss of energy conservation that results from structural inadequacies in a structure that is unhealthy, not energy efficient, and environmentally unsound and that receives Low-Income Home Energy Assistance funds for weatherization.

SEC. 135. HIGH PERFORMANCE PUBLIC BUILDINGS.

(a) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

(1) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Public Buildings Program (in this section referred to as the “Program”).

(2) IN GENERAL.—The Secretary of Energy may, through the Program, make grants—

(A) to assist units of local government in the production, through construction or renovation of buildings and facilities they own and operate, of high performance public buildings and facilities that are healthful, productive, energy efficient, and environmentally sound;

(B) to State energy offices to administer the program of assistance to units of local government pursuant to this section; and

(C) to State energy offices to promote participation by units of local government in the Program.

(3) GRANTS TO ASSIST UNITS OF LOCAL GOVERNMENT.—Grants under paragraph (2)(A) for new public buildings shall be used to achieve energy efficiency performance that reduces energy use at least 30 percent below that of a public building constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results. Grants under paragraph (2)(A) for existing public buildings shall be used to achieve energy efficiency performance that reduces energy use below the public building baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline. Grants under paragraph (2)(A) shall be made to units of local government that have—

(A) demonstrated a need for such grants in order to respond appropriately to increasing population or to make major investments in renovation of public buildings; and

(B) made a commitment to use the grant funds to develop high performance public buildings in accordance with a plan developed and approved pursuant to paragraph (5)(A).

(4) OTHER GRANTS.—

(A) GRANTS FOR ADMINISTRATION.—Grants under paragraph (2)(B) shall be used to evaluate compliance by units of local government with the requirements of this section, and in addition may be used for—

(i) distributing information and materials to clearly define and promote the development of high performance public buildings for both new and existing facilities;

(ii) organizing and conducting programs for local government personnel, architects, engineers, and others to advance the concepts of high performance public buildings;

(iii) obtaining technical services and assistance in planning and designing high performance public buildings; and

(iv) collecting and monitoring data and information pertaining to the high performance public building projects.

(B) GRANTS TO PROMOTE PARTICIPATION.—Grants under paragraph (2)(C) may be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with public building users, and communities, and coordinating public benefit programs.

(5) IMPLEMENTATION.—

(A) PLANS.—A grant under paragraph (2)(A) shall be provided only to a unit of local government that, in consultation with its State office of energy, has developed a plan that the State energy office determines to be feasible and appropriate in order to achieve the purposes for which such grants are made.

(B) SUPPLEMENTING GRANT FUNDS.—State energy offices shall encourage qualifying units of local government to supplement their grant funds with funds from other sources in the implementation of their plans.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be provided to State energy offices.

(2) PURPOSES.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be allocated as follows:

(A) Seventy percent shall be used to make grants under subsection (a)(2)(A).

(B) Fifteen percent shall be used to make grants under subsection (a)(2)(B).

(C) Fifteen percent shall be used to make grants under subsection (a)(2)(C).

(3) OTHER FUNDS.—The Secretary of Energy may retain not to exceed \$300,000 per year

from amounts appropriated under subsection (c) to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance public buildings.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section such sums as may be necessary for each of the fiscal years 2002 through 2010.

(d) REPORT TO CONGRESS.—The Secretary of Energy shall conduct a biennial review of State actions implementing this section, and the Secretary shall report to Congress on the results of such reviews. In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by the States in establishing eligibility of units of local government for funding under this section, and may assess other aspects of the State program to determine whether they have been effectively implemented.

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

(1) HIGH PERFORMANCE PUBLIC BUILDING.—The term “high performance public building” means a public building which, in its design, construction, operation, and maintenance, maximizes use of unconventional and renewable energy resources and energy efficiency practices, is cost-effective on a life cycle basis, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(2) RENEWABLE ENERGY.—The term “renewable energy” means energy produced by solar, wind, geothermal, hydroelectric, or biomass power.

(3) UNCONVENTIONAL AND RENEWABLE ENERGY RESOURCES.—The term “unconventional and renewable energy resources” means renewable energy, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.

Subtitle D—Energy Efficiency for Consumer Products

SEC. 141. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324:

“SEC. 324A. ENERGY STAR PROGRAM.

“(a) IN GENERAL.—There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

“(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

“(2) work to enhance public awareness of the Energy Star label; and

“(3) preserve the integrity of the Energy Star label.

For the purposes of carrying out this section, there is authorized to be appropriated for fiscal years 2002 through 2006 such sums as may be necessary, to remain available until expended.

“(b) STUDY OF CERTAIN PRODUCTS AND BUILDINGS.—Within 180 days after the date of

the enactment of this section, the Secretary and the Administrator, consistent with the terms of agreements between the two agencies (including existing agreements with respect to which agency shall handle a particular product or building), shall determine whether the Energy Star label should be extended to additional products and buildings, including the following:

“(1) Air cleaners.

“(2) Ceiling fans.

“(3) Light commercial heating and cooling products.

“(4) Reach-in refrigerators and freezers.

“(5) Telephony.

“(6) Vending machines.

“(7) Residential water heaters.

“(8) Refrigerated beverage merchandisers.

“(9) Commercial ice makers.

“(10) School buildings.

“(11) Retail buildings.

“(12) Health care facilities.

“(13) Homes.

“(14) Hotels and other commercial lodging facilities.

“(15) Restaurants and other food service facilities.

“(16) Solar water heaters.

“(17) Building-integrated photovoltaic systems.

“(18) Reflective pigment coatings.

“(19) Windows.

“(20) Boilers.

“(21) Devices to extend the life of motor vehicle oil.

“(c) COOL ROOFING.—In determining whether the Energy Star label should be extended to roofing products, the Secretary and the Administrator shall work with the roofing products industry to determine the appropriate solar reflective index of roofing products.”

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

“Sec. 324A. Energy Star program.”

SEC. 141A. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324A:

“SEC. 324B. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

“(a) PROGRAM.—There is established at the Environmental Protection Agency and the Department of Energy a government-industry partnership program to identify and promote the purchase of renewable and alternative energy products, to recognize companies that purchase renewable and alternative energy products for the environmental and energy security benefits of such purchases, and to educate consumers about the environmental and energy security benefits of renewable and alternative energy. Responsibilities under the program shall be divided between the Environmental Protection Agency and the Department of Energy consistent with the terms of agreements between the two agencies. The Administrator of the Environmental Protection Agency and the Secretary of Energy—

“(1) establish an Energy Sun label for renewable and alternative energy products and technologies that the Administrator or the Secretary (consistent with the terms of agreements between the two agencies regarding responsibility for specific product categories) determine to have substantial environmental and energy security benefits and commercial marketability.

“(2) establish an Energy Sun Company program to recognize private companies that draw a substantial portion of their energy

from renewable and alternative sources that provide substantial environmental and energy security benefits, as determined by the Administrator or the Secretary.

“(3) promote Energy Sun compliant products and technologies as the preferred products and technologies in the marketplace for reducing pollution and achieving energy security; and

“(4) work to enhance public awareness and preserve the integrity of the Energy Sun label.

For the purposes of carrying out this section, there is authorized to be appropriated \$10,000,000 for each of fiscal years 2002 through 2006.

“(b) STUDY OF CERTAIN PRODUCTS, TECHNOLOGIES, AND BUILDINGS.—Within 18 months after the enactment of this section, the Administrator and the Secretary, consistent with the terms of agreements between the two agencies, shall conduct a study to determine whether the Energy Sun label should be authorized for products, technologies, and buildings in the following categories:

“(1) Passive solar, solar thermal, concentrating solar energy, solar water heating, and related solar products and building technologies.

“(2) Solar photovoltaics and other solar electric power generation technologies.

“(3) Wind.

“(4) Geothermal.

“(5) Biomass.

“(6) Distributed energy (including, but not limited to, microturbines, combined heat and power, fuel cells, and stirling heat engines).

“(7) Green power or other renewables and alternative based electric power products (including green tag credit programs) sold to retail consumers of electricity.

“(8) Homes.

“(9) School buildings.

“(10) Retail buildings.

“(11) Health care facilities.

“(12) Hotels and other commercial lodging facilities.

“(13) Restaurants and other food service facilities.

“(14) Rest area facilities along interstate highways.

“(15) Sports stadia, arenas, and concert facilities.

“(16) Any other product, technology or building category, the accelerated recognition of which the Administrator or the Secretary determines to be necessary or appropriate for the achievement of the purposes of this section.

Nothing in this subsection shall be construed to limit the discretion of the Administrator or the Secretary under subsection (a)(1) to include in the Energy Sun program additional products, technologies, and buildings not listed in this subsection. Participation by private-sector entities in programs or studies authorized by this section shall be (A) voluntary, and (B) by permission of the Administrator or Secretary, on terms and conditions the Administrator or the Secretary (consistent with agreements between the agencies) deems necessary or appropriate to carry out the purposes and requirements of this section.

“(c) DEFINITION.—For the purposes of this section, the term “renewable and alternative energy” shall have the same meaning as the term “unconventional and renewable energy resources” in Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).”

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324A the following new item:

“Sec. 324B. Energy Sun renewable and alternative energy program.”

SEC. 142. LABELING OF ENERGY EFFICIENT APPLIANCES.

(a) STUDY.—Section 324(e) of the Energy Policy and Conservation Act (42 U.S.C. 6294(e)) is amended as follows:

(1) By inserting “(1)” before “The Secretary, in consultation”.

(2) By redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

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

“(2) The Secretary shall make recommendations to the Commission within 180 days of the date of the enactment of this paragraph regarding labeling of consumer products that are not covered products in accordance with this section, where such labeling is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.”

(b) NONCOVERED PRODUCTS.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

“(F) Not later than 1 year after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to prescribe labeling rules under this section applicable to consumer products that are not covered products if it determines that labeling of such products is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.

“(G) Not later than 3 months after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the label that would improve the effectiveness of the label. Such rulemaking shall be completed within 15 months of the date of the enactment of this subparagraph.”

SEC. 143. APPLIANCE STANDARDS.

(a) STANDARDS FOR HOUSEHOLD APPLIANCES IN STANDBY MODE.—(1) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

“(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY HOUSEHOLD APPLIANCES.—

(1) In this subsection:

“(A) The term “household appliance” means any device that uses household electric current, operates in a standby mode, and is identified by the Secretary as a major consumer of electricity in standby mode, except digital televisions, digital set top boxes, digital video recorders, any product recognized under the Energy Star program, any product that was on the date of the enactment of this Act subject to an energy conservation standard under this section, and any product regarding which the Secretary finds that the expected additional cost to the consumer of purchasing such product as a result of complying with a standard established under this section is not economically justified within the meaning of subsection (o).

“(B) The term “standby mode” means a mode in which a household appliance consumes the least amount of electric energy that the household appliance is capable of consuming without being completely switched off (provided that, the amount of electric energy consumed in such mode is substantially less than the amount the household appliance would consume in its normal operational mode).

“(C) The term “major consumer of electricity in standby mode” means a product for which a standard prescribed under this section would result in substantial energy

savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under subsections (o) and (p) of this section for products that were, at the time of the enactment of this subsection, covered products under this section.

“(2)(A) Except as provided in subparagraph (B), a household appliance that is manufactured in, or imported for sale in, the United States on or after the date that is 2 years after the date of the enactment of this subsection shall not consume in standby mode more than 1 watt.

“(B) In the case of analog televisions, the Secretary shall prescribe, on or after the date that is 2 years after the date of the enactment of this subsection, in accordance with subsections (o) and (p) of section 325, an energy conservation standard that is technologically feasible and economically justified under section 325(o)(2)(A) (in lieu of the 1 watt standard under subparagraph (A)).

“(3)(A) A manufacturer or importer of a household appliance may submit to the Secretary an application for an exemption of the household appliance from the standard under paragraph (2).

“(B) The Secretary shall grant an exemption for a household appliance for which an application is made under subparagraph (A) if the applicant provides evidence showing that, and the Secretary determines that—

“(i) it is not technically feasible to modify the household appliance to enable the household appliance to meet the standard;

“(ii) the standard is incompatible with an energy efficiency standard applicable to the household appliance under another subsection; or

“(iii) the cost of electricity that a typical consumer would save in operating the household appliance meeting the standard would not equal the increase in the price of the household appliance that would be attributable to the modifications that would be necessary to enable the household appliance to meet the standard by the earlier of—

“(I) the date that is 7 years after the date of purchase of the household appliance; or

“(II) the end of the useful life of the household appliance.

“(C) If the Secretary determines that it is not technically feasible to modify a household appliance to meet the standard under paragraph (2), the Secretary shall establish a different standard for the household appliance in accordance with the criteria under subsection (1).

“(4)(A) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish a test procedure for determining the amount of consumption of power by a household appliance operating in standby mode.

“(B) In establishing the test procedure, the Secretary shall consider—

“(i) international test procedures under development;

“(ii) test procedures used in connection with the Energy Star program; and

“(iii) test procedures used for measuring power consumption in standby mode in other countries.

“(5) FURTHER REDUCTION OF STANDBY POWER CONSUMPTION.—The Secretary shall provide technical assistance to manufacturers in achieving further reductions in standby mode electric energy consumption by household appliances.

“(v) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY DIGITAL TELEVISIONS, DIGITAL SET TOP BOXES, AND DIGITAL VIDEO RECORDERS.—The Secretary shall initiate on January 1, 2007 a rulemaking to prescribe, in accordance with subsections (o) and (p), an energy conservation standard of standby mode electric energy consumption by digital television sets, digital set top boxes, and digital

video recorders. The Secretary shall issue a final rule prescribing such standards not later than 18 months thereafter. In determining whether a standard under this section is technologically feasible and economically justified under section 325(o)(2)(A), the Secretary shall consider the potential effects on market penetration by digital products covered under this section, and shall consider any recommendations by the FCC regarding such effects."

(2) Section 325(o)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)(1)) is amended by inserting at the end of the paragraph the following: "Notwithstanding any provision of this part, the Secretary shall not amend a standard established under subsection (u) or (v) of this section."

(b) STANDARDS FOR NONCOVERED PRODUCTS.—Section 325(m) of the Energy Policy and Conservation Act (42 U.S.C. 6295(m)) is amended as follows:

(1) Inserting "(1)" before "After".

(2) Inserting the following at the end:

"(2) Not later than 1 year after the date of the enactment of the Energy Advancement and Conservation Act of 2001, the Secretary shall conduct a rulemaking to determine whether consumer products not classified as a covered product under section 322(a) (1) through (18) meet the criteria of section 322(b)(1) and is a major consumer of electricity. If the Secretary finds that a consumer product not classified as a covered product meets the criteria of section 322(b)(1), he shall prescribe, in accordance with subsections (o) and (p), an energy conservation standard for such consumer product, if such standard is reasonably probable to be technologically feasible and economically justified within the meaning of subsection (o)(2)(A). As used in this paragraph, the term "major consumer of electricity" means a product for which a standard prescribed under this section would result in substantial aggregate energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under paragraphs (o) and (p) of this section for products that were, at the time of the enactment of this paragraph, covered products under this section."

(c) CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING AND VENTILATION MAINTENANCE.—Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding the following new subsection after subsection (b):

"(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of the enactment of this subsection, develop and implement a public education campaign to educate homeowners and small business owners concerning the energy savings resulting from regularly scheduled maintenance of air conditioning, heating, and ventilating systems. In developing and implementing this campaign, the Secretary shall consider support by the Department of public education programs sponsored by trade and professional and energy efficiency organizations. The public service information shall provide sufficient information to allow consumers to make informed choices from among professional, licensed (where State or local licensing is required) contractors. There are authorized to be appropriated to carry out this subsection \$5,000,000 for fiscal years 2002 and 2003 in addition to amounts otherwise appropriated in this part."

(d) EFFICIENCY STANDARDS FOR FURNACE FANS, CEILING FANS, AND COLD DRINK VENDING MACHINES.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291)

is amended by adding the following at the end thereof:

"(32) The term "residential furnace fan" means an electric fan installed as part of a furnace for purposes of circulating air through the system air filters, the heat exchangers or heating elements of the furnace, and the duct work.

"(33) The terms "residential central air conditioner fan" and "heat pump circulation fan" mean an electric fan installed as part of a central air conditioner or heat pump for purposes of circulating air through the system air filters, the heat exchangers of the air conditioner or heat pump, and the duct work.

"(34) The term "suspended ceiling fan" means a fan intended to be mounted to a ceiling outlet box, ceiling building structure, or to a vertical rod suspended from the ceiling, and which as blades which rotate below the ceiling and consists of an electric motor, fan blades (which rotate in a direction parallel to the floor), an optional lighting kit, and one or more electrical controls (integral or remote) governing fan speed and lighting operation.

"(35) The term "refrigerated bottled or canned beverage vending machine" means a machine that cools bottled or canned beverages and dispenses them upon payment."

(2) TESTING REQUIREMENTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding the following at the end thereof:

"(f) ADDITIONAL CONSUMER PRODUCTS.—The Secretary shall within 18 months after the date of the enactment of this subsection prescribe testing requirements for residential furnace fans, residential central air conditioner fans, heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of residential furnace fans, residential central air conditioner fans, heat pump circulation fans, and suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output."

(3) STANDARDS FOR ADDITIONAL CONSUMER PRODUCTS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding the following at the end thereof:

"(w) RESIDENTIAL FURNACE FANS, CENTRAL AIR AND HEAT PUMP CIRCULATION FANS, SUSPENDED CEILING FANS, AND VENDING MACHINES.—

"(1) The Secretary shall, within 18 months after the date of the enactment of this subsection, assess the current and projected future market for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. This assessment shall include an examination of the types of products sold, the number of products in use, annual sales of these products, energy used by these products sold, the number of products in use, annual sales of these products, energy used by these products, estimates of the potential energy savings from specific technical improvements to these products, and an examination of the cost-effectiveness of these improvements. Prior to the end of this time period, the Secretary shall hold an initial scoping workshop to discuss and receive input to plans for developing minimum efficiency standards for these products.

"(2) The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy con-

servation standards for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. In establishing these standards, the Secretary shall use the criteria and procedures contained in subsections (1) and (m). Any standard prescribed under this section shall apply to products manufactured 36 months after the date such rule is published."

(4) LABELING.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding the following at the end thereof:

"(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in section 325(w), prescribe, by rule, labeling requirements for such products. These requirements shall take effect on the same date as the standards prescribed pursuant to section 325(w)."

(5) COVERED PRODUCTS.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended by redesignating paragraph (19) as paragraph (20) and by inserting after paragraph (18) the following:

"(19) Beginning on the effective date for standards established pursuant to subsection (v) of section 325, each product referred to in such subsection (v)."

Subtitle E—Energy Efficient Vehicles

SEC. 151. HIGH OCCUPANCY VEHICLE EXCEPTION.

(a) IN GENERAL.—Notwithstanding section 102(a)(1) of title 23, United States Code, a State may, for the purpose of promoting energy conservation, permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a hybrid vehicle or is fueled by an alternative fuel.

(b) HYBRID VEHICLE DEFINED.—In this section, the term "hybrid vehicle" means a motor vehicle—

(1) which draws propulsion energy from on-board sources of stored energy which are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system;

(2) which, in the case of a passenger automobile or light truck—

(A) for 2002 and later model vehicles, has received a certificate of conformity under section 206 of the Clean Air Act (42 U.S.C. 7525) and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

(B) for 2004 and later model vehicles, has received a certificate that such vehicle meets the Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(3) which is made by a manufacturer.

(c) ALTERNATIVE FUEL DEFINED.—In this section, the term "alternative fuel" has the meaning such term has under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)).

SEC. 152. RAILROAD EFFICIENCY.

(a) LOCOMOTIVE TECHNOLOGY DEMONSTRATION.—The Secretary of Energy shall establish a public-private research partnership with railroad carriers, locomotive manufacturers, and a world-class research and test center dedicated to the advancement of railroad technology, efficiency, and safety that is owned by the Federal Railroad Administration and operated in the private sector,

for the development and demonstration of locomotive technologies that increase fuel economy and reduce emissions.

(b) **AUTHORIZATION OF APPROPRIATIONS**—There are authorized to be appropriated to the Secretary of Energy \$25,000,000 for fiscal year 2002, \$30,000,000 for fiscal year 2003, and \$35,000,000 for fiscal year 2004 for carrying out this section.

SEC. 153. BIODIESEL FUEL USE CREDITS.

Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by striking “NOT” in the subsection heading; and

(2) by striking “not”.

SEC. 154. MOBILE TO STATIONARY SOURCE TRADING.

Within 90 days after the enactment of this section, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency’s policies regarding the use of mobile to stationary source trading of emission credits under the Clean Air Act to determine whether such trading can provide both nonattainment and attainment areas with additional flexibility in achieving and maintaining healthy air quality and increasing use of alternative fuel and advanced technology vehicles, thereby reducing United States dependence on foreign oil.

Subtitle F—Other Provisions

SEC. 161. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

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

(b) **REPORT TO CONGRESS**—No later than 18 months after the date of the enactment of this section, each agency shall provide a report to Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) **PERIODIC REVIEW**—Each agency shall subsequently review its regulations and standards in the manner specified in this section no less frequently than every 5 years, and report their findings to Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 162. ADVANCED IDLE ELIMINATION SYSTEMS.

(a) **DEFINITIONS.**—

(1) **ADVANCED IDLE ELIMINATION SYSTEM.**—The term “advanced idle elimination system” means a device or system of devices that is installed at a truck stop or other location (for example, a loading, unloading, or transfer facility) where vehicles (such as trucks, trains, buses, boats, automobiles, and recreational vehicles) are parked and that is designed to provide to the vehicle the services (such as heat, air conditioning, and electricity) that would otherwise require the operation of the auxiliary or drive train engine or both while the vehicle is stationary and parked.

(2) **EXTENDED IDLING.**—The term “extended idling” means the idling of a motor vehicle for a period greater than 60 minutes.

(b) **RECOGNITION OF BENEFITS OF ADVANCED IDLE ELIMINATION SYSTEMS.**—Within 90 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency’s mobile source air emissions models used under the

Clean Air Act to determine whether such models accurately reflect the emissions resulting from extended idling of heavy-duty trucks and other vehicles and engines, and shall update those models as the Administrator deems appropriate. Additionally, within 90 days after the date of the enactment of this subsection, the Administrator shall commence a review as to the appropriate emissions reductions credit that should be allotted under the Clean Air Act for the use of advanced idle elimination systems, and whether such credits should be subject to an emissions trading system, and shall revise Agency regulations and guidance as the Administrator deems appropriate.

SEC. 163. STUDY OF BENEFITS AND FEASIBILITY OF OIL BYPASS FILTRATION TECHNOLOGY.

(a) **STUDY.**—The Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly conduct a study of oil bypass filtration technology in motor vehicle engines. The study shall analyze and quantify the potential benefits of such technology in terms of reduced demand for oil and the potential environmental benefits of the technology in terms of reduced waste and air pollution. The Secretary and the Administrator shall also examine the feasibility of using such technology in the Federal motor vehicle fleet.

(b) **REPORT.**—Not later than 6 months after the enactment of this Act, the Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly submit a report containing the results of the study conducted under subsection (a) to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 164. GAS FLARE STUDY.

(a) **STUDY.**—The Secretary of Energy shall conduct a study of the economic feasibility of installing small cogeneration facilities utilizing excess gas flares at petrochemical facilities to provide reduced electricity costs to customers living within 3 miles of the petrochemical facilities. The Secretary shall solicit public comment to assist in preparing the report required under subsection (b).

(b) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the Congress on the results of the study conducted under subsection (a).

SEC. 165. TELECOMMUTING STUDY.

(a) **STUDY REQUIRED.**—The Secretary, in consultation with Commission, and the NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting in the United States.

(b) **REQUIRED SUBJECTS OF STUDY.**—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) **REPORT REQUIRED.**—The Secretary shall submit to the President and the Congress a report on the study required by this section not later than 6 months after the date of the enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) **DEFINITIONS.**—As used in this section:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(2) **COMMISSION.**—The term “Commission” means the Federal Communications Commission.

(3) **NTIA.**—The term “NTIA” means the National Telecommunications and Information Administration of the Department of Commerce.

(4) **TELECOMMUTING.**—The term “telecommuting” means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

TITLE II—AUTOMOBILE FUEL ECONOMY

SEC. 201. AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.—

Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting “(1)” after “NONPASSENGER AUTOMOBILES.—”; and

(2) by adding at the end the following:

“(2) The Secretary shall prescribe under paragraph (1) average fuel economy standards for automobiles (except passenger automobiles) manufactured in model years 2004 through 2010 that are calculated to ensure that the aggregate amount of gasoline projected to be used in those model years by automobiles to which the standards apply is at least 5 billion gallons less than the aggregate amount of gasoline that would be used in those model years by such automobiles if they achieved only the fuel economy required under the average fuel economy standard that applies under this subsection to automobiles (except passenger automobiles) manufactured in model year 2002.”.

SEC. 202. CONSIDERATION OF PRESCRIBING DIFFERENT AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.

(a) **IN GENERAL.**—The Secretary of Transportation shall, in prescribing average fuel economy standards under section 32902(a) of title 49, United States Code, for automobiles (except passenger automobiles) manufactured in model year 2004, consider the potential benefits of—

(1) establishing a weight-based system for automobiles, that is based on the inertia weight, curb weight, gross vehicle weight rating, or another appropriate measure of such automobiles; and

(2) prescribing different fuel economy standards for automobiles that are subject to the weight-based system.

(b) **SPECIFIC CONSIDERATIONS.**—In implementing this section the Secretary—

(1) shall consider any recommendations made in the National Academy of Sciences study completed pursuant to the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106-346; 114 Stat. 2763 et seq.); and

(2) shall evaluate the merits of any weight-based system in terms of motor vehicle safety, energy conservation, and competitiveness of and employment in the United States automotive sector, and if a weight-based system is established by the Secretary a manufacturer may trade credits between or among the automobiles (except passenger automobiles) manufactured by the manufacturer.

SEC. 203. DUAL FUELED AUTOMOBILES.

(a) **PURPOSES.**—The purposes of this section are—

(1) to extend the manufacturing incentives for dual fueled automobiles, as set forth in subsections (b) and (d) of section 32905 of title 49, United States Code, through the 2008 model year; and

(2) to similarly extend the limitation on the maximum average fuel economy increase

for such automobiles, as set forth in subsection (a)(1) of section 32906 of title 49, United States Code.

(b) AMENDMENTS.—

(1) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended as follows:

(A) Subsections (b) and (d) are each amended by striking “model years 1993-2004” and inserting “model years 1993-2008”.

(B) Subsection (f) is amended by striking “Not later than December 31, 2001, the Secretary” and inserting “Not later than December 31, 2005, the Secretary”.

(C) Subsection (f)(1) is amended by striking “model year 2004” and inserting “model year 2008”.

(D) Subsection (g) is amended by striking “Not later than September 30, 2000” and inserting “Not later than September 30, 2004”.

(2) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended as follows:

(A) Subparagraph (A) is amended by striking “the model years 1993-2004” and inserting “model years 1993-2008”.

(B) Subparagraph (B) is amended by striking “the model years 2005-2008” and inserting “model years 2009-2012”.

SEC. 204. FUEL ECONOMY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:

“SEC. 32917. STANDARDS FOR EXECUTIVE AGENCY AUTOMOBILES

“(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency’s fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency’s fleet of automobiles.

“(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

“(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency’s fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

“(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency’s fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

“(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

“(d) DEFINITIONS.—In this section:

“(1) The term “automobile” does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

“(2) The term “executive agency” has the meaning given that term in section 105 of title 5.

“(3) The term “new automobile”, with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.”

SEC. 205. HYBRID VEHICLES AND ALTERNATIVE VEHICLES.

(a) IN GENERAL.—Section 303(b)(1) of the Energy Policy Act of 1992 is amended by adding the following at the end: “Of the total number of vehicles acquired by a Federal

fleet in fiscal years 2004 and 2005, at least 5 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles and in fiscal year 2006 and thereafter at least 10 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles.”

(b) DEFINITION.—Section 301 of such Act is amended by striking “and” at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting “; and” and by adding at the end the following:

“(15) The term “hybrid vehicle” means a motor vehicle which draws propulsion energy from onboard sources of stored energy which are both—

“(A) an internal combustion or heat engine using combustible fuel; and

“(B) a rechargeable energy storage system.”

SEC. 206. FEDERAL FLEET PETROLEUM-BASED NONALTERNATIVE FUELS.

(a) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13212 et seq.) is amended as follows:

(1) By adding at the end thereof the following:

“SEC. 313. CONSERVATION OF PETROLEUM-BASED FUELS BY THE FEDERAL GOVERNMENT FOR LIGHT-DUTY MOTOR VEHICLES.

“(a) PURPOSES.—The purposes of this section are to complement and supplement the requirements of section 303 of this Act that Federal fleets, as that term is defined in section 303(b)(3), acquire in the aggregate a minimum percentage of alternative fuel vehicles, to encourage the manufacture and sale or lease of such vehicles nationwide, and to achieve, in the aggregate, a reduction in the amount of the petroleum-based fuels (other than the alternative fuels defined in this title) used by new light-duty motor vehicles acquired by the Federal Government in model years 2004 through 2010 and thereafter.

“(b) IMPLEMENTATION.—In furtherance of such purposes, such Federal fleets in the aggregate shall reduce the purchase of petroleum-based nonalternative fuels for such fleets beginning October 1, 2003, through September 30, 2009, from the amount purchased for such fleets over a comparable period since enactment of this Act, as determined by the Secretary, through the annual purchase, in accordance with section 304, and the use of alternative fuels for the light-duty motor vehicles of such Federal fleets, so as to achieve levels which reflect total reliance by such fleets on the consumptive use of alternative fuels consistent with the provisions of section 303(b) of this Act. The Secretary shall, within 120 days after the enactment of this section, promulgate, in consultation with the Administrator of the General Services Administration and the Director of the Office of Management and Budget and such other heads of entities referenced in section 303 within the executive branch as such Director may designate, standards for the full and prompt implementation of this section by such entities. The Secretary shall monitor compliance with this section and such standards by all such fleets and shall report annually to the Congress, based on reports by the heads of such fleets, on the extent to which the requirements of this section and such standards are being achieved. The report shall include information on annual reductions achieved of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels and in requiring their use.”

(2) By amending section 304(b) of such Act to read as follows:

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary or, as appropriate, the head of each Federal fleet subject to the provisions of this section and section 313 of this Act, such sums as may be necessary to achieve the purposes of section 313(a) and the provisions of this section. Such sums shall remain available until expended.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

“Sec. 313. Conservation of petroleum-based fuels by the Federal Government for light-duty motor vehicles.”

SEC. 207. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences under which the Academy shall study the feasibility and effects of reducing by model year 2010, by a significant percentage, the use of fuel for automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Secretary shall require the National Academy of Sciences to submit to the Secretary and the Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE III—NUCLEAR ENERGY

SEC. 301. LICENSE PERIOD.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking “(c). Each such” and inserting the following:

“(c). LICENSE PERIOD.—

“(1) IN GENERAL.—Each such”; and

(2) by adding at the end the following:

“(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185 b. are met.”

SEC. 302. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking “for or is issued” and all that follows through “1702” and inserting “to the Commission for, or is issued by the Commission, a license or certificate”;

(2) by striking “483a” and inserting “9701”; and

(3) by striking “, of applicants for, or holders of, such licenses or certificates”.

SEC. 303. DEPLETED URANIUM HEXAFLUORIDE.

Section 1(b) of Public Law 105-204 is amended by striking "fiscal year 2002" and inserting "fiscal year 2005".

SEC. 304. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

SEC. 305. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary \$10,000,000 for each of fiscal years 2002, 2003, and 2004 for—

(1) cooperative, cost-shared, agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) **DOMESTIC URANIUM PRODUCER.**—For purposes of this section, the term "domestic uranium producer" has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

SEC. 306. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.

There are authorized to be appropriated to the Secretary \$800,000 for contracting with the Nation's sole remaining uranium converter for the purpose of performing research and development to improve the environmental and economic performance of United States uranium conversion operations.

SEC. 307. PADUCAH DECONTAMINATION AND DECOMMISSIONING PLAN.

The Secretary of Energy shall prepare and submit a plan to Congress within 180 days after the date of the enactment of this Act that establishes scope, cost, schedule, sequence of activities, and contracting strategy for—

(1) the decontamination and decommissioning of the Department of Energy's surplus buildings and facilities at the Paducah Gaseous Diffusion Plant that have no future anticipated reuse; and

(2) the remediation of Department of Energy Material Storage Areas at the Paducah Gaseous Diffusion Plant.

Such plan shall inventory all surplus facilities and buildings, and identify and rank health and safety risks associated with such facilities and buildings. Such plan shall inventory all Department of Energy Material Storage Areas, and identify and rank health and safety risks associated with such Department of Energy Material Storage Areas. The Department of Energy shall incorporate these risk factors in designing the sequence and schedule for the plan. Such plan shall

identify funding requirements that are in addition to the expected outlays included in the Department of Energy's Environmental Management Plan for the Paducah Gaseous Diffusion Plant.

SEC. 308. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

(a) **IN GENERAL.**—The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including—

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

SEC. 309. PROHIBITION OF COMMERCIAL SALES OF URANIUM BY THE UNITED STATES UNTIL 2009.

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h-10) is amended by adding at the end the following new subsection:

"(g) **PROHIBITION ON SALES.**—With the exception of sales pursuant to subsection (b)(2) (42 U.S.C. 2297h-10(b)(2)), notwithstanding any other provision of law, the United States Government shall not sell or transfer any uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, depleted uranium, or uranium in any other form) through March 23, 2009 (except sales or transfers for use by the Tennessee Valley Authority in relation to the Department of Energy's HEU or Tritium programs, or the Department or Energy research reactor sales program, or any depleted uranium hexafluoride to be transferred to a designated Department of Energy contractor in conjunction with the planned construction of the Depleted Uranium Hexafluoride conversion plants in Portsmouth, Ohio, and Paducah, Kentucky, to any natural uranium transferred to the U.S. Enrichment Corporation from the Department of Energy to replace contaminated uranium received from the Department of Energy when the U.S. Enrichment Corporation was privatized in July, 1998, or for emergency purposes in the event of a disruption in supply to end users in the United States). The aggregate of sales or transfers of uranium by the United States Government after March 23, 2009, shall not exceed 3,000,000 pounds U3O8 per calendar year."

TITLE IV—HYDROELECTRIC ENERGY**SEC. 401. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(a) **ALTERNATIVE MANDATORY CONDITIONS.**—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

"(h)(1) Whenever any person applies for a license for any project works within any res-

ervation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

"(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

"(A) provides no less protection for the reservation than provided by the condition deemed necessary by the Secretary; and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production, as compared to the condition deemed necessary by the Secretary.

"(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection."

(b) **ALTERNATIVE FISHWAYS.**—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

"(A) will be no less effective than the fishway initially prescribed by the Secretary, and

"(B) will either—

"(i) cost less to implement, or

"(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially prescribed by the Secretary.

"(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection."

SEC. 402. FERC DATA ON HYDROELECTRIC LICENSING.

(a) **DATA COLLECTION PROCEDURES.**—The Federal Energy Regulatory Commission shall revise its procedures regarding the collection of data in connection with the Commission's consideration of hydroelectric licenses under the Federal Power Act. Such revised data collection procedures shall be designed to provide the Commission with complete and accurate information concerning the time and costs to parties involved in the licensing process. Such data shall be available for each significant stage in the licensing process and shall be designed

to identify projects with similar characteristics so that analyses can be made of the time and costs involved in licensing proceedings based upon the different characteristics of those proceedings.

(b) **REPORTS.**—Within 6 months after the date of the enactment of this Act, the Commission shall notify the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the progress made by the Commission under subsection (a), and within 1 year after such date of the enactment, the Commission shall submit a report to such Committees specifying the measures taken by the Commission pursuant to subsection (a).

TITLE V—FUELS

SEC. 501. TANK DRAINING DURING TRANSITION TO SUMMERTIME RFG.

Not later than 60 days after the enactment of the Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to the regulations set forth in 40 CFR Section 80.78 and any associated regulations regarding the transition to high ozone season reformulated gasoline are necessary to ensure that the transition to high ozone season reformulated gasoline is conducted in a manner that minimizes disruptions to the general availability and affordability of gasoline, and maximizes flexibility with regard to the draining and inventory management of gasoline storage tanks located at refineries, terminals, wholesale and retail outlets, consistent with the goals of the Clean Air Act. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 502. GASOLINE BLENDSTOCK REQUIREMENTS.

Not later than 60 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to product transfer documentation, accounting, compliance calculation, and other requirements contained in the regulations of the Administrator set forth in section 80.102 of title 40 of the Code of Federal Regulations relating to gasoline blendstocks are necessary to facilitate the movement of gasoline and gasoline feedstocks among different regions throughout the country and to improve the ability of petroleum refiners and importers to respond to regional gasoline shortages and prevent unreasonable short-term price increases. The Administrator shall take into consideration the extent to which such requirements have been, or will be, rendered unnecessary or inefficient by reason of subsequent environmental safeguards that were not in effect at the time the regulations in section 80.102 of title 40 of the Code of Federal Regulations were promulgated. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

SEC. 503. BOUTIQUE FUELS.

(a) **JOINT STUDY.**—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of all Federal, State, and local requirements regarding motor vehicle fuels, including requirements relating to reformulated gasoline, volatility (Reid Vapor Pressure), oxygenated fuel, diesel fuel and other requirements that vary from State to State, region to region, or locality to locality. The study shall analyze—

(1) the effect of the variety of such requirements on the price of motor vehicle fuels to the consumer;

(2) the availability and affordability of motor vehicle fuels in different States and localities;

(3) the effect of Federal, State, and local regulations, including multiple fuel requirements, on domestic refineries and the fuel distribution system;

(4) the effect of such requirements on local, regional, and national air quality requirements and goals;

(5) the effect of such requirements on vehicle emissions;

(6) the feasibility of developing national or regional fuel specifications for the contiguous United States that would—

(A) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(B) reduce price volatility and costs to consumers and producers;

(C) meet local, regional, and national air quality requirements and goals; and

(D) provide increased gasoline market liquidity;

(7) the extent to which the Environmental Protection Agency's Tier II requirements for conventional gasoline may achieve in future years the same or similar air quality results as State reformulated gasoline programs and State programs regarding gasoline volatility (RVP); and

(8) the feasibility of providing incentives to promote cleaner burning fuel.

(b) **REPORT.**—By December 31, 2001, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit a report to the Congress containing the results of the study conducted under subsection (a). Such report shall contain recommendations for legislative and administrative actions that may be taken to simplify the national distribution system for motor vehicle fuel, make such system more cost-effective, and reduce the costs and increase the availability of motor vehicle fuel to the end user while meeting the requirements of the Clean Air Act. Such recommendations shall take into account the need to provide lead time for refinery and fuel distribution system modifications necessary to assure adequate fuel supply for all States.

SEC. 504. FUNDING FOR MTBE CONTAMINATION.

Notwithstanding any other provision of law, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency from the Leaking Underground Storage Trust Fund not more than \$200,000,000 to be used for taking such action, limited to assessment, corrective action, inspection of underground storage tank systems, and groundwater monitoring in connection with MTBE contamination, as the Administrator deems necessary to protect human health and the environment from releases of methyl tertiary butyl ether (MTBE) from underground storage tanks.

TITLE VI—RENEWABLE ENERGY

SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) **RESOURCE ASSESSMENT.**—Not later than 1 year after the date of the enactment of this Act, and each year thereafter, the Secretary of Energy shall publish an assessment by the National Laboratories of all renewable energy resources available within the United States.

(b) **CONTENTS OF REPORT.**—The report published under subsection (a) shall contain each of the following:

(1) A detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources.

(2) Such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource.

SEC. 602. RENEWABLE ENERGY PRODUCTION INCENTIVE.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended as follows:

(1) In subsection (a) by striking “and which satisfies” and all that follows through “Secretary shall establish.” and inserting “. The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.”.

(2) In subsection (b)—

(A) by striking “a State or any political” and all that follows through “nonprofit electrical cooperative” and inserting “an electricity-generating cooperative exempt from taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue Code of 1986, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof.”; and

(B) By inserting “landfill gas,” after “wind, biomass.”.

(3) In subsection (c) by striking “during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section” and inserting “before October 1, 2013”.

(4) In subsection (d) by inserting “or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility” after “eligible for such payments”.

(5) In subsection (e)(1) by inserting “landfill gas,” after “wind, biomass.”.

(6) In subsection (f) by striking “the expiration of” and all that follows through “of this section” and inserting “September 30, 2023”.

(7) In subsection (g)—

(A) by striking “1993, 1994, and 1995” and inserting “2003 through 2023”; and

(B) by inserting “Funds may be appropriated pursuant to this subsection to remain available until expended.” after “purposes of this section.”.

SEC. 603. STUDY OF ETHANOL FROM SOLID WASTE LOAN GUARANTEE PROGRAM.

The Secretary of Energy shall conduct a study of the feasibility of providing guarantees for loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts, and not later than 90 days after the date of the enactment of this Act shall transmit to the Congress a report on the results of the study.

SEC. 604. STUDY OF RENEWABLE FUEL CONTENT.

(a) **STUDY.**—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of the feasibility of developing a requirement that motor vehicle fuel sold or introduced into commerce in the United States in calendar year 2002 or any calendar year thereafter by a refiner, blender, or importer shall, on a 6-month average basis, be comprised of a quantity of renewable fuel, measured in gasoline-equivalent gallons. As part of this study, the Administrator and Secretary shall evaluate the use of a banking

and trading credit system and the feasibility and desirability of requiring an increasing percentage of renewable fuel to be phased in over a 15-year period.

(b) **REPORT TO CONGRESS.**—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Secretary shall transmit to the Congress a report on the results of the study conducted under this section.

TITLE VII—PIPELINES

SEC. 701. PROHIBITION ON CERTAIN PIPELINE ROUTE.

No license, permit, lease, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

SEC. 702. HISTORIC PIPELINES.

Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end the following new subsection:

“(i) Notwithstanding the National Historic Preservation Act, a transportation facility shall not be eligible for inclusion on the National Register of Historic Places unless—

“(1) the Commission has permitted the abandonment of the transportation facility pursuant to subsection (b) of this section, or

“(2) the owner of the facility has given written consent to such eligibility.”

Any transportation facility deemed eligible for inclusion on the National Register of Historic Places prior to the date of the enactment of this subsection shall no longer be eligible unless the owner of the facility gives written consent to such eligibility.”

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. WASTE REDUCTION AND USE OF ALTERNATIVES.

(a) **GRANT AUTHORITY.**—The Secretary of Energy is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced; and

(3) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) **QUALIFIED INSTITUTION.**—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher learning with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Energy for carrying out this section \$275,000 for fiscal year 2002, to remain available until expended.

SEC. 802. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.

(a) **REPORT.**—The Secretary of Energy, in consultation with the heads of other relevant Federal agencies, shall include in each report under section 801(c) of the Department of Energy Organization Act a section which evaluates the progress the United States has made toward obtaining the goal of not more than 50 percent dependence on foreign oil sources by 2010.

(b) **ALTERNATIVES.**—The information required under this section to be included in

the reports under section 801(c) of the Department of Energy Organization Act shall include a specification of what legislative or administrative actions must be implemented to meet this goal and set forth a range of options and alternatives with a cost/benefit analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the information required under this section. The information shall indicate, in detail, options and alternatives to—

(1) increase the use of renewable domestic energy sources, including conventional and nonconventional sources;

(2) conserve energy resources, including improving efficiencies and decreasing consumption; and

(3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

SEC. 803. STUDY OF AIRCRAFT EMISSIONS.

The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly commence a study within 60 days after the enactment of this Act to investigate the impact of aircraft emissions on air quality in areas that are considered to be in nonattainment for the national ambient air quality standard for ozone. As part of this study, the Secretary and the Administrator shall focus on the impact of emissions by aircraft idling at airports and on the contribution of such emissions as a percentage of total emissions in the nonattainment area. Within 180 days of the commencement of the study, the Secretary and the Administrator shall submit a report to the Committees on Energy and Commerce and Transportation and Infrastructure of the United States House of Representatives and to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate containing the results of the study and recommendations with respect to a plan to maintain comprehensive data on aircraft emissions and methods by which such emissions may be reduced, without increasing individual aircraft noise, in order to assist in the attainment of the national ambient air quality standards.

DIVISION B

SEC. 2001. SHORT TITLE.

This division may be cited as the “Comprehensive Energy Research and Technology Act of 2001”.

SEC. 2002. FINDINGS.

The Congress finds that—

(1) the Nation’s prosperity and way of life are sustained by energy use;

(2) the growing imbalance between domestic energy production and consumption means that the Nation is becoming increasingly reliant on imported energy, which has the potential to undermine the Nation’s economy, standard of living, and national security;

(3) energy conservation and energy efficiency help maximize the use of available energy resources, reduce energy shortages, lower the Nation’s reliance on energy imports, mitigate the impacts of high energy prices, and help protect the environment and public health;

(4) development of a balanced portfolio of domestic energy supplies will ensure that future generations of Americans will have access to the energy they need;

(5) energy efficiency technologies, renewable and alternative energy technologies,

and advanced energy systems technologies will help diversify the Nation’s energy portfolio with few adverse environmental impacts and are vital to delivering clean energy to fuel the Nation’s economic growth;

(6) development of reliable, affordable, and environmentally sound energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will require maintenance of a vibrant fundamental scientific knowledge base and continued scientific and technological innovations that can be accelerated by Federal funding, whereas commercial deployment of such systems and technologies are the responsibility of the private sector;

(7) Federal funding should focus on those programs, projects, and activities that are long-term, high-risk, noncommercial, and well-managed, and that provide the potential for scientific and technological advances; and

(8) public-private partnerships should be encouraged to leverage scarce taxpayer dollars.

SEC. 2003. PURPOSES.

The purposes of this division are to—

(1) protect and strengthen the Nation’s economy, standard of living, and national security by reducing dependence on imported energy;

(2) meet future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving balanced and comprehensive consideration to technologies that improve the efficiency of energy end uses and that enhance energy supply;

(3) reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and use through the development of environmentally sustainable energy systems;

(4) consider the comparative environmental impacts of the energy saved or produced by specific programs, projects, or activities;

(5) maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced energy systems and technologies;

(6) foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(7) provide sufficient funding of programs, projects, and activities that are performance-based and modeled as public-private partnerships, as appropriate; and

(8) enhance the contribution of a given program, project, or activity to fundamental scientific knowledge.

SEC. 2004. GOALS.

(a) **IN GENERAL.**—Subject to subsection (b), in order to achieve the purposes of this division under section 2003, the Secretary should conduct a balanced energy research, development, demonstration, and commercial application portfolio of programs guided by the following goals to meet the purposes of this division under section 2003.

(1) **ENERGY CONSERVATION AND ENERGY EFFICIENCY.**—

(A) For the Building Technology, State and Community Sector, the program should develop technologies, housing components, designs, and production methods that will, by 2010—

(i) reduce the monthly energy cost of new housing by 20 percent, compared to the cost as of the date of the enactment of this Act;

(ii) cut the environmental impact and energy use of new housing by 50 percent, compared to the impact and use as of the date of the enactment of this Act; and

(iii) improve durability and reduce maintenance costs by 50 percent compared to the durability and costs as of the date of the enactment of this Act.

(B) For the Industry Sector, the program should, in cooperation with the affected industries, improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010, compared to the energy intensity as of the date of the enactment of this Act.

(C) For Power Technologies, the program should, in cooperation with the affected industries—

(i) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent more efficient by 2006, and more than 50 percent more efficient by 2010, compared to the efficiency as of the date of the enactment of this Act; and

(ii) develop advanced materials for combustion systems that reduce emissions of nitrogen oxides by 30 to 50 percent while increasing efficiency 5 to 10 percent by 2007, compared to such emissions as of the date of the enactment of this Act.

(D) For the Transportation Sector, the program should, in cooperation with affected industries—

(i) develop a production prototype passenger automobile that has fuel economy equivalent to 80 miles per gallon of gasoline by 2004;

(ii) develop class 7 and 8 heavy duty trucks and buses with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy equivalent to—

(I) 10 miles per gallon of gasoline by 2007; and

(II) 13 miles per gallon of gasoline by 2010;

(iii) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon of gasoline by 2010; and

(iv) improve, by 2010, the average fuel economy of trucks—

(I) in classes 1 and 2 by 300 percent; and

(II) in classes 3 through 6 by 200 percent, compared to the fuel economy as of the date of the enactment of this Act.

(2) RENEWABLE ENERGY.—

(A) For Hydrogen Research, to carry out the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, as amended by subtitle A of title II of this division.

(B) For bioenergy:

(i) The program should reduce the cost of bioenergy relative to other energy sources to enable the United States to triple bioenergy use by 2010.

(ii) For biopower systems, the program should reduce the cost of such systems to enable commercialization of integrated power-generating technologies that employ gas turbines and fuel cells integrated with bioenergy gasifiers within 5 years after the date of the enactment of this Act.

(iii) For biofuels, the program should accelerate research, development, and demonstration on advanced enzymatic hydrolysis technology for making ethanol from cellulosic feedstock, with the goal that between 2010 and 2015 ethanol produced from energy crops would be fully competitive in terms of price with gasoline as a neat fuel, in either internal combustion engines or fuel cell vehicles.

(C) For Geothermal Technology Development, the program should focus on advanced concepts for the long term. The first priority should be high-grade enhanced geothermal systems; the second priority should be lower grade, hot dry rock, and geopressed systems; and the third priority should be support of field demonstrations of enhanced geothermal systems technology, including sites

in lower grade areas to demonstrate the benefits of reservoir concepts to different conditions.

(D) For Hydropower, the program should provide a new generation of turbine technologies that will increase generating capacity and will be less damaging to fish and aquatic ecosystems.

(E) For Concentrating Solar Power, the program should strengthen ongoing research, development, and demonstration combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles, with the goal of making solar-only power (including baseload solar power) widely competitive with fossil fuel power by 2015. The program should limit or halt its research and development on power-tower and power-trough technologies because further refinements to these concepts will not further their deployment, and should assess the market prospects for solar dish/engine technologies to determine whether continued research and development is warranted.

(F) For Photovoltaic Energy Systems, the program should pursue research, development, and demonstration that will, by 2005, increase the efficiency of thin film modules from the current 7 percent to 11 percent in multi-million watt production; reduce the direct manufacturing cost of photovoltaic modules by 30 percent from the current \$2.50 per watt to \$1.75 per watt by 2005; and establish greater than a 20-year lifetime of photovoltaic systems by improving the reliability and lifetime of balance-of-system components and reducing recurring cost by 40 percent. The program's top priority should be the development of sound manufacturing technologies for thin-film modules, and the program should make a concerted effort to integrate fundamental research and basic engineering research.

(G) For Solar Building Technology Research, the program should complete research and development on new polymers and manufacturing processes to reduce the cost of solar water heating by 50 percent by 2004, compared to the cost as of the date of the enactment of this Act.

(H) For Wind Energy Systems, the program should reduce the cost of wind energy to three cents per kilowatt-hour at Class 6 (15 miles-per-hour annual average) wind sites by 2004, and 4 cents per kilowatt-hour in Class 4 (13 miles-per-hour annual average) wind sites by 2015, and further if required so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry. Program research on advanced wind turbine technology should focus on turbulent flow studies, durable materials to extend turbine life, blade efficiency, and higher efficiency operation in low quality wind regimes.

(I) For Electric Energy Systems and Storage, including High Temperature Superconducting Research and Development, Energy Storage Systems, and Transmission Reliability, the program should develop high capacity superconducting transmission lines and generators, highly reliable energy storage systems, and distributed generating systems to accommodate multiple types of energy sources under common interconnect standards.

(J) For the International Renewable Energy and Renewable Energy Production Incentive programs, and Renewable Program Support, the program should encourage the commercial application of renewable energy technologies by developed and developing countries, State and local governmental entities and nonprofit electric cooperatives, and by the competitive domestic market.

(3) NUCLEAR ENERGY.—

(A) For university nuclear science and engineering, the program should carry out the

provisions of subtitle A of title III of this division.

(B) For fuel cycle research, development, and demonstration, the program should carry out the provisions of subtitle B of title III of this division.

(C) For the Nuclear Energy Research Initiative, the program should accomplish the objectives of section 2341(b) of this Act.

(D) For the Nuclear Energy Plant Optimization Program, the program should accomplish the objectives of section 2342(b) of this Act.

(E) For Nuclear Energy Technologies, the program should carry out the provisions of section 2343 of this Act.

(F) For Advanced Radioisotope Power Systems, the program should ensure that the United States has adequate capability to power future satellite and space missions.

(4) FOSSIL ENERGY.—

(A) For core fossil energy research and development, the program should achieve the goals outlined by the Department's Vision 21 Program. This research should address fuel-flexible gasification and turbines, fuel cells, advanced-combustion systems, advanced fuels and chemicals, advanced modeling and systems analysis, materials and heat exchangers, environmental control technologies, gas-stream purification, gas-separation technology, and sequestration research and development focused on cost-effective novel concepts for capturing, reusing or storing, or otherwise mitigating carbon and other greenhouse gas emissions.

(B) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(i) extract methane hydrates in coastal waters of the United States, in accordance with the provisions of the Methane Hydrate Research and Development Act of 2000; and

(ii) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico. Research and development on ultra-deepwater resource recovery shall focus on improving the safety and efficiency of such recovery and of sub-sea production technology used for such recovery, while lowering costs.

(C) For transportation fuels, the program should support a comprehensive transportation fuels strategy to increase the price elasticity of oil supply and demand by focusing research on reducing the cost of producing transportation fuels from natural gas and indirect liquefaction of coal.

(5) SCIENCE.—The Secretary, through the Office of Science, should—

(A) develop and maintain a robust portfolio of fundamental scientific and energy research, including High Energy and Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (including Materials Sciences, Chemical Sciences, Engineering and Geosciences, and Energy Biosciences), Advanced Scientific Computing, Energy Research and Analysis, Multiprogram Energy Laboratories-Facilities Support, Fusion Energy Sciences, and Facilities and Infrastructure;

(B) maintain, upgrade, and expand, as appropriate, and in accordance with the provisions of this division, the scientific user facilities maintained by the Office of Science, and ensure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences; and

(C) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance-based goals, or that modifies the goals under

subsection (a), as appropriate, for 2005, 2010, 2015, and 2020 for each of the programs authorized by this division that would enable each such program to meet the purposes of this division under section 2003. Such assessment shall be based on the latest scientific and technical knowledge, and shall also take into consideration, as appropriate, the comparative environmental impacts (including emissions of greenhouse gases) of the energy saved or produced by specific programs.

(c) **CONSULTATION.**—In establishing the measurable cost and performance-based goals under subsection (b), the Secretary shall consult with the private sector, institutions of higher learning, national laboratories, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

(d) **SCHEDULE.**—The Secretary shall—

(1) issue and publish in the Federal Register a set of draft measurable cost and performance-based goals for the programs authorized by this division for public comment—

(A) in the case of a program established before the date of the enactment of this Act, not later than 120 days after the date of the enactment of this Act; and

(B) in the case of a program not established before the date of the enactment of this Act, not later than 120 days after the date of establishment of the program;

(2) not later than 60 days after the date of publication under paragraph (1), after taking into consideration any public comments received, transmit to the Congress and publish in the Federal Register the final measurable cost and performance-based goals; and

(3) update all such cost and performance-based goals on a biennial basis.

SEC. 2005. DEFINITIONS.

For purposes of this division, except as otherwise provided—

(1) the term “Administrator” means the Administrator of the Environmental Protection Agency;

(2) the term “appropriate congressional committees” means—

(A) the Committee on Science and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate;

(3) the term “Department” means the Department of Energy; and

(4) the term “Secretary” means the Secretary of Energy.

SEC. 2006. AUTHORIZATIONS.

Authorizations of appropriations under this division are for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities.

SEC. 2007. BALANCE OF FUNDING PRIORITIES.

(a) **SENSE OF CONGRESS.**—It is the sense of the Congress that the funding of the various programs authorized by titles I through IV of this division should remain in the same proportion to each other as provided in this division, regardless of the total amount of funding made available for those programs.

(b) **REPORT TO CONGRESS.**—If for fiscal year 2002, 2003, or 2004 the amounts appropriated in general appropriations Acts for the programs authorized in titles I through IV of this division are not in the same proportion to one another as are the authorizations for such programs in this division, the Secretary and the Administrator shall, within 60 days after the date of the enactment of the last general appropriations Act appropriating amounts for such programs, transmit to the appropriate congressional committees a re-

port describing the programs, projects, and activities that would have been funded if the proportions provided for in this division had been maintained in the appropriations. The amount appropriated for the program receiving the highest percentage of its authorized funding for a fiscal year shall be used as the baseline for calculating the proportional deficiencies of appropriations for other programs in that fiscal year.

TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Subtitle A—Alternative Fuel Vehicles

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the “Alternative Fuel Vehicle Acceleration Act of 2001”.

SEC. 2102. DEFINITIONS.

For the purposes of this subtitle, the following definitions apply:

(1) **ALTERNATIVE FUEL VEHICLE.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “alternative fuel vehicle” means a motor vehicle that is powered—

(i) in whole or in part by electricity, including electricity supplied by a fuel cell;

(ii) by liquefied natural gas;

(iii) by compressed natural gas;

(iv) by liquefied petroleum gas;

(v) by hydrogen;

(vi) by methanol or ethanol at no less than 85 percent by volume; or

(vii) by propane.

(B) **EXCLUSIONS.**—The term “alternative fuel vehicle” does not include—

(i) any vehicle designed to operate solely on gasoline or diesel derived from fossil fuels, regardless of whether it can also be operated on an alternative fuel; or

(ii) any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) **PILOT PROGRAM.**—The term “pilot program” means the competitive grant program established under section 2103.

(3) **ULTRA-LOW SULFUR DIESEL VEHICLE.**—The term “ultra-low sulfur diesel vehicle” means a vehicle powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same type that are commercially available.

SEC. 2103. PILOT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) **GRANT PURPOSES.**—Grants under this section may be used for the following purposes:

(1) The acquisition of alternative fuel vehicles, including—

(A) passenger vehicles;

(B) buses used for public transportation or transportation to and from schools;

(C) delivery vehicles for goods or services;

(D) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(E) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of ultra-low sulfur diesel vehicles.

(3) Infrastructure necessary to directly support an alternative fuel vehicle project funded by the grant, including fueling and other support equipment.

(4) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) **APPLICATIONS.**—

(1) **REQUIREMENTS.**—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include—

(A) at least one project to enable passengers or goods to be transferred directly from one alternative fuel vehicle or ultra-low sulfur diesel vehicle to another in a linked transportation system;

(B) a description of the projects proposed in the application, including how they meet the requirements of this subtitle;

(C) an estimate of the ridership or degree of use of the projects proposed in the application;

(D) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the projects proposed in the application, and a plan to collect and disseminate environmental data, related to the projects to be funded under the grant, over the life of the projects;

(E) a description of how the projects proposed in the application will be sustainable without Federal assistance after the completion of the term of the grant;

(F) a complete description of the costs of each project proposed in the application, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(G) a description of which costs of the projects proposed in the application will be supported by Federal assistance under this subtitle; and

(H) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the projects, and a commitment by the applicant to use such fuel in carrying out the projects.

(2) **PARTNERS.**—An applicant under paragraph (1) may carry out projects under the pilot program in partnership with public and private entities.

(d) **SELECTION CRITERIA.**—In evaluating applications under the pilot program, the Secretary shall consider each applicant’s previous experience with similar projects and shall give priority consideration to applications that—

(1) are most likely to maximize protection of the environment;

(2) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed projects and the greatest likelihood that each project proposed in the application will be maintained or expanded after Federal assistance under this subtitle is completed; and

(3) exceed the minimum requirements of subsection (c)(1)(A).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than \$20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel vehicles through the pilot program, and shall ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due within 6 months of the publication of the notice.

(2) SELECTION.—Not later than 6 months after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 2104. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 2 months after the date grants are awarded under this subtitle, the Secretary shall transmit to the appropriate congressional committees a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of the enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the appropriate congressional committees a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of the potential benefits to the environment to be derived from widespread application of alternative fuel vehicles and ultra-low sulfur diesel vehicles.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary \$200,000,000 to carry out this subtitle, to remain available until expended.

Subtitle B—Distributed Power Hybrid Energy Systems

SEC. 2121. FINDINGS.

The Congress makes the following findings:

(1) Our ability to take advantage of our renewable, indigenous resources in a cost-effective manner can be greatly advanced through systems that compensate for the intermittent nature of these resources through distributed power hybrid systems.

(2) Distributed power hybrid systems can—

(A) shelter consumers from temporary energy price volatility created by supply and demand mismatches;

(B) increase the reliability of energy supply; and

(C) address significant local differences in power and economic development needs and resource availability that exist throughout the United States.

(3) Realizing these benefits will require a concerted and integrated effort to remove market barriers to adopting distributed power hybrid systems by—

(A) developing the technological foundation that enables designing, testing, certifying, and operating distributed power hybrid systems; and

(B) providing the policy framework that reduces such barriers.

(4) While many of the individual distributed power hybrid systems components are either available or under development in existing private and public sector programs, the capabilities to integrate these components into workable distributed power hybrid systems that maximize benefits to consumers in a safe manner often are not coherently being addressed.

SEC. 2122. DEFINITIONS.

For purposes of this subtitle—

(1) the term “distributed power hybrid system” means a system using 2 or more distributed power sources, operated together with associated supporting equipment, including storage equipment, and software necessary to provide electric power onsite and to an electric distribution system; and

(2) the term “distributed power source” means an independent electric energy source of usually 10 megawatts or less located close to a residential, commercial, or industrial load center, including—

(A) reciprocating engines;

(B) turbines;

(C) microturbines;

(D) fuel cells;

(E) solar electric systems;

(F) wind energy systems;

(G) biopower systems;

(H) geothermal power systems; or

(I) combined heat and power systems.

SEC. 2123. STRATEGY.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and transmit to the Congress a distributed power hybrid systems strategy showing—

(1) needs best met with distributed power hybrid systems configurations, especially systems including one or more solar or renewable power sources; and

(2) technology gaps and barriers (including barriers to efficient connection with the power grid) that hamper the use of distributed power hybrid systems.

(b) ELEMENTS.—The strategy shall provide for development of—

(1) system integration tools (including databases, computer models, software, sensors, and controls) needed to plan, design, build, and operate distributed power hybrid systems for maximum benefits;

(2) tests of distributed power hybrid systems, power parks, and microgrids, including field tests and cost-shared demonstrations with industry;

(3) design tools to characterize the benefits of distributed power hybrid systems for consumers, to reduce testing needs, to speed commercialization, and to generate data

characterizing grid operations, including interconnection requirements;

(4) precise resource assessment tools to map local resources for distributed power hybrid systems; and

(5) a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of distributed energy resources, focused on filling gaps in distributed power hybrid systems technologies identified under subsection (a)(2), which may include—

(A) integration of a wide variety of advanced technologies into distributed power hybrid systems;

(B) energy storage devices;

(C) environmental control technologies;

(D) interconnection standards, protocols, and equipment; and

(E) ancillary equipment for dispatch and control.

(c) IMPLEMENTATION AND INTEGRATION.—

The Secretary shall implement the strategy transmitted under subsection (a) and the research program under subsection (b)(5). Activities pursuant to the strategy shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2124. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency, reliability, and environmental responsibility in high power density industries, such as data centers, server farms, telecommunications facilities, and heavy industry.

(b) AREAS.—In carrying out this section, the Secretary shall consider technologies that provide—

(1) significant improvement in efficiency of high power density facilities, and in data and telecommunications centers, using advanced thermal control technologies;

(2) significant improvements in air-conditioning efficiency in facilities such as data centers and telecommunications facilities;

(3) significant advances in peak load reduction; and

(4) advanced real time metering and load management and control devices.

(c) IMPLEMENTATION AND INTEGRATION.—Activities pursuant to this program shall be integrated with other activities of the Department's Office of Power Technologies.

SEC. 2125. MICRO-COGENERATION ENERGY TECHNOLOGY.

The Secretary shall make competitive, merit-based grants to consortia of private sector entities for the development of micro-cogeneration energy technology. The consortia shall explore the creation of small-scale combined heat and power through the use of residential heating appliances. There are authorized to be appropriated to the Secretary \$20,000,000 to carry out this section, to remain available until expended.

SEC. 2126. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the distributed energy resources, power transmission, and high power density industries to prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

SEC. 2127. REPORT.

Two years after date of the enactment of this Act and at 2-year intervals thereafter, the Secretary, jointly with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle.

SEC. 2128. VOLUNTARY CONSENSUS STANDARDS.

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the National Institute of Standards and Technology, shall work with the Institute of Electrical and Electronic Engineers and other standards development organizations toward the development of voluntary consensus standards for distributed energy systems for use in manufacturing and using equipment and systems for connection with electric distribution systems, for obtaining electricity from, or providing electricity to, such systems.

Subtitle C—Secondary Electric Vehicle
Battery Use

SEC. 2131. DEFINITIONS.

For purposes of this subtitle, the term—

(1) “battery” means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity; and

(2) “associated equipment” means equipment located at the location where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

SEC. 2132. ESTABLISHMENT OF SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) PROGRAM.—The Secretary shall establish and conduct a research, development, and demonstration program for the secondary use of batteries where the original use of such batteries was in transportation applications. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary application, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including longevity of useful service life and costs, of such batteries in field operations, and evaluate the necessary supporting infrastructure, including disposal and reuse of batteries; and

(3) coordinated with ongoing secondary battery use programs underway at the national laboratories and in industry.

(b) SOLICITATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(2)(A) Proposals submitted in response to a solicitation under this section shall include—

(i) a description of the project, including the batteries to be used in the project, the proposed locations and applications for the batteries, the number of batteries to be demonstrated, and the type, characteristics, and estimated life-cycle costs of the batteries compared to other energy storage devices currently used;

(ii) the contribution, if any, of State or local governments and other persons to the demonstration project;

(iii) the type of associated equipment to be demonstrated and the type of supporting infrastructure to be demonstrated; and

(iv) any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms

of such lease arrangement for the batteries and associated equipment.

(C) SELECTION OF PROPOSALS.—

(1)(A) The Secretary shall, not later than 3 months after the closing date established by the Secretary for receipt of proposals under subsection (b), select at least 5 proposals to receive financial assistance under this section.

(B) No one project selected under this section shall receive more than 25 percent of the funds authorized under this section. No more than 3 projects selected under this section shall demonstrate the same battery type.

(2) In selecting a proposal under this section, the Secretary shall consider—

(A) the ability of the proposer to acquire the batteries and associated equipment and to successfully manage and conduct the demonstration project, including the reporting requirements set forth in paragraph (3)(B);

(B) the geographic and climatic diversity of the projects selected;

(C) the long-term technical and competitive viability of the batteries to be used in the project and of the original manufacturer of such batteries;

(D) the suitability of the batteries for their intended uses;

(E) the technical performance of the battery, including the expected additional useful life and the battery’s ability to retain energy;

(F) the environmental effects of the use of and disposal of the batteries proposed to be used in the project selected;

(G) the extent of involvement of State or local government and other persons in the demonstration project and whether such involvement will—

(i) permit a reduction of the Federal cost share per project; or

(ii) otherwise be used to allow the Federal contribution to be provided to demonstrate a greater number of batteries; and

(H) such other criteria as the Secretary considers appropriate.

(3) CONDITIONS.—The Secretary shall require that—

(A) as a part of a demonstration project, the users of the batteries provide to the proposer information regarding the operation, maintenance, performance, and use of the batteries, and the proposer provide such information to the battery manufacturer, for 3 years after the beginning of the demonstration project;

(B) the proposer provide to the Secretary such information regarding the operation, maintenance, performance, and use of the batteries as the Secretary may request during the period of the demonstration project; and

(C) the proposer provide at least 50 percent of the costs associated with the proposal.

SEC. 2133. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, from amounts authorized under section 2161(a), for purposes of this subtitle—

(1) \$1,000,000 for fiscal year 2002;

(2) \$7,000,000 for fiscal year 2003; and

(3) \$7,000,000 for fiscal year 2004.

Such appropriations may remain available until expended.

Subtitle D—Green School Buses

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the “Clean Green School Bus Act of 2001”.

SEC. 2142. ESTABLISHMENT OF PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or \$15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may be used to demonstrate the use only of new alternative fuel school buses or ultra-low sulfur diesel school buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that, in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model years 2001 and 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that, in the case of ultra-low sulfur diesel school buses, emit not more than—

(A) for buses manufactured in model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter, except that under no circumstances shall buses be acquired under this section that emit nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of ultra-low sulfur diesel school buses commercially available at the time the grant is made.

(h) **DEPLOYMENT AND DISTRIBUTION.**—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) **LIMIT ON FUNDING.**—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) **DEFINITIONS.**—For purposes of this section—

(1) the term “alternative fuel school bus” means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume; and

(2) the term “ultra-low sulfur diesel school bus” means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

SEC. 2143. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) **COST SHARING.**—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) **FUNDING.**—No more than \$25,000,000 of the amounts authorized under section 2144 may be used for carrying out this section for the period encompassing fiscal years 2002 through 2006.

(d) **REPORTS TO CONGRESS.**—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006,

the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 2144. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, to remain available until expended—

- (1) \$40,000,000 for fiscal year 2002;
- (2) \$50,000,000 for fiscal year 2003;
- (3) \$60,000,000 for fiscal year 2004;
- (4) \$70,000,000 for fiscal year 2005; and
- (5) \$80,000,000 for fiscal year 2006.

Subtitle E—Next Generation Lighting Initiative

SEC. 2151. SHORT TITLE.

This subtitle may be cited as “Next Generation Lighting Initiative Act”.

SEC. 2152. DEFINITION.

In this subtitle, the term “Lighting Initiative” means the “Next Generation Lighting Initiative” established under section 2153(a).

SEC. 2153. NEXT GENERATION LIGHTING INITIATIVE.

(a) **ESTABLISHMENT.**—The Secretary is authorized to establish a lighting initiative to be known as the “Next Generation Lighting Initiative” to research, develop, and conduct demonstration activities on advanced lighting technologies, including white light emitting diodes.

(b) **RESEARCH OBJECTIVES.**—The research objectives of the Lighting Initiative shall be to develop, by 2011, advanced lighting technologies that, compared to incandescent and fluorescent lighting technologies as of the date of the enactment of this Act, are—

- (1) longer lasting;
- (2) more energy-efficient; and
- (3) cost-competitive.

SEC. 2154. STUDY.

(a) **IN GENERAL.**—Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with other Federal agencies, as appropriate, shall complete a study on strategies for the development and commercial application of advanced lighting technologies. The Secretary shall request a review by the National Academies of Sciences and Engineering of the study under this subsection, and shall transmit the results of the study to the appropriate congressional committees.

(b) **REQUIREMENTS.**—The study shall—

(1) develop a comprehensive strategy to implement the Lighting Initiative; and

(2) identify the research and development, manufacturing, deployment, and marketing barriers that must be overcome to achieve a goal of a 25 percent market penetration by advanced lighting technologies into the incandescent and fluorescent lighting market by the year 2012.

(c) **IMPLEMENTATION.**—As soon as practicable after the review of the study under subsection (a) is transmitted to the Secretary by the National Academies of Sciences and Engineering, the Secretary shall adapt the implementation of the Lighting Initiative taking into consideration the recommendations of the National Academies of Sciences and Engineering.

SEC. 2155. GRANT PROGRAM.

(a) **IN GENERAL.**—Subject to section 2603 of this Act, the Secretary may make merit-based competitive grants to firms and research organizations that conduct research, development, and demonstration projects related to advanced lighting technologies.

(b) **ANNUAL REVIEW.**—

(1) **IN GENERAL.**—An annual independent review of the grant-related activities of firms

and research organizations receiving a grant under this section shall be conducted by a committee appointed by the Secretary under the Federal Advisory Committee Act (5 U.S.C. App.), or, at the request of the Secretary, a committee appointed by the National Academies of Sciences and Engineering.

(2) **REQUIREMENTS.**—Using clearly defined standards established by the Secretary, the review shall assess technology advances and progress toward commercialization of the grant-related activities of firms or research organizations during each fiscal year of the grant program.

(c) **TECHNICAL AND FINANCIAL ASSISTANCE.**—The national laboratories and other Federal agencies, as appropriate, shall cooperate with and provide technical and financial assistance to firms and research organizations conducting research, development, and demonstration projects carried out under this subtitle.

Subtitle F—Department of Energy Authorization of Appropriations

SEC. 2161. AUTHORIZATION OF APPROPRIATIONS.

(a) **OPERATION AND MAINTENANCE.**—In addition to amounts authorized to be appropriated under section 2105, section 2125, and section 2144, there are authorized to be appropriated to the Secretary for subtitle B, subtitle C, subtitle E, and for Energy Conservation operation and maintenance (including Building Technology, State and Community Sector (Nongrants), Industry Sector, Transportation Sector, Power Technologies, and Policy and Management) \$625,000,000 for fiscal year 2002, \$700,000,000 for fiscal year 2003, and \$800,000,000 for fiscal year 2004, to remain available until expended.

(b) **LIMITS ON USE OF FUNDS.**—None of the funds authorized to be appropriated in subsection (a) may be used for—

- (1) Building Technology, State and Community Sector—
 - (A) Residential Building Energy Codes;
 - (B) Commercial Building Energy Codes;
 - (C) Lighting and Appliance Standards;
 - (D) Weatherization Assistance Program; or
 - (E) State Energy Program; or
- (2) Federal Energy Management Program.

Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

SEC. 2171. SHORT TITLE.

This subtitle may be cited as the “Environmental Protection Agency Office of Air and Radiation Authorization Act of 2001”.

SEC. 2172. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for Office of Air and Radiation Climate Change Protection Programs \$121,942,000 for fiscal year 2002, \$126,800,000 for fiscal year 2003, and \$131,800,000 for fiscal year 2004 to remain available until expended, of which—

- (1) \$52,731,000 for fiscal year 2002, \$54,800,000 for fiscal year 2003, and \$57,000,000 for fiscal year 2004 shall be for Buildings;
- (2) \$32,441,000 for fiscal year 2002, \$33,700,000 for fiscal year 2003, and \$35,000,000 for fiscal year 2004 shall be for Transportation;
- (3) \$27,295,000 for fiscal year 2002, \$28,400,000 for fiscal year 2003, and \$29,500,000 for fiscal year 2004 shall be for Industry;
- (4) \$1,700,000 for fiscal year 2002, \$1,800,000 for fiscal year 2003, and \$1,900,000 for fiscal year 2004 shall be for Carbon Removal;
- (5) \$2,500,000 for fiscal year 2002, \$2,600,000 for fiscal year 2003, and \$2,700,000 for fiscal year 2004 shall be for State and Local Climate; and
- (6) \$5,275,000 for fiscal year 2002, \$5,500,000 for fiscal year 2003, and \$5,700,000 for fiscal year 2004 shall be for International Capacity Building.

SEC. 2173. LIMITS ON USE OF FUNDS.

(a) **PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.**—None of the funds authorized to be appropriated by this subtitle may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services are not available from a commercial source in the United States.

(b) **REQUESTS FOR PROPOSALS.**—None of the funds authorized to be appropriated by this subtitle may be used by the Environmental Protection Agency to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2174. COST SHARING.

(a) **RESEARCH AND DEVELOPMENT.**—Except as otherwise provided in this subtitle, for research and development programs carried out under this subtitle, the Administrator shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Administrator may reduce or eliminate the non-Federal requirement under this subsection if the Administrator determines that the research and development is of a basic or fundamental nature.

(b) **DEMONSTRATION AND COMMERCIAL APPLICATION.**—Except as otherwise provided in this subtitle, the Administrator shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Administrator may reduce the non-Federal requirement under this subsection if the Administrator determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this subtitle.

(c) **CALCULATION OF AMOUNT.**—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Administrator may include personnel, services, equipment, and other resources.

SEC. 2175. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATIONS OF ENERGY TECHNOLOGY.

The Administrator shall provide funding for scientific or energy demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2176. REPROGRAMMING.

(a) **AUTHORITY.**—The Administrator may use amounts appropriated under this subtitle for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Administrator has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) \$250,000 more than the amount authorized for the program, project, or activity, whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Administrator.

(b) **REPORT.**—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) **LIMITATIONS.**—(1) In no event may the total amount of funds obligated pursuant to this subtitle exceed the total amount authorized to be appropriated by this subtitle.

(2) Funds appropriated pursuant to this subtitle may not be used for an item for which Congress has declined to authorize funds.

SEC. 2177. BUDGET REQUEST FORMAT.

The Administrator shall provide to the appropriate congressional committees, to be transmitted at the same time as the Environmental Protection Agency's annual budget request submission, a detailed justification for budget authorization for the programs, projects, and activities for which funds are authorized by this subtitle. Each such document shall include, for the fiscal year for which funding is being requested and for the 2 previous fiscal years—

(1) a description of, and funding requested or allocated for, each such program, project, or activity;

(2) an identification of all recipients of funds to conduct such programs, projects, and activities; and

(3) an estimate of the amounts to be expended by each recipient of funds identified under paragraph (2).

SEC. 2178. OTHER PROVISIONS.

(a) **ANNUAL OPERATING PLAN AND REPORTS.**—The Administrator shall provide simultaneously to the Committee on Science of the House of Representatives—

(1) any annual operating plan or other operational funding document, including any additions or amendments thereto; and

(2) any report relating to the environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology programs, projects, or activities of the Environmental Protection Agency, provided to any committee of Congress.

(b) **NOTICE OF REORGANIZATION.**—The Administrator shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

Subtitle H—National Building Performance Initiative

SEC. 2181. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) **INTERAGENCY GROUP.**—Not later than 3 months after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an Interagency Group responsible for the development and implementation of a National Building Performance Initiative to address energy conservation and research and development and related issues. The National Institute of Standards and Technology shall provide necessary administrative support for the Interagency Group.

(b) **PLAN.**—Not later than 9 months after the date of the enactment of this Act, the Interagency Group shall transmit to the Congress a multiyear implementation plan describing the Federal role in reducing the costs, including energy costs, of using, owning, and operating commercial, institutional, residential, and industrial buildings by 30 percent by 2020. The plan shall include—

(1) research, development, and demonstration of systems and materials for new con-

struction and retrofit, on the building envelope and components; and

(2) the collection and dissemination in a usable form of research results and other pertinent information to the design and construction industry, government officials, and the general public.

(c) **NATIONAL BUILDING PERFORMANCE ADVISORY COMMITTEE.**—A National Building Performance Advisory Committee shall be established to advise on creation of the plan, review progress made under the plan, advise on any improvements that should be made to the plan, and report to the Congress on actions that have been taken to advance the Nation's capability in furtherance of the plan. The members shall include representatives of a broad cross-section of interests such as the research, technology transfer, architectural, engineering, and financial communities; materials and systems suppliers; State, county, and local governments; the residential, multifamily, and commercial sectors of the construction industry; and the insurance industry.

(d) **REPORT.**—The Interagency Group shall, within 90 days after the end of each fiscal year, transmit a report to the Congress describing progress achieved during the preceding fiscal year by government at all levels and by the private sector, toward implementing the plan developed under subsection (b), and including any amendments to the plan.

TITLE II—RENEWABLE ENERGY**Subtitle A—Hydrogen****SEC. 2201. SHORT TITLE.**

This subtitle may be cited as the "Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001".

SEC. 2202. PURPOSES.

Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"(b) **PURPOSES.**—The purposes of this Act are—

"(1) to direct the Secretary to conduct research, development, and demonstration activities leading to the production, storage, transportation, and use of hydrogen for industrial, commercial, residential, transportation, and utility applications;

"(2) to direct the Secretary to develop a program of technology assessment, information dissemination, and education in which Federal, State, and local agencies, members of the energy, transportation, and other industries, and other entities may participate; and

"(3) to develop methods of hydrogen production that minimize adverse environmental impacts, with emphasis on efficient and cost-effective production from renewable energy resources."

SEC. 2203. DEFINITIONS.

Section 102(c) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated by paragraph (1) of this section, the following new paragraph:

"(1) "advisory committee" means the advisory committee established under section 108;"

SEC. 2204. REPORTS TO CONGRESS.

Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

"SEC. 103. REPORTS TO CONGRESS.

"(a) **REQUIREMENT.**—Not later than 1 year after the date of the enactment of the Robert

S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, and biennially thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs and activities authorized under this Act.

“(b) CONTENTS.—A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

“(1) an assessment of the extent to which the program is meeting the purposes specified in section 102(b);

“(2) a determination of the effectiveness of the technology assessment, information dissemination, and education program established under section 106;

“(3) an analysis of Federal, State, local, and private sector hydrogen-related research, development, and demonstration activities to identify productive areas for increased intergovernmental and private-public sector collaboration; and

“(4) recommendations of the advisory committee for any improvements needed in the programs and activities authorized by this Act.”

SEC. 2205. HYDROGEN RESEARCH AND DEVELOPMENT.

Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

“SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, commercial, residential, transportation, and utility applications.

“(b) ELEMENTS.—In conducting the program authorized by this section, the Secretary shall—

“(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen as an energy carrier into the marketplace;

“(2) initiate or accelerate existing research and development in critical technical issues that will contribute to the development of more economical hydrogen production, storage, transportation, and use, including critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

“(3) survey private sector and public sector hydrogen research and development activities worldwide, and take steps to ensure that research and development activities under this section do not—

“(A) duplicate any available research and development results; or

“(B) displace or compete with the privately funded hydrogen research and development activities of United States industry.

“(c) EVALUATION OF TECHNOLOGIES.—The Secretary shall evaluate, for the purpose of determining whether to undertake or fund research and development activities under this section, any reasonable new or improved technology that could lead or contribute to the development of economical hydrogen production, storage, transportation, and use.

“(d) RESEARCH AND DEVELOPMENT SUPPORT.—The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials nec-

essary to support the research and development activities authorized under this section and other efforts authorized under this Act, consistent with section 106 of this Act.

“(e) COMPETITIVE PEER REVIEW.—The Secretary shall carry out or fund research and development activities under this section only on a competitive basis using peer review.

“(f) COST SHARING.—For research and development programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.”

SEC. 2206. DEMONSTRATIONS.

Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) in subsection (a), by striking “, preferably in self-contained locations,”;

(2) in subsection (b), by striking “at self-contained sites” and inserting “, which shall include a fuel cell bus demonstration program to address hydrogen production, storage, and use in transit bus applications”; and

(3) in subsection (c), by inserting “NON-FEDERAL FUNDING REQUIREMENT.—” after “(c)”.

SEC. 2207. TECHNOLOGY TRANSFER.

Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

“SEC. 106. TECHNOLOGY ASSESSMENT, INFORMATION DISSEMINATION, AND EDUCATION PROGRAM.

“(a) PROGRAM.—Secretary shall, in consultation with the advisory committee, conduct a program designed to accelerate wider application of hydrogen production, storage, transportation, and use technologies, including application in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.

“(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

“(1) undertake an update of the inventory and assessment, required under section 106(b)(1) of this Act as in effect before the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, of hydrogen technologies and their commercial capability to economically produce, store, transport, or use hydrogen in industrial, commercial, residential, transportation, and utility sector; and

“(2) develop, with other Federal agencies as appropriate and industry, an information exchange program to improve technology transfer for hydrogen production, storage, transportation, and use, which may consist of workshops, publications, conferences, and a database for the use by the public and private sectors.”

SEC. 2208. COORDINATION AND CONSULTATION.

Section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

“(1) shall establish a central point for the coordination of all hydrogen research, development, and demonstration activities of the Department; and”; and

(2) by amending subsection (c) to read as follows:

“(c) CONSULTATION.—The Secretary shall consult with other Federal agencies as appropriate, and the advisory committee, in

carrying out the Secretary’s authorities pursuant to this Act.”

SEC. 2209. ADVISORY COMMITTEE.

Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

“SEC. 108. ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to establish an advisory committee consisting of experts drawn from domestic industry, academia, Governmental laboratories, and financial, environmental, and other organizations, as appropriate, to review and advise on the progress made through the programs and activities authorized under this Act.

“(b) COOPERATION.—The heads of Federal agencies shall cooperate with the advisory committee in carrying out this section and shall furnish to the advisory committee such information as the advisory committee reasonably deems necessary to carry out this section.

“(c) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

“(1) the implementation and conduct of programs and activities authorized under this Act; and

“(2) the economic, technological, and environmental consequences of the deployment of hydrogen production, storage, transportation, and use systems.

“(d) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall consider, but need not adopt, any recommendations of the advisory committee under subsection (c). The Secretary shall provide an explanation of the reasons that any such recommendations will not be implemented and include such explanation in the report to Congress under section 103(a) of this Act.”

SEC. 2210. AUTHORIZATION OF APPROPRIATIONS.

Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

“SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

“(a) RESEARCH AND DEVELOPMENT; ADVISORY COMMITTEE.—There are authorized to be appropriated to the Secretary to carry out sections 104 and 108—

“(1) \$40,000,000 for fiscal year 2002;

“(2) \$45,000,000 for fiscal year 2003;

“(3) \$50,000,000 for fiscal year 2004;

“(4) \$55,000,000 for fiscal year 2005; and

“(5) \$60,000,000 for fiscal year 2006.

“(b) DEMONSTRATION.—There are authorized to be appropriated to the Secretary to carry out section 105—

“(1) \$20,000,000 for fiscal year 2002;

“(2) \$25,000,000 for fiscal year 2003;

“(3) \$30,000,000 for fiscal year 2004;

“(4) \$35,000,000 for fiscal year 2005; and

“(5) \$40,000,000 for fiscal year 2006.”

SEC. 2211. REPEAL.

(a) REPEAL.—Title II of the Hydrogen Future Act of 1996 is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of the Hydrogen Future Act of 1996 is amended by striking “titles II and III” and inserting “title III”.

Subtitle B—Bioenergy

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the “Bioenergy Act of 2001”.

SEC. 2222. FINDINGS.

Congress finds that bioenergy has potential to help—

(1) meet the Nation’s energy needs;

(2) reduce reliance on imported fuels;

(3) promote rural economic development;

(4) provide for productive utilization of agricultural residues and waste materials, and forestry residues and byproducts; and

(5) protect the environment.

SEC. 2223. DEFINITIONS.

For purposes of this subtitle—

(1) the term “bioenergy” means energy derived from any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal and other organic wastes;

(2) the term “biofuels” includes liquid or gaseous fuels, industrial chemicals, or both;

(3) the term “biopower” includes the generation of electricity or process steam or both; and

(4) the term “integrated bioenergy research and development” includes biopower and biofuels applications.

SEC. 2224. AUTHORIZATION.

The Secretary is authorized to conduct environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities related to bioenergy, including biopower energy systems, biofuels energy systems, and integrated bioenergy research and development.

SEC. 2225. AUTHORIZATION OF APPROPRIATIONS.

(a) **BIOPOWER ENERGY SYSTEMS.**—There are authorized to be appropriated to the Secretary for Biopower Energy Systems programs, projects, and activities—

- (1) \$45,700,000 for fiscal year 2002;
- (2) \$52,500,000 for fiscal year 2003;
- (3) \$60,300,000 for fiscal year 2004;
- (4) \$69,300,000 for fiscal year 2005; and
- (5) \$79,600,000 for fiscal year 2006.

(b) **BIOFUELS ENERGY SYSTEMS.**—There are authorized to be appropriated to the Secretary for biofuels energy systems programs, projects, and activities—

- (1) \$53,500,000 for fiscal year 2002;
- (2) \$61,400,000 for fiscal year 2003;
- (3) \$70,600,000 for fiscal year 2004;
- (4) \$81,100,000 for fiscal year 2005; and
- (5) \$93,200,000 for fiscal year 2006.

(c) **INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.**—There are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, \$49,000,000 for each of the fiscal years 2002 through 2006. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least \$5,000,000 for each fiscal year shall be for training and education targeted to minority and social disadvantaged farmers and ranchers.

(d) **INTEGRATED APPLICATIONS.**—Amounts authorized to be appropriated under this subtitle may be used to assist in the planning, design, and implementation of projects to convert rice straw and barley grain into biopower or biofuels.

Subtitle C—Transmission Infrastructure Systems

SEC. 2241. TRANSMISSION INFRASTRUCTURE SYSTEMS RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.

(a) **IN GENERAL.**—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of electrical transmission systems. Such program shall include advanced energy technologies and systems, high capacity superconducting transmission lines and generators, advanced grid reliability and efficiency technologies development, technologies contributing to significant load reductions, advanced metering, load manage-

ment and control technologies, and technology transfer and education.

(b) **TECHNOLOGY.**—In carrying out this subtitle, the Secretary may include research, development, and demonstration on and commercial application of improved transmission technologies including the integration of the following technologies into improved transmission systems:

- (1) High temperature superconductivity.
- (2) Advanced transmission materials.
- (3) Self-adjusting equipment, processes, or software for survivability, security, and failure containment.
- (4) Enhancements of energy transfer over existing lines.
- (5) Any other infrastructure technologies, as appropriate.

SEC. 2242. PROGRAM PLAN.

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the transmission infrastructure systems industry to select and prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

SEC. 2243. REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary, in consultation with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle and identifying any additional resources needed to continue the development and commercial application of transmission infrastructure technologies.

Subtitle D—Department of Energy Authorization of Appropriations

SEC. 2261. AUTHORIZATION OF APPROPRIATIONS.

(a) **OPERATION AND MAINTENANCE.**—There are authorized to be appropriated to the Secretary for Renewable Energy operation and maintenance, including activities under subtitle C, Geothermal Technology Development, Hydropower, Concentrating Solar Power, Photovoltaic Energy Systems, Solar Building Technology Research, Wind Energy Systems, High Temperature Superconducting Research and Development, Energy Storage Systems, Transmission Reliability, International Renewable Energy Program, Renewable Energy Production Incentive Program, Renewable Program Support, National Renewable Energy Laboratory, and Program Direction, and including amounts authorized under the amendment made by section 2210 and amounts authorized under section 2225, \$535,000,000 for fiscal year 2002, \$639,000,000 for fiscal year 2003, and \$683,000,000 for fiscal year 2004, to remain available until expended.

(b) **WAVE POWERED ELECTRIC GENERATION.**—Within the amounts authorized to be appropriated to the Secretary under subsection (a), the Secretary shall carry out a research program, in conjunction with other appropriate Federal agencies, on wave powered electric generation.

(c) **ASSESSMENT OF RENEWABLE ENERGY RESOURCES.**—

(1) **IN GENERAL.**—Using funds authorized in subsection (a), of this section, the Secretary shall transmit to the Congress, within 1 year after the date of the enactment of this Act, an assessment of all renewable energy resources available within the United States.

(2) **RESOURCE ASSESSMENT.**—Such report shall include a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric, and other renewable energy sources, and an estimate of the costs needed to develop each resource. The report shall also include such other information as the Secretary believes would be useful in siting renewable energy generation, such as appropriate terrain, population and load centers, nearby energy infrastructure, and location of energy resources.

(3) **AVAILABILITY.**—The information and cost estimates in this report shall be updated annually and made available to the public, along with the data used to create the report.

(4) **SUNSET.**—This subsection shall expire at the end of fiscal year 2004.

(d) **LIMITS ON USE OF FUNDS.**—None of the funds authorized to be appropriated in subsection (a) may be used for—

- (1) Departmental Energy Management Program; or
- (2) Renewable Indian Energy Resources.

TITLE III—NUCLEAR ENERGY

Subtitle A—University Nuclear Science and Engineering

SEC. 2301. SHORT TITLE.

This subtitle may be cited as “Department of Energy University Nuclear Science and Engineering Act”.

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) United States university nuclear science and engineering programs are in a state of serious decline, with nuclear engineering enrollment at a 35-year low. Since 1980, the number of nuclear engineering university programs has declined nearly 40 percent, and over two-thirds of the faculty in these programs are 45 years of age or older. Also, since 1980, the number of university research and training reactors in the United States has declined by over 50 percent. Most of these reactors were built in the late 1950s and 1960s with 30-year to 40-year operating licenses, and many will require relicensing in the next several years.

(2) A decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future nuclear waste storage issues, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(3) The Department of Energy’s Office of Nuclear Energy, Science and Technology, a principal Federal agency for civilian research in nuclear science and engineering, is well suited to help maintain tomorrow’s human resource and training investment in the nuclear sciences and engineering.

SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the Nation’s human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department’s statutory authorities related to civilian nuclear research, development, and demonstration and commercial application of energy technology.

(b) **DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.**—In carrying out the program under this subtitle, the Director of the Office of Nuclear Energy, Science and Technology shall—

- (1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative;

(5) assist universities in maintaining reactor infrastructure; and

(6) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall provide for the following university research and training reactor infrastructure maintenance and research activities:

(1) Refueling of university research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the United States nuclear industry, assistance, where necessary, in relicensing and upgrading university training reactors as part of a student training program.

(3) A university reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-DOE LABORATORY INTERACTIONS.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall develop—

(1) a sabbatical fellowship program for university faculty to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under subsection (b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the areas of nuclear science and technology under the mentorship of laboratory staff.

(e) OPERATIONS AND MAINTENANCE.—To the extent that the use of a university research reactor is funded under this subtitle, funds authorized under this subtitle may be used to supplement operation of the research reactor during the investigator's proposed effort. The host institution shall provide at least 50 percent of the cost of the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this subtitle shall be made only after independent merit review.

(g) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a 5-year plan on how the programs authorized in this subtitle will be implemented. The plan shall include a review of the projected personnel needs in the fields of nuclear science and engineering and of the scope of nuclear science and engineering education programs at the Department and other Federal agencies.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary, to remain available until ex-

pired, for the purposes of carrying out this subtitle:

- (1) \$30,200,000 for fiscal year 2002.
- (2) \$41,000,000 for fiscal year 2003.
- (3) \$47,900,000 for fiscal year 2004.
- (4) \$55,600,000 for fiscal year 2005.
- (5) \$64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(1):

- (1) \$3,000,000 for fiscal year 2002.
- (2) \$3,100,000 for fiscal year 2003.
- (3) \$3,200,000 for fiscal year 2004.
- (4) \$3,200,000 for fiscal year 2005.
- (5) \$3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(2):

- (1) \$5,000,000 for fiscal year 2002.
- (2) \$7,000,000 for fiscal year 2003.
- (3) \$8,000,000 for fiscal year 2004.
- (4) \$9,000,000 for fiscal year 2005.
- (5) \$10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING EDUCATION RESEARCH PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(3):

- (1) \$8,000,000 for fiscal year 2002.
- (2) \$12,000,000 for fiscal year 2003.
- (3) \$13,000,000 for fiscal year 2004.
- (4) \$15,000,000 for fiscal year 2005.
- (5) \$20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(5):

- (1) \$200,000 for fiscal year 2002.
- (2) \$200,000 for fiscal year 2003.
- (3) \$300,000 for fiscal year 2004.
- (4) \$300,000 for fiscal year 2005.
- (5) \$300,000 for fiscal year 2006.

(f) REFUELING OF UNIVERSITY RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(1):

- (1) \$6,000,000 for fiscal year 2002.
- (2) \$6,500,000 for fiscal year 2003.
- (3) \$7,000,000 for fiscal year 2004.
- (4) \$7,500,000 for fiscal year 2005.
- (5) \$8,000,000 for fiscal year 2006.

(g) RELICENSING ASSISTANCE.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(2):

- (1) \$1,000,000 for fiscal year 2002.
- (2) \$1,100,000 for fiscal year 2003.
- (3) \$1,200,000 for fiscal year 2004.
- (4) \$1,300,000 for fiscal year 2005.
- (5) \$1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(3):

- (1) \$6,000,000 for fiscal year 2002.
- (2) \$10,000,000 for fiscal year 2003.
- (3) \$14,000,000 for fiscal year 2004.
- (4) \$18,000,000 for fiscal year 2005.
- (5) \$20,000,000 for fiscal year 2006.

(i) UNIVERSITY-DOE LABORATORY INTERACTIONS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(d):

- (1) \$1,000,000 for fiscal year 2002.
- (2) \$1,100,000 for fiscal year 2003.
- (3) \$1,200,000 for fiscal year 2004.
- (4) \$1,300,000 for fiscal year 2005.
- (5) \$1,300,000 for fiscal year 2006.

Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

SEC. 2321. PROGRAM.

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy,

Science and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of proliferation-resistant fuel recycling technologies as an alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department's annual budget submission.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

- (1) \$10,000,000 for fiscal year 2002; and
- (2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

Subtitle C—Department of Energy Authorization of Appropriations

SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Research Initiative for grants to be competitively awarded and subject to peer review for research relating to nuclear energy.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) developing advanced concepts and scientific breakthroughs in nuclear fission and reactor technology to address and overcome the principal technical and scientific obstacles to the expanded use of nuclear energy in the United States;

(2) advancing the state of nuclear technology to maintain a competitive position in foreign markets and a future domestic market;

(3) promoting and maintaining a United States nuclear science and engineering infrastructure to meet future technical challenges;

(4) providing an effective means to collaborate on a cost-shared basis with international agencies and research organizations to address and influence nuclear technology development worldwide; and

(5) promoting United States leadership and partnerships in bilateral and multilateral nuclear energy research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

- (1) \$60,000,000 for fiscal year 2002; and
- (2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Plant Optimization research and development program jointly with industry and cost-shared by industry by at least 50 percent and subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) managing long-term effects of component aging; and

(2) improving the efficiency and productivity of existing nuclear power stations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

- (1) \$15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 and 2004.

SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.

(a) IN GENERAL.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial application.

(b) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems, including—

(1) economics competitive with any other generators;

(2) enhanced safety features, including passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of the enactment of this Act;

(4) highly proliferation-resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of the enactment of this Act.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, and international, professional, and technical organizations.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall transmit to the appropriate congressional committees a report describing the activities of the Secretary under this section, and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report, with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system concept recommended under subparagraph (C) for demonstration through a public/private partnership;

(G) an evaluation of opportunities for siting demonstration facilities on Department of Energy land; and

(H) a recommendation for appropriate involvement of other Federal agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section and to carry out the recommendations in the report transmitted under subsection (d)—

(1) \$20,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary to carry out activities authorized under this title for nuclear energy operation and maintenance, including amounts authorized under sections 2304(a), 2321(c), 2341(c), 2342(c), and 2343(e), and including Advanced Radioisotope Power Systems, Test Reactor Landlord, and Program Direction, \$191,200,000 for fiscal year 2002, \$199,000,000 for fiscal year 2003, and \$207,000,000 for fiscal year 2004, to remain available until expended.

(b) CONSTRUCTION.—There are authorized to be appropriated to the Secretary—

(1) \$950,000 for fiscal year 2002, \$2,200,000 for fiscal year 2003, \$1,246,000 for fiscal year 2004, and \$1,699,000 for fiscal year 2005 for completion of construction of Project 99-E-200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory; and

(2) \$500,000 for fiscal year 2002, \$500,000 for fiscal year 2003, \$500,000 for fiscal year 2004, and \$500,000 for fiscal year 2005, for completion of construction of Project 95-E-201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory.

(c) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Nuclear Energy Isotope Support and Production;

(2) Argonne National Laboratory-West Operations;

(3) Fast Flux Test Facility; or

(4) Nuclear Facilities Management.

TITLE IV—FOSSIL ENERGY

Subtitle A—Coal

SEC. 2401. COAL AND RELATED TECHNOLOGIES PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$172,000,000 for fiscal year 2002, \$179,000,000 for fiscal year 2003, and \$186,000,000 for fiscal year 2004, to remain available until expended, for other coal and related technologies research and development programs, which shall include—

(1) Innovations for Existing Plants;

(2) Integrated Gasification Combined Cycle;

(3) Advanced combustion systems;

(4) Turbines;

(5) Sequestration Research and Development;

(6) Innovative technologies for demonstration;

(7) Transportation Fuels and Chemicals;

(8) Solid Fuels and Feedstocks;

(9) Advanced Fuels Research; and

(10) Advanced Research.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this section after September 30, 2002, unless the Secretary has transmitted to the Congress the report required by this subsection and 1 month has elapsed since that transmission. The report shall include a plan containing—

(1) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(2) a detailed list of technical milestones for each coal and related technology that will be pursued;

(3) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under division E.

(c) GASIFICATION.—The Secretary shall fund at least one gasification project with the funds authorized under this section.

Subtitle B—Oil and Gas

SEC. 2421. PETROLEUM-OIL TECHNOLOGY.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on petroleum-oil technology. The program shall address—

(1) Exploration and Production Supporting Research;

(2) Oil Technology Reservoir Management/Extension; and

(3) Effective Environmental Protection.

SEC. 2422. NATURAL GAS.

The Secretary shall conduct a program of research, development, demonstration, and commercial application on natural gas technologies. The program shall address—

(1) Exploration and Production;

(2) Infrastructure; and

(3) Effective Environmental Protection.

SEC. 2423. NATURAL GAS AND OIL DEPOSITS REPORT.

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coast of Louisiana and Texas.

SEC. 2424. OIL SHALE RESEARCH.

There are authorized to be appropriated to the Secretary of Energy for fiscal year 2002 \$10,000,000, to be divided equally between grants for research on Eastern oil shale and grants for research on Western oil shale.

Subtitle C—Ultra-Deepwater and

Unconventional Drilling

SEC. 2441. SHORT TITLE.

This subtitle may be cited as the “Natural Gas and Other Petroleum Research, Development, and Demonstration Act of 2001”.

SEC. 2442. DEFINITIONS.

For purposes of this subtitle—

(1) the term “deepwater” means water depths greater than 200 meters but less than 1,500 meters;

(2) the term “Fund” means the Ultra-Deepwater and Unconventional Gas Research Fund established under section 2450;

(3) the term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term “Research Organization” means the Research Organization created pursuant to section 2446(a);

(5) the term “ultra-deepwater” means water depths greater than 1,500 meters; and

(6) the term “unconventional” means located in heretofore inaccessible or uneconomic formations on land.

SEC. 2443. ULTRA-DEEPWATER PROGRAM.

The Secretary shall establish a program of research, development, and demonstration of ultra-deepwater natural gas and other petroleum exploration and production technologies, in areas currently available for Outer Continental Shelf leasing. The program shall be carried out by the Research Organization as provided in this subtitle.

SEC. 2444. NATIONAL ENERGY TECHNOLOGY LABORATORY.

The National Energy Technology Laboratory and the United States Geological Survey, when appropriate, shall carry out programs of long-term research into new natural gas and other petroleum exploration and production technologies and environmental mitigation technologies for production from unconventional and ultra-deepwater resources, including methane hydrates. Such Laboratory shall also conduct a program of research, development, and demonstration of new technologies for the reduction of greenhouse gas emissions from unconventional and ultra-deepwater natural

gas or other petroleum exploration and production activities, including sub-sea floor carbon sequestration technologies.

SEC. 2445. ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**—The Secretary shall, within 3 months after the date of the enactment of this Act, establish an Advisory Committee consisting of 7 members, each having extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry who are not Federal Government employees or contractors. A minimum of 4 members shall have extensive knowledge of ultra-deepwater natural gas or other petroleum exploration and production technologies, a minimum of 2 members shall have extensive knowledge of unconventional natural gas or other petroleum exploration and production technologies, and at least 1 member shall have extensive knowledge of greenhouse gas emission reduction technologies, including carbon sequestration.

(b) **FUNCTION.**—The Advisory Committee shall advise the Secretary on the selection of an organization to create the Research Organization and on the implementation of this subtitle.

(c) **COMPENSATION.**—Members of the Advisory Committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) **ADMINISTRATIVE COSTS.**—The costs of activities carried out by the Secretary and the Advisory Committee under this subtitle shall be paid or reimbursed from the Fund.

(e) **DURATION OF ADVISORY COMMITTEE.**—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 2446. RESEARCH ORGANIZATION.

(a) **SELECTION OF RESEARCH ORGANIZATION.**—The Secretary, within 6 months after the date of the enactment of this Act, shall solicit proposals from eligible entities for the creation of the Research Organization, and within 3 months after such solicitation, shall select an entity to create the Research Organization.

(b) **ELIGIBLE ENTITIES.**—Entities eligible to create the Research Organization shall—

(1) have been in existence as of the date of the enactment of this Act;

(2) be entities exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986; and

(3) be experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration.

(c) **PROPOSALS.**—A proposal from an entity seeking to create the Research Organization shall include a detailed description of the proposed membership and structure of the Research Organization.

(d) **FUNCTIONS.**—The Research Organization shall—

(1) award grants on a competitive basis to qualified—

(A) research institutions;

(B) institutions of higher education;

(C) companies; and

(D) consortia formed among institutions and companies described in subparagraphs (A) through (C) for the purpose of conducting research, development, and demonstration of unconventional and ultra-deepwater natural gas or other petroleum exploration and production technologies; and

(2) review activities under those grants to ensure that they comply with the requirements of this subtitle and serve the purposes for which the grant was made.

SEC. 2447. GRANTS.

(a) **TYPES OF GRANTS.**—

(1) **UNCONVENTIONAL.**—The Research Organization shall award grants for research, development, and demonstration of technologies to maximize the value of the Government's natural gas and other petroleum resources in unconventional reservoirs, and to develop technologies to increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of unconventional reservoirs, while improving safety and minimizing environmental impacts.

(2) **ULTRA-DEEPWATER.**—The Research Organization shall award grants for research, development, and demonstration of natural gas or other petroleum exploration and production technologies to—

(A) maximize the value of the Federal Government's natural gas and other petroleum resources in the ultra-deepwater areas;

(B) increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of ultra-deepwater reservoirs; and

(C) improve safety and minimize the environmental impacts of ultra-deepwater developments.

(3) **ULTRA-DEEPWATER ARCHITECTURE.**—The Research Organization shall award a grant to one or more consortia described in section 2446(d)(1)(D) for the purpose of developing and demonstrating the next generation architecture for ultra-deepwater production of natural gas and other petroleum in furtherance of the purposes stated in paragraph (2)(A) through (C).

(b) **CONDITIONS FOR GRANTS.**—Grants provided under this section shall contain the following conditions:

(1) If the grant recipient consists of more than one entity, the recipient shall provide a signed contract agreed to by all participating members clearly defining all rights to intellectual property for existing technology and for future inventions conceived and developed using funds provided under the grant, in a manner that is consistent with applicable laws.

(2) There shall be a repayment schedule for Federal dollars provided for demonstration projects under the grant in the event of a successful commercialization of the demonstrated technology. Such repayment schedule shall provide that the payments are made to the Secretary with the express intent that these payments not impede the adoption of the demonstrated technology in the marketplace. In the event that such impedance occurs due to market forces or other factors, the Research Organization shall renegotiate the grant agreement so that the acceptance of the technology in the marketplace is enabled.

(3) Applications for grants for demonstration projects shall clearly state the intended commercial applications of the technology demonstrated.

(4) The total amount of funds made available under a grant provided under subsection (a)(3) shall not exceed 50 percent of the total cost of the activities for which the grant is provided.

(5) The total amount of funds made available under a grant provided under subsection (a)(1) or (2) shall not exceed 50 percent of the total cost of the activities covered by the grant, except that the Research Organization may elect to provide grants covering a higher percentage, not to exceed 90 percent, of total project costs in the case of grants made solely to independent producers.

(6) An appropriate amount of funds provided under a grant shall be used for the broad dissemination of technologies developed under the grant to interested institutions of higher education, industry, and ap-

propriate Federal and State technology entities to ensure the greatest possible benefits for the public and use of government resources.

(7) Demonstrations of ultra-deepwater technologies for which funds are provided under a grant may be conducted in ultra-deepwater or deepwater locations.

(c) **ALLOCATION OF FUNDS.**—Funds available for grants under this subtitle shall be allocated as follows:

(1) 15 percent shall be for grants under subsection (a)(1).

(2) 15 percent shall be for grants under subsection (a)(2).

(3) 60 percent shall be for grants under subsection (a)(3).

(4) 10 percent shall be for carrying out section 2444.

SEC. 2448. PLAN AND FUNDING.

(a) **TRANSMITTAL TO SECRETARY.**—The Research Organization shall transmit to the Secretary an annual plan proposing projects and funding of activities under each paragraph of section 2447(a).

(b) **REVIEW.**—The Secretary shall have 1 month to review the annual plan, and shall approve the plan, if it is consistent with this subtitle. If the Secretary approves the plan, the Secretary shall provide funding as proposed in the plan.

(c) **DISAPPROVAL.**—If the Secretary does not approve the plan, the Secretary shall notify the Research Organization of the reasons for disapproval and shall withhold funding until a new plan is submitted which the Secretary approves. Within 1 month after notifying the Research Organization of a disapproval, the Secretary shall notify the appropriate congressional committees of the disapproval.

SEC. 2449. AUDIT.

The Secretary shall retain an independent, commercial auditor to determine the extent to which the funds authorized by this subtitle have been expended in a manner consistent with the purposes of this subtitle. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to the appropriate congressional committees, along with a plan to remedy any deficiencies cited in the report.

SEC. 2450. FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the "Ultra-Deepwater and Unconventional Gas Research Fund" which shall be available for obligation to the extent provided in advance in appropriations Acts for allocation under section 2447(c).

(b) **FUNDING SOURCES.**—

(1) **LOANS FROM TREASURY.**—There are authorized to be appropriated to the Secretary \$900,000,000 for the period encompassing fiscal years 2002 through 2009. Such amounts shall be deposited by the Secretary in the Fund, and shall be considered loans from the Treasury. Income received by the United States in connection with any ultra-deepwater oil and gas leases shall be deposited in the Treasury and considered as repayment for the loans under this paragraph.

(2) **ADDITIONAL APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as may be necessary for the fiscal years 2002 through 2009, to be deposited in the Fund.

(3) **OIL AND GAS LEASE INCOME.**—To the extent provided in advance in appropriations Acts, not more than 7.5 percent of the income of the United States from Federal oil and gas leases may be deposited in the Fund for fiscal years 2002 through 2009.

SEC. 2451. SUNSET.

No funds are authorized to be appropriated for carrying out this subtitle after fiscal year 2009. The Research Organization shall

be terminated when it has expended all funds made available pursuant to this subtitle.

Subtitle D—Fuel Cells

SEC. 2461. FUEL CELLS.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells. The program shall address—

- (1) Advanced Research;
- (2) Systems Development;
- (3) Vision 21—Hybrids; and
- (4) Innovative Concepts.

(b) MANUFACTURING PRODUCTION AND PROCESSES.—In addition to the program under subsection (a), the Secretary, in consultation with other Federal agencies, as appropriate, shall establish a program for the demonstration of fuel cell technologies, including fuel cell proton exchange membrane technology, for commercial, residential, and transportation applications. The program shall specifically focus on promoting the application of and improved manufacturing production and processes for fuel cell technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated under section 2481(a), there are authorized to be appropriated to the Secretary for the purpose of carrying out subsection (b), \$28,000,000 for each of fiscal years 2002 through 2004.

Subtitle E—Department of Energy
Authorization of Appropriations

SEC. 2481. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for operation and maintenance for subtitle B and subtitle D, and for Fossil Energy Research and Development Headquarters Program Direction, Field Program Direction, Plant and Capital Equipment, Cooperative Research and Development, Import/Export Authorization, and Advanced Metallurgical Processes \$282,000,000 for fiscal year 2002, \$293,000,000 for fiscal year 2003, and \$305,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

- (1) Gas Hydrates.
- (2) Fossil Energy Environmental Restoration; or
- (3) Research, development, demonstration, and commercial application on coal and related technologies, including activities under subtitle A.

TITLE V—SCIENCE

Subtitle A—Fusion Energy Sciences

SEC. 2501. SHORT TITLE.

This subtitle may be cited as the “Fusion Energy Sciences Act of 2001”.

SEC. 2502. FINDINGS.

The Congress finds that—

- (1) economic prosperity is closely linked to an affordable and ample energy supply;
- (2) environmental quality is closely linked to energy production and use;
- (3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;
- (4) the few energy options with the potential to meet economic and environmental needs for the long-term future should be pursued as part of a balanced national energy plan;
- (5) fusion energy is an attractive long-term energy source because of the virtually inexhaustible supply of fuel, and the promise of minimal adverse environmental impact and inherent safety;
- (6) the National Research Council, the President’s Committee of Advisers on Science and Technology, and the Secretary

of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent, although much scientific and engineering work remains to be done;

(7) each of these reviews stressed the need for a magnetic fusion burning plasma experiment to address key scientific issues and as a necessary step in the development of fusion energy;

(8) the National Research Council has also called for a broadening of the Fusion Energy Sciences Program research base as a means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 2503. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

- (1) address key burning plasma physics issues; and
- (2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress not later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 2504. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in

full consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiments described in section 2503. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 2503;

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development;

(7) to develop a roadmap for a fusion-based energy source that shows the important scientific questions, the evolution of confinement configurations, the relation between these two features, and their relation to the fusion energy goal;

(8) to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science;

(9) to ensure that the National Science Foundation, and other agencies, as appropriate, play a role in extending the reach of fusion science and in sponsoring general plasma science; and

(10) to ensure that there be continuing broad assessments of the outlook for fusion energy and periodic external reviews of fusion energy sciences.

SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review, but not for implementation, of the plans described in this subtitle and for activities of the Fusion Energy Sciences Program \$320,000,000 for fiscal year 2002 and \$335,000,000 for fiscal year 2003, of which up to \$15,000,000 for each of fiscal year 2002 and fiscal year 2003 may be used to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science.

Subtitle B—Spallation Neutron Source

SEC. 2521. DEFINITION.

For the purposes of this subtitle, the term “Spallation Neutron Source” means Department Project 99-E-334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF CONSTRUCTION FUNDING.—There are authorized to be appropriated to the Secretary for construction of the Spallation Neutron Source—

- (1) \$276,300,000 for fiscal year 2002;
- (2) \$210,571,000 for fiscal year 2003;
- (3) \$124,600,000 for fiscal year 2004;
- (4) \$79,800,000 for fiscal year 2005; and
- (5) \$41,100,000 for fiscal year 2006 for completion of construction.

(b) AUTHORIZATION OF OTHER PROJECT FUNDING.—There are authorized to be appropriated to the Secretary for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment not related to construction) of the Spallation Neutron Source \$15,353,000 for fiscal year 2002 and \$103,279,000 for the period encompassing fiscal years 2003 through 2006, to

remain available until expended through September 30, 2006.

SEC. 2523. REPORT.

The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

SEC. 2524. LIMITATIONS.

The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

- (1) \$1,192,700,000 for costs of construction;
- (2) \$219,000,000 for other project costs; and
- (3) \$1,411,700,000 for total project cost.

Subtitle C—Facilities, Infrastructure, and User Facilities

SEC. 2541. DEFINITION.

For purposes of this subtitle—

(1) the term “nonmilitary energy laboratory” means—

- (A) Ames Laboratory;
- (B) Argonne National Laboratory;
- (C) Brookhaven National Laboratory;
- (D) Fermi National Accelerator Laboratory;
- (E) Lawrence Berkeley National Laboratory;
- (F) Oak Ridge National Laboratory;
- (G) Pacific Northwest National Laboratory;
- (H) Princeton Plasma Physics Laboratory;
- (I) Stanford Linear Accelerator Center;
- (J) Thomas Jefferson National Accelerator Facility; or

(K) any other facility of the Department that the Secretary, in consultation with the Director, Office of Science and the appropriate congressional committees, determines to be consistent with the mission of the Office of Science; and

(2) the term “user facility” means—

(A) an Office of Science facility at a nonmilitary energy laboratory that provides special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of the Nation's universities, industry, private laboratories, Federal laboratories, and others, including research institutions or individuals from other nations where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest; and

(B) any other Office of Science funded facility designated by the Secretary as a user facility.

SEC. 2542. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY LABORATORIES.

(a) **FACILITY POLICY.**—The Secretary shall develop and implement a least-cost nonmilitary energy laboratory facility and infrastructure strategy for—

- (1) maintaining existing facilities and infrastructure, as needed;
- (2) closing unneeded facilities;
- (3) making facility modifications; and
- (4) building new facilities.

(b) **PLAN.**—The Secretary shall prepare a comprehensive 10-year plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at each nonmilitary energy laboratory. Such plan shall provide for facilities work in accordance with the following priorities:

- (1) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(2) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration, if feasible.

(3) Providing engineering design and construction services for those facilities that require modification or additions in order to meet the needs of new or expanded programs.

(c) **REPORT.**—

(1) **TRANSMITTAL.**—Within 1 year after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a report containing the plan prepared under subsection (b).

(2) **CONTENTS.**—For each nonmilitary energy laboratory, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facilities and infrastructure project compared to the original baseline cost, schedule, and scope.

(3) **ADDITIONAL ELEMENTS.**—The report shall also—

(A) include a plan for new facilities and facility modifications at each nonmilitary energy laboratory that will be required to meet the Department's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations;

(B) address the coordination of modernization and consolidation of facilities among the nonmilitary energy laboratories in order to meet changing mission requirements; and

(C) provide for annual reports to the appropriate congressional committees on accomplishments, conformance to schedules, commitments, and expenditures.

SEC. 2543. USER FACILITIES.

(a) **NOTICE REQUIREMENT.**—When the Department makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users.

(b) **COMPETITION REQUIREMENT.**—When the Department considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant.

(c) **PROHIBITION.**—The Department may not redesignate a user facility, as defined by section 2541(b) as something other than a user facility for avoid the requirements of subsections (a) and (b).

Subtitle D—Advisory Panel on Office of Science

SEC. 2561. ESTABLISHMENT.

The Director of the Office of Science and Technology Policy, in consultation with the Secretary, shall establish an Advisory Panel on the Office of Science comprised of knowledgeable individuals to—

(1) address concerns about the current status and the future of scientific research supported by the Office;

(2) examine alternatives to the current organizational structure of the Office within the Department, taking into consideration existing structures for the support of scientific research in other Federal agencies

and the private sector; and (3) suggest actions to strengthen the scientific research supported by the Office that might be taken jointly by the Department and Congress.

SEC. 2562. REPORT.

Within 6 months after the date of the enactment of this Act, the Advisory Panel shall transmit its findings and recommendations in a report to the Director of the Office of Science and Technology Policy and the Secretary. The Director and the Secretary shall jointly—

(1) consider each of the Panel's findings and recommendations, and comment on each as they consider appropriate; and (2) transmit the Panel's report and the comments of the Director and the Secretary on the report to the appropriate congressional committees within 9 months after the date of the enactment of this Act.

Subtitle E—Department of Energy

Authorization of Appropriations

SEC. 2581. AUTHORIZATION OF APPROPRIATIONS.

(a) **OPERATION AND MAINTENANCE.**—Including the amounts authorized to be appropriated for fiscal year 2002 under section 2505 for Fusion Energy Sciences and under section 2522(b) for the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for the Office of Science (also including subtitle C, High Energy Physics, Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (except for the Spallation Neutron Source), Advanced Scientific Computing Research, Energy Research Analysis, Multiprogram Energy Laboratories-Facilities Support, Facilities and Infrastructure, Safeguards and Security, and Program Direction) operation and maintenance \$3,299,558,000 for fiscal year 2002, to remain available until expended.

(b) **RESEARCH REGARDING PRECIOUS METAL CATALYSIS.**—Within the amounts authorized to be appropriated to the Secretary under subsection (a), \$5,000,000 for fiscal year 2002 may be used to carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis, either directly through national laboratories, or through the award of grants, cooperative agreements, or contracts with public or non-profit entities.

(c) **CONSTRUCTION.**—In addition to the amounts authorized to be appropriated under section 2522(a) for construction of the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for Science—

(1) \$19,400,000 for fiscal year 2002, \$14,800,000 for fiscal year 2003, and \$8,900,000 for fiscal year 2004 for completion of construction of Project 98-G-304, Neutrinos at the Main Injector, Fermi National Accelerator Laboratory;

(2) \$11,405,000 for fiscal year 2002 for completion of construction of Project 01-E-300, Laboratory for Comparative and Functional Genomics, Oak Ridge National Laboratory;

(3) \$4,000,000 for fiscal year 2002, \$8,000,000 for fiscal year 2003, and \$2,000,000 for fiscal year 2004 for completion of construction of Project 02-SC-002, Project Engineering Design (PED), Various Locations;

(4) \$3,183,000 for fiscal year 2002 for completion of construction of Project 02-SC-002, Multiprogram Energy Laboratories Infrastructure Project Engineering Design (PED), Various Locations; and (5) \$18,633,000 for fiscal year 2002 and \$13,029,000 for fiscal year 2003 for completion of construction of Project MEL-001, Multiprogram Energy Laboratories, Infrastructure, Various Locations.

(d) **LIMITS ON USE OF FUNDS.**—None of the funds authorized to be appropriated in subsection (c) may be used for construction at any national security laboratory as defined

in section 3281(1) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(1)) or at any nuclear weapons production facility as defined in section 3281(2) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(2)).

TITLE VI—MISCELLANEOUS

Subtitle A—General Provisions for the Department of Energy

SEC. 2601. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY PROGRAMS, PROJECTS, AND ACTIVITIES.

(a) AUTHORIZED ACTIVITIES.—Except as otherwise provided in this division, research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division may be carried out under the procedures of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such programs, projects, and activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act.

(b) AUTHORIZED AGREEMENTS.—Except as otherwise provided in this division, in carrying out research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, and any other form of agreement available to the Secretary.

(c) DEFINITION.—For purposes of this section, the term “joint venture” has the meaning given that term under section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301), except that such term may apply under this section to research, development, demonstration, and commercial application of energy technology joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to research, development, demonstration, and commercial application of energy technology programs, projects, and activities for which appropriations are authorized under this division.

(e) INVENTIONS.—An invention conceived and developed by any person using funds provided through a grant under this division shall be considered a subject invention for the purposes of chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act).

(f) OUTREACH.—The Secretary shall ensure that each program authorized by this division includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, universities, facility planners and managers, State and local governments, and other entities.

(g) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration to commercial application of energy technology. Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-

Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application of energy technology; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wylder Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application of energy technology.

(h) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 2602. LIMITS ON USE OF FUNDS.

(a) MANAGEMENT OF OPERATING CONTRACTS.—

(1) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated to the Secretary by this division may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(2) CONGRESSIONAL NOTICE.—At least 2 months before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the appropriate congressional committees a report notifying the committees of the waiver and setting forth the reasons for the waiver.

(b) PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.—None of the funds authorized to be appropriated to the Secretary by this division may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States.

(c) REQUESTS FOR PROPOSALS.—None of the funds authorized to be appropriated to the Secretary by this division may be used by the Department to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

SEC. 2603. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this division, for research and development programs carried out under this division, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this division, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this division to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the

technological risks involved in the project and is necessary to meet the objectives of this division.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

SEC. 2604. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY.

Except as otherwise provided in this division, the Secretary shall provide funding for scientific or energy demonstration and commercial application of energy technology programs, projects, or activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

SEC. 2605. REPROGRAMMING.

(a) AUTHORITY.—The Secretary may use amounts appropriated under this division for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Secretary has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) \$250,000 more than the amount authorized for the program, project, or activity, whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Secretary.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated by the Secretary pursuant to this division exceed the total amount authorized to be appropriated to the Secretary by this division.

(2) Funds appropriated to the Secretary pursuant to this division may not be used for an item for which Congress has declined to authorize funds.

Subtitle B—Other Miscellaneous Provisions

SEC. 2611. NOTICE OF REORGANIZATION.

The Secretary shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department.

SEC. 2612. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds \$5,000,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the appropriate congressional committees explaining the project and the reasons for the estimate or revision.

SEC. 2613. LIMITS ON CONSTRUCTION PROJECTS.

(a) **LIMITATION.**—Except as provided in subsection (b), construction on a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 10 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) **NOTICE.**—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the appropriate congressional committees a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) **EXCLUSION.**—In the computation of the 30-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(d) **EXCEPTION.**—Subsections (a) and (b) shall not apply to any construction project that has a current estimated cost of less than \$5,000,000.

SEC. 2614. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) **REQUIREMENT FOR CONCEPTUAL DESIGN.**—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds \$750,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than \$5,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.

(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian environmental research and development, scientific or energy research, development, and demonstration, or commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed \$250,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds \$250,000, funds for such design must be specifically authorized by law.

SEC. 2615. NATIONAL ENERGY POLICY DEVELOPMENT GROUP MANDATED REPORTS.

(a) **THE SECRETARY'S REVIEW OF ENERGY EFFICIENCY, RENEWABLE ENERGY, AND ALTER-**

NATIVE ENERGY RESEARCH AND DEVELOPMENT.—Upon completion of the Secretary's review of current funding and historic performance of the Department's energy efficiency, renewable energy, and alternative energy research and development programs in response to the recommendations of the May 16, 2001, Report of the National Energy Policy Development Group, the Secretary shall transmit a report containing the results of such review to the appropriate congressional committees.

(b) **REVIEW AND RECOMMENDATIONS ON USING THE NATION'S ENERGY RESOURCES MORE EFFICIENTLY.**—Upon completion of the Office of Science and Technology Policy and the President's Council of Advisors on Science and Technology reviewing and making recommendations on using the Nation's energy resources more efficiently, in response to the recommendation of the May 16, 2001, Report of the National Energy Policy Development Group, the Director of the Office of Science and Technology Policy shall transmit a report containing the results of such review and recommendations to the appropriate congressional committees.

SEC. 2616. PERIODIC REVIEWS AND ASSESSMENTS.

The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to ensure that there be periodic reviews and assessments of the programs authorized by this division, as well as the measurable cost and performance-based goals for such programs as established under section 2004, and the progress on meeting such goals. Such reviews and assessments shall be conducted at least every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the appropriate congressional committees reports containing the results of such reviews and assessments.

DIVISION D**SEC. 4101. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.**

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: “, including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures”; and

(2) in paragraph (2), by inserting before the semicolon the following: “, including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families”.

SEC. 4102. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting “or efficiency” after “energy conservation”;

(2) by striking “, and except that” and inserting “; except that”; and

(3) by inserting before the period at the end the following: “; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency”.

SEC. 4103. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) **SINGLE FAMILY HOUSING MORTGAGE INSURANCE.**—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph begin-

ning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting “or paragraph (10)”; and

(2) by striking “20 percent” and inserting “30 percent”.

(b) **MULTIFAMILY HOUSING MORTGAGE INSURANCE.**—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking “20 percent” and inserting “30 percent”.

(c) **COOPERATIVE HOUSING MORTGAGE INSURANCE.**—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking “20 per centum” and inserting “30 percent”.

(d) **REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.**—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking “20 per centum” and inserting “30 percent”.

(e) **LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.**—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking “20 per centum” and inserting “30 percent”.

(f) **ELDERLY HOUSING MORTGAGE INSURANCE.**—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking “20 per centum” and inserting “30 percent”.

(g) **CONDOMINIUM HOUSING MORTGAGE INSURANCE.**—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking “20 per centum” and inserting “30 percent”.

SEC. 4104. PUBLIC HOUSING CAPITAL FUND.

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking “and” at the end;

(2) in subparagraph (K), by striking the period at the end and inserting “; and”; and

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

“(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.”.

SEC. 4105. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking “financed with loans” and inserting “assisted”;

(2) by inserting after “1959,” the following: “which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act.”; and

(3) by inserting after the period at the end of the first sentence the following new sentence: “Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.”.

SEC. 4106. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m–3) is amended by adding at the end the following:

“SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

“Consistent with the focus of the Bank’s Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.”.

DIVISION E**SEC. 5000. SHORT TITLE.**

This division may be cited as the “Clean Coal Power Initiative Act of 2001”.

SEC. 5001. FINDINGS.

Congress finds that—

(1) reliable, affordable, increasingly clean electricity will continue to power the growing United States economy;

(2) an increasing use of electro-technologies, the desire for continuous environmental improvement, a more competitive electricity market, and concerns about rising energy prices add importance to the need for reliable, affordable, increasingly clean electricity;

(3) coal, which, as of the date of the enactment of this Act, accounts for more than ½ of all electricity generated in the United States, is the most abundant fossil energy resource of the United States;

(4) coal comprises more than 85 percent of all fossil resources in the United States and exists in quantities sufficient to supply the United States for 250 years at current usage rates;

(5) investments in electricity generating facility emissions control technology over the past 30 years have reduced the aggregate emissions of pollutants from coal-based generating facilities by 21 percent, even as coal use for electricity generation has nearly tripled;

(6) continuous improvement in efficiency and environmental performance from electricity generating facilities would allow continued use of coal and preserve less abundant energy resources for other energy uses;

(7) new ways to convert coal into electricity can effectively eliminate health-threatening emissions and improve efficiency by as much as 50 percent, but initial deployment of new coal generation methods and equipment entails significant risk that generators may be unable to accept in a newly competitive electricity market; and

(8) continued environmental improvement in coal-based generation and increasing the production and supply of power generation facilities with less air emissions, with the ultimate goal of near-zero emissions, is important and desirable.

SEC. 5002. DEFINITIONS.

In this division:

(1) **COST AND PERFORMANCE GOALS.**—The term “cost and performance goals” means the cost and performance goals established under section 5004.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

SEC. 5003. CLEAN COAL POWER INITIATIVE.

(a) **IN GENERAL.**—The Secretary shall carry out a program under—

(1) this division;

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

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

(4) title XIII of the Energy Policy Act of 1992 (42 U.S.C. 13331 et seq.), to achieve cost and performance goals established by the Secretary under section 5004.

SEC. 5004. COST AND PERFORMANCE GOALS.

(a) **REVIEW AND ASSESSMENT.**—The Secretary shall perform an assessment that establishes measurable cost and performance goals for 2005, 2010, 2015, and 2020 for the programs authorized by this division. Such assessment shall be based on the latest scientific, economic, and technical knowledge.

(b) **CONSULTATION.**—In establishing the cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries;

(5) manufacturers of advanced coal-based equipment;

(6) institutions of higher learning, national laboratories, and professional and technical societies;

(7) organizations representing workers;

(8) organizations formed to—

(A) promote the use of coal;

(B) further the goals of environmental protection; and

(C) promote the production and generation of coal-based power from advanced facilities; and

(9) other appropriate Federal and State agencies.

(c) **TIMING.**—The Secretary shall—

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

(2) not later than 180 days after the date of the enactment of this Act, after taking into consideration any public comments received, submit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the final cost and performance goals.

SEC. 5005. AUTHORIZATION OF APPROPRIATIONS.

(a) **CLEAN COAL POWER INITIATIVE.**—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the Clean Coal Power Initiative under section 5003 \$200,000,000 for each of the fiscal years 2002 through 2011, to remain available until expended.

(b) **LIMIT ON USE OF FUNDS.**—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this Act after September 30, 2002, unless the Secretary has transmitted to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the report required by this subsection and 1 month has elapsed since that transmission. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued;

(4) recommendations for a mechanism for recoupment of Federal funding for successful commercial projects; and

(5) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(c) **APPLICABILITY.**—Subsection (b) shall not apply to any project begun before September 30, 2002.

SEC. 5006. PROJECT CRITERIA.

(a) **IN GENERAL.**—The Secretary shall not provide funding under this division for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) **TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.**—

(1) **GASIFICATION.**—(A) In allocating the funds authorized under section 5005(a), the Secretary shall ensure that at least 80 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction and hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NO_x per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of 60 percent (higher heating value).

(2) **OTHER PROJECTS.**—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NO_x per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of 45 percent (higher heating value).

(c) **FINANCIAL CRITERIA.**—The Secretary shall not provide a funding award under this division unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) **FINANCIAL ASSISTANCE.**—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

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

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

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) **FEDERAL SHARE.**—The Federal share of the cost of a coal or related technology

project funded by the Secretary shall not exceed 50 percent.

(f) **APPLICABILITY.**—Neither the use of any particular technology, nor the achievement of any emission reduction, by any facility receiving assistance under this title shall be taken into account for purposes of making any determination under the Clean Air Act in applying the provisions of that Act to a facility not receiving assistance under this title, including any determination concerning new source performance standards, lowest achievable emission rate, best available control technology, or any other standard, requirement, or limitation.

SEC. 5007. STUDY.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report containing the results of a study to—

(1) identify efforts (and the costs and periods of time associated with those efforts) that, by themselves or in combination with other efforts, may be capable of achieving the cost and performance goals;

(2) develop recommendations for the Department of Energy to promote the efforts identified under paragraph (1); and

(3) develop recommendations for additional authorities required to achieve the cost and performance goals.

(b) **EXPERT ADVICE.**—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 5004(b).

SEC. 5008. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 5003, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

DIVISION F

SEC. 6001. SHORT TITLE.

This division may be cited as the “Energy Security Act”.

TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

SEC. 6101. STUDY OF EXISTING RIGHTS-OF-WAY ON FEDERAL LANDS TO DETERMINE CAPABILITY TO SUPPORT NEW PIPELINES OR OTHER TRANSMISSION FACILITIES.

(a) **IN GENERAL.**—Within 1 year after the date of the enactment of this Act, the head of each Federal agency that has authorized a right-of-way across Federal lands for transportation of energy supplies or transmission of electricity shall review each such right-of-way and submit a report to the Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission regarding—

(1) whether the right-of-way can be used to support new or additional capacity; and

(2) what modifications or other changes, if any, would be necessary to accommodate such additional capacity.

(b) **CONSULTATIONS AND CONSIDERATIONS.**—In performing the review, the head of each agency shall—

(1) consult with agencies of State, tribal, or local units of government as appropriate; and

(2) consider whether safety or other concerns related to current uses might preclude the availability of a right-of-way for additional or new transportation or transmission facilities, and set forth those considerations in the report.

SEC. 6102. INVENTORY OF ENERGY PRODUCTION POTENTIAL OF ALL FEDERAL PUBLIC LANDS.

(a) **INVENTORY REQUIREMENT.**—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct an inventory of the energy production potential of all Federal public lands other than national park lands and lands in any wilderness area, with respect to wind, solar, coal, and geothermal power production.

(b) **LIMITATIONS.**—

(1) **IN GENERAL.**—The Secretary shall not include in the inventory under this section the matters to be identified in the inventory under section 604 of the Energy Act of 2000 (43 U.S.C. 6217).

(2) **WIND AND SOLAR POWER.**—The inventory under this section—

(A) with respect to wind power production shall be limited to sites having a mean average wind speed—

(i) exceeding 12.5 miles per hour at a height of 33 feet; and

(ii) exceeding 15.7 miles per hour at a height of 164 feet; and (B) with respect to solar power production shall be limited to areas rated as receiving 450 watts per square meter or greater.

(c) **EXAMINATION OF RESTRICTIONS AND IMPEDIMENTS.**—The inventory shall identify the extent and nature of any restrictions or impediments to the development of such energy production potential.

(d) **GEOTHERMAL POWER.**—The inventory shall include an update of the 1978 Assessment of Geothermal Resources by the United States Geological Survey.

(e) **COMPLETION AND UPDATING.**—The Secretary—

(1) shall complete the inventory by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory regularly thereafter.

(f) **REPORTS.**—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 6103. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.

(a) **IN GENERAL.**—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) **REPORT TO CONGRESS.**—No later than 18 months after date of the enactment of this Act, each agency shall provide a report to the Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) **PERIODIC REVIEW.**—Each agency shall subsequently review its regulations and standards in this manner no less frequently than every 5 years, and report their findings to the Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

SEC. 6104. INTERAGENCY AGREEMENT ON ENVIRONMENTAL REVIEW OF INTERSTATE NATURAL GAS PIPELINE PROJECTS.

(a) **IN GENERAL.**—The Secretary of Energy, in coordination with the Federal Energy

Regulatory Commission, shall establish an administrative interagency task force to develop an interagency agreement to expedite and facilitate the environmental review and permitting of interstate natural gas pipeline projects.

(b) **TASK FORCE MEMBERS.**—The task force shall include a representative of each of the Bureau of Land Management, the United States Fish and Wildlife Service, the Army Corps of Engineers, the Forest Service, the Environmental Protection Agency, the Advisory Council on Historic Preservation, and such other agencies as the Secretary of Energy and the Federal Energy Regulatory Commission consider appropriate.

(c) **TERMS OF AGREEMENT.**—The interagency agreement shall require that agencies complete their review of interstate pipeline projects within a specific period of time after referral of the matter by the Federal Energy Regulatory Commission.

(d) **SUBMITTAL OF AGREEMENT.**—The Secretary of Energy shall submit a final interagency agreement under this section to the Congress by not later than 6 months after the effective date of this section.

SEC. 6105. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) **SENSE OF THE CONGRESS.**—It is the sense of Congress that Federal land managing agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) **ENERGY EFFICIENT BUILDINGS.**—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, and other public lands and resources managed by such Secretaries.

(c) **ENERGY EFFICIENT VEHICLES.**—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, and other public lands and managed by the Secretaries.

SEC. 6106. EFFICIENT INFRASTRUCTURE DEVELOPMENT.

(a) **IN GENERAL.**—The Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission shall jointly undertake a study of the location and extent of anticipated demand growth for natural gas consumption in the Western States, herein defined as the area covered by the Western System Coordinating Council.

(b) **CONTENTS.**—The study under subsection (a) shall include the following:

(1) A review of natural gas demand forecasts by Western State officials, such as the California Energy Commission and the California Public Utilities Commission, which indicate the forecasted levels of demand for natural gas and the geographic distribution of that forecasted demand.

(2) A review of the locations of proposed new natural gas-fired electric generation facilities currently in the approval process in the Western States, and their forecasted impact on natural gas demand.

(3) A review of the locations of existing interstate natural gas transmission pipelines, and interstate natural gas pipelines currently in the planning stage or approval process, throughout the Western States.

(4) A review of the locations and capacity of intrastate natural gas pipelines in the Western States.

(5) Recommendations for the coordination of the development of the natural gas infrastructure indicated in paragraphs (1) through (4).

(c) REPORT.—The Secretary shall report the findings and recommendations resulting from the study required by this section to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act. The Chairman of the Federal Energy Regulatory Commission shall report on how the Commission will factor these results into its review of applications of interstate pipelines within the Western States to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

TITLE II—OIL AND GAS DEVELOPMENT

Subtitle A—Offshore Oil and Gas

SEC. 6201. SHORT TITLE.

This subtitle may be referred to as the “Royalty Relief Extension Act of 2001”.

SEC. 6202. LEASE SALES IN WESTERN AND CENTRAL PLANNING AREA OF THE GULF OF MEXICO.

(a) IN GENERAL.—For all tracts located in water depths of greater than 200 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act occurring within 2 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters.

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters.

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Except as expressly provided in this section, nothing in this section is intended to limit the authority of the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) to provide royalty suspension.

SEC. 6203. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

SEC. 6204. ANALYSIS OF GULF OF MEXICO FIELD SIZE DISTRIBUTION, INTERNATIONAL COMPETITIVENESS, AND INCENTIVES FOR DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy shall enter into appropriate arrangements with the National Academy of Sciences to commission the Academy to perform the following:

(1) Conduct an analysis and review of existing Gulf of Mexico oil and natural gas resource assessments, including—

(A) analysis and review of assessments recently performed by the Minerals Management Service, the 1999 National Petroleum Council Gas Study, the Department of Energy’s Offshore Marginal Property Study, and the Advanced Resources International, Inc. Deepwater Gulf of Mexico model; and

(B) evaluation and comparison of the accuracy of assumptions of the existing assess-

ments with respect to resource field size distribution, hydrocarbon potential, and scenarios for leasing, exploration, and development.

(2) Evaluate the lease terms and conditions offered by the Minerals Management Service for Lease Sale 178, and compare the financial incentives offered by such terms and conditions to financial incentives offered by the terms and conditions that apply under leases for other offshore areas that are competing for the same limited offshore oil and gas exploration and development capital, including offshore areas of West Africa and Brazil.

(3) Recommend what level of incentives for all water depths are appropriate in order to ensure that the United States optimizes the domestic supply of oil and natural gas from the offshore areas of the Gulf of Mexico that are not subject to current leasing moratoria. Recommendations under this paragraph should be made in the context of the importance of the oil and natural gas resources of the Gulf of Mexico to the future energy and economic needs of the United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, summarizing the findings of the National Academy of Sciences pursuant to subsection (a) and providing recommendations of the Secretary for new policies or other actions that could help to further increase oil and natural gas production from the Gulf of Mexico.

Subtitle B—Improvements to Federal Oil and Gas Management

SEC. 6221. SHORT TITLE.

This subtitle may be cited as the “Federal Oil and Gas Lease Management Improvement Demonstration Program Act of 2001”.

SEC. 6222. STUDY OF IMPEDIMENTS TO EFFICIENT LEASE OPERATIONS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall jointly undertake a study of the impediments to efficient oil and gas leasing and operations on Federal onshore lands in order to identify means by which unnecessary impediments to the expeditious exploration and production of oil and natural gas on such lands can be removed.

(b) CONTENTS.—The study under subsection (a) shall include the following:

(1) A review of the process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, the reasons for any delays in acting upon such offers, and any recommendations for expediting the response to such offers.

(2) A review of the approval process for applications for permits to drill, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(3) A review of the approval process for surface use plans of operation, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(4) A review of the process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, any reasons for delays in hearing or deciding such

appeals, and any recommendations for expediting the appeals process.

(c) REPORT.—The Secretaries shall report the findings and recommendations resulting from the study required by this section to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

SEC. 6223. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

(a) IN GENERAL.—The Secretary shall ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions on lease operations are eliminated from the administration of oil and natural gas leasing on Federal land.

(b) PREPARATION OF LEASING PLAN OR ANALYSIS.—In preparing a management plan or leasing analysis for oil or natural gas leasing on Federal lands administered by the Bureau of Land Management or the Forest Service, the Secretary concerned shall—

(1) identify and review the restrictions on surface use and operations imposed under the laws (including regulations) of the State in which the lands are located;

(2) consult with the appropriate State agency regarding the reasons for the State restrictions identified under paragraph (1);

(3) identify any differences between the State restrictions identified under paragraph (1) and any restrictions on surface use and operations that would apply under the lease; and

(4) prepare and provide upon request a written explanation of such differences.

(c) REJECTION OF OFFER TO LEASE.—

(1) IN GENERAL.—If the Secretary rejects an offer to lease Federal lands for oil or natural gas development on the ground that the land is unavailable for oil and natural gas leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) PREVIOUS RESOURCE MANAGEMENT DECISION.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

(3) SEGREGATION OF AVAILABLE LAND FROM UNAVAILABLE LAND.—The Secretary may not reject an offer to lease Federal land for oil and natural gas development that is available for such leasing on the ground that the offer includes land unavailable for leasing. The Secretary shall segregate available land from unavailable land, on the offeror’s request following notice by the Secretary, before acting on the offer to lease.

(d) DISAPPROVAL OR REQUIRED MODIFICATION OF SURFACE USE PLANS OF OPERATIONS AND APPLICATION FOR PERMIT TO DRILL.—The Secretary shall provide a written, detailed explanation of the reasons for disapproving or requiring modifications of any surface use plan of operations or application for permit to drill with respect to oil or natural gas development on Federal lands.

(e) PRESERVATION OF FEDERAL AUTHORITY.—Nothing in this section or in any identification, review, or explanation prepared under this section shall be construed—

(1) to limit the authority of the Federal Government to impose lease stipulations, restrictions, requirements, or other terms that are different than those that apply under State law; or

(2) to affect the procedures that apply to judicial review of actions taken under this subsection.

SEC. 6224. LIMITATION ON COST RECOVERY FOR APPLICATIONS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of

1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating to oil and gas leases.

SEC. 6225. CONSULTATION WITH SECRETARY OF AGRICULTURE.

Section 17(h) of the Mineral Leasing Act (30 U.S.C. 226(h)) is amended to read as follows:

“(h)(1) In issuing any lease on National Forest System lands reserved from the public domain, the Secretary of the Interior shall consult with the Secretary of Agriculture in determining stipulations on surface use under the lease.

“(2)(A) A lease on lands referred to in paragraph (1) may not be issued if the Secretary of Agriculture determines, after consultation under paragraph (1) and consultation with the Regional Forester having administrative jurisdiction over the National Forest System Lands concerned, that the terms and conditions of the lease, including any prohibition on surface occupancy for lease operations, will not be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

“(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

“(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

“(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

“(B) an explanation why such a statement by the Regional Forester is not included.

Subtitle C—Miscellaneous

SEC. 6231. OFFSHORE SUBSALT DEVELOPMENT.

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

“(k) **SUSPENSION OF OPERATIONS FOR SUBSALT EXPLORATION.**—Notwithstanding any other provision of law or regulation, to prevent waste caused by the drilling of unnecessary wells and to facilitate the discovery of additional hydrocarbon reserves, the Secretary may grant a request for a suspension of operations under any lease to allow the reprocessing and reinterpretation of geophysical data to identify and define drilling objectives beneath allochthonous salt sheets.”.

SEC. 6232. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.

(a) **APPLICABILITY OF SECTION.**—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in kind accepted by the Secretary of the Interior under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law, in the period beginning on the date of the enactment of this Act through September 30, 2006.

(b) **TERMS AND CONDITIONS.**—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obliga-

tion for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary of the Interior may—
(A) sell or otherwise dispose of any royalty oil or gas taken in kind (other than oil or gas taken under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process any oil or gas royalty taken in kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the oil or gas,
(B) processing the gas, or
(C) disposing of the oil or gas.

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

(c) **REIMBURSEMENT OF COST.**—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) **BENEFIT TO THE UNITED STATES REQUIRED.**—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those that would be realized under a comparable royalty in value program.

(e) **REPORT TO CONGRESS.**—For each of the fiscal years 2002 through 2006 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsection (h), the Secretary of the Interior shall provide a report to the Congress describing—

(1) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standards for comparing amounts received by the United States derived from such royalties in kind to amounts likely to have been received had royalties been taken in value;

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

(3) actual amounts received by the United States derived from taking royalties in kind, and costs and savings incurred by the United States associated with taking royalties in kind; and

(4) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) **DEDUCTION OF EXPENSES.**—

(1) **IN GENERAL.**—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer

Continental Shelf Lands Act (30 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) **ACCOUNTING FOR DEDUCTIONS.**—If the Secretary of the Interior allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) **CONSULTATION WITH STATES.**—The Secretary of the Interior—

(1) shall consult with a State before conducting a royalty in kind program under this title within the State, and may delegate management of any portion of the Federal royalty in kind program to such State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty in kind program provides revenues to the State greater than or equal to those which would be realized under a comparable royalty in value program.

(h) **PROVISIONS FOR SMALL REFINERIES.**—

(1) **PREFERENCE.**—If the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) **PRORATION AMONG REFINERIES IN PRODUCTION AREA.**—In disposing of oil under this subsection, the Secretary of the Interior may, at the discretion of the Secretary, prorate such oil among such refineries in the area in which the oil is produced.

(i) **DISPOSITION TO FEDERAL AGENCIES.**—

(1) **ONSHORE ROYALTY.**—Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than the market price to any department or agency of the United States.

(2) **OFFSHORE ROYALTY.**—Any royalty oil or gas taken in kind from Federal oil and gas leases on the Outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) **PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.**—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

SEC. 6233. MARGINAL WELL PRODUCTION INCENTIVES.

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart, is less than \$15 per barrel for 180 consecutive pricing days or when the price of natural gas delivered at Henry Hub, Louisiana, is less than \$2.00 per million British thermal units for 180 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

(1) onshore oil wells producing less than 30 barrels per day;

(2) onshore gas wells producing less than 120 million British thermal units per day;

(3) offshore oil wells producing less than 300 barrels of oil per day; and

(4) offshore gas wells producing less than 1,200 million British thermal units per day.

SEC. 6234. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 37 the following:

“REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

“SEC. 38. (a) IN GENERAL.—Effective October 1, 2003, the Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for an oil or gas lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

“(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (b) only if—

“(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

“(2) the person paid the costs voluntarily; and

“(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.”

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

SEC. 6235. ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS ON OFFSHORE DRILLING IN THE GREAT LAKES.

(a) FINDINGS.—The Congress finds the following:

(1) The water resources of the Great Lakes Basin are precious public natural resources, shared and held in trust by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and the Canadian Province of Ontario.

(2) The environmental dangers associated with off-shore drilling in the Great Lakes for oil and gas outweigh the potential benefits of such drilling.

(3) In accordance with the Submerged Lands Act (43 U.S.C. 1301 et seq.), each State that borders any of the Great Lakes has authority over the area between that State's coastline and the boundary of Canada or another State.

(4) The States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin each have a statutory prohibition of off-shore drilling in the Great Lakes for oil and gas.

(5) The States of Indiana, Minnesota, and Ohio do not have such a prohibition.

(6) The Canadian Province of Ontario does not have such a prohibition, and drilling for and production of gas occurs in the Canadian portion of Lake Erie.

(b) ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS.—The Congress encourages—

(1) the States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin to continue to prohibit off-shore drilling in the Great Lakes for oil and gas;

(2) the States of Indiana, Minnesota, and Ohio and the Canadian Province of Ontario to enact a prohibition of such drilling; and

(3) the Canadian Province of Ontario to require the cessation of any such drilling and any production resulting from such drilling.

TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

SEC. 6301. ROYALTY REDUCTION AND RELIEF.

(a) ROYALTY REDUCTION.—Section 5(a) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amended by striking “not less than 10 per centum or more than 15 per centum” and inserting “not more than 8 per centum”.

(b) ROYALTY RELIEF.—

(1) IN GENERAL.—Notwithstanding section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is required to be paid—

(A) under any qualified geothermal energy lease with respect to commercial production of heat or energy from a facility that begins such production in the 5-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 3-YEAR APPLICATION.—Paragraph (1) applies only to commercial production of heat or energy from a facility in the first 3 years of such production.

(c) DEFINITIONS.—In this section:

(1) QUALIFIED EXPANSION GEOTHERMAL ENERGY.—The term “qualified expansion geothermal energy”—

(A) subject to subparagraph (B), means geothermal energy produced from a generation facility for which the rated capacity is increased by more than 10 percent as a result of expansion of the facility carried out in the 5-year period beginning on the date of the enactment of this Act; and

(B) does not include the rated capacity of the generation facility on the date of the enactment of this Act.

(2) QUALIFIED GEOTHERMAL ENERGY LEASE.—The term “qualified geothermal energy lease” means a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)—

(A) that was executed before the end of the 5-year period beginning on the date of the enactment of this Act; and

(B) under which no commercial production of any form of heat or energy occurred before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2003.

SEC. 6302. EXEMPTION FROM ROYALTIES FOR DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY RESOURCES.

(a) IN GENERAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting “(a) IN GENERAL.—“ AFTER “SEC. 5.”; AND

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

“(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

“(1) IN GENERAL.—In lieu of any royalty or rental under subsection (a), a lease for qualified development and direct utilization of low temperature geothermal resources shall provide for payment by the lessee of an annual fee of not less than \$100, and not more than \$1,000, in accordance with the schedule issued under paragraph (2).

“(2) SCHEDULE.—The Secretary shall issue a schedule of fees under this section under which a fee is based on the scale of development and utilization to which the fee applies.

“(3) DEFINITIONS.—In this subsection:

“(A) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The term “low temperature geo-

thermal resources” means geothermal steam and associated geothermal resources having a temperature of less than 195 degrees Fahrenheit.

“(B) QUALIFIED DEVELOPMENT AND DIRECT UTILIZATION.—The term “qualified development and direct utilization” means development and utilization in which all products of geothermal resources, other than any heat utilized, are returned to the geothermal formation from which they are produced.”

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2003.

SEC. 6303. AMENDMENTS RELATING TO LEASING ON FOREST SERVICE LANDS.

The Geothermal Steam Act of 1970 is amended—

(1) in section 15(b) (30 U.S.C. 1014(b))—

(A) by inserting “(1)” after “(b)”; and

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) in the first sentence—

(i) by striking “with the consent of, and” and inserting “after consultation with the Secretary of Agriculture and”; and

(ii) by striking “the head of that Department” and inserting “the Secretary of Agriculture”; and

(2) by adding at the end the following:

“(2)(A) A geothermal lease for lands withdrawn or acquired in aid of functions of the Department of Agriculture may not be issued if the Secretary of Agriculture, after the consultation required by paragraph (1) and consultation with any Regional Forester having administrative jurisdiction over the lands concerned, determines that no terms or conditions, including a prohibition on surface occupancy for lease operations, would be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

“(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

“(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

“(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

“(B) an explanation why such a statement by the Regional Forester is not included.”

SEC. 6304. DEADLINE FOR DETERMINATION ON PENDING NONCOMPETITIVE LEASE APPLICATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall, with respect to each application pending on the date of the enactment of this Act for a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), issue a final determination of—

(1) whether or not to conduct a lease sale by competitive bidding; and

(2) whether or not to award a lease without competitive bidding.

SEC. 6305. OPENING OF PUBLIC LANDS UNDER MILITARY JURISDICTION.

(a) IN GENERAL.—Except as otherwise provided in the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other provisions of Federal law applicable to development of geothermal energy resources within public lands, all public lands under the jurisdiction of a Secretary of a military department shall be open to the operation of such laws and development and utilization of geothermal steam and associated geothermal resources, as that term is defined in section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001), without the necessity for further action by the Secretary or the Congress.

(b) CONFORMING AMENDMENT.—Section 2689 of title 10, United States Code, is amended by striking “including public lands,” and inserting “other than public lands.”.

(c) TREATMENT OF EXISTING LEASES.—Upon the expiration of any lease in effect on the date of the enactment of this Act of public lands under the jurisdiction of a military department for the development of any geothermal resource, such lease may, at the option of the lessee—

(1) be treated as a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), and be renewed in accordance with such Act; or

(2) be renewed in accordance with the terms of the lease, if such renewal is authorized by such terms.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned, shall prescribe such regulations to carry out this section as may be necessary. Such regulations shall contain guidelines to assist in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to geothermal energy resources development and utilization.

(e) CLOSURE FOR PURPOSES OF NATIONAL DEFENSE OR SECURITY.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to geothermal energy resources leasing pursuant to this section.

SEC. 6306. APPLICATION OF AMENDMENTS.

The amendments made by this title apply with respect to any lease executed before, on, or after the date of the enactment of this Act.

SEC. 6307. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to the Congress regarding the status of all moratoria on and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or withdrawal still applies.

SEC. 6308. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

“REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

“Sec. 38. (a) IN GENERAL.—Effective October 1, 2003, The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for a lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

“(b) CONDITIONS.—The Secretary shall provide reimbursement under subsection (a) only if—

“(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

“(2) the person paid the costs voluntarily; and

“(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.”.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

TITLE IV—HYDROPOWER

SEC. 6401. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXISTING FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of the potential for increasing electric power production capability at existing facilities under the administrative jurisdiction of the Secretary.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under this section by not later than 12 months after the date of the enactment of this Act. The Secretary shall include in the report the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities the Secretary is currently conducting or considering, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of action that has already been taken by the Secretary to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners.

(7) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by performing generator uprates and rewinds.

(8) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(9) Any additional recommendations the Secretary considers advisable to increase hydroelectric power production from, and reduce costs and improve efficiency at, facilities under the jurisdiction of the Secretary.

SEC. 6402. INSTALLATION OF POWERFORMER AT FOLSOM POWER PLANT, CALIFORNIA.

(a) IN GENERAL.—The Secretary of the Interior may install a powerformer at the Bureau of Reclamation Folsom power plant in Folsom, California, to replace a generator and transformer that are due for replacement due to age.

(b) REIMBURSABLE COSTS.—Costs incurred by the United States for installation of a powerformer under this section shall be treated as reimbursable costs and shall bear interest at current long-term borrowing rates of the United States Treasury at the time of acquisition.

(c) LOCAL COST SHARING.—In addition to reimbursable costs under subsection (b), the Secretary shall seek contributions from power users toward the costs of the powerformer and its installation.

SEC. 6403. STUDY AND IMPLEMENTATION OF INCREASED OPERATIONAL EFFICIENCIES IN HYDROELECTRIC POWER PROJECTS.

(a) IN GENERAL.—The Secretary of Interior shall conduct a study of operational methods and water scheduling techniques at all hydroelectric power plants under the administrative jurisdiction of the Secretary that have an electric power production capacity greater than 50 megawatts, to—

(1) determine whether such power plants and associated river systems are operated so as to maximize energy and capacity capabilities; and

(2) identify measures that can be taken to improve operational flexibility at such plants to achieve such maximization.

(b) REPORT.—The Secretary shall submit a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act, including a summary of the determinations and identifications under paragraphs (1) and (2) of subsection (a).

(c) COOPERATION BY FEDERAL POWER MARKETING ADMINISTRATIONS.—The Secretary shall coordinate with the Administrator of each Federal power marketing administration in—

(1) determining how the value of electric power produced by each hydroelectric power facility that produces power marketed by the administration can be maximized; and

(2) implementing measures identified under subsection (a)(2).

(d) LIMITATION ON IMPLEMENTATION OF MEASURES.—Implementation under subsections (a)(2) and (b)(2) shall be limited to those measures that can be implemented within the constraints imposed on Department of the Interior facilities by other uses required by law.

SEC. 6404. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities.

TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

SEC. 6501. SHORT TITLE.

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

SEC. 6502. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area identified as such in the map entitled “Arctic National Wildlife

Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres.

(2) SECRETARY.—The term "Secretary", except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 6503. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify non-leasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred

action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 6502(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 6504. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this title; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 6505. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 6504 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

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

SEC. 6506. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 6503(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) **PROJECT LABOR AGREEMENTS.**—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 6507. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—The Secretary shall, consistent with the requirements of section 6503, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) **COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.**—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages

167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which

subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) **CONSIDERATIONS.**—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) **OBJECTIVES.**—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

SEC. 6508. EXPEDITED JUDICIAL REVIEW.

(a) **FILING OF COMPLAINT.**—

(1) **DEADLINE.**—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) **VENUE.**—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) **LIMITATION ON SCOPE OF CERTAIN REVIEW.**—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this division and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this division shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) **LIMITATION ON OTHER REVIEW.**—Actions of the Secretary with respect to which review could have been obtained under this

section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 6509. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 6503(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 6510. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611); and

(2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 6511. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects; and

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed \$10,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund \$5,000,000 for each fiscal year.

SEC. 6512. REVENUE ALLOCATION.

(a) FEDERAL AND STATE DISTRIBUTION.—

(1) IN GENERAL.—Notwithstanding section 6504 of this Act, the Mineral Leasing Act (30 U.S.C. 181 et seq.), or any other law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Renewable Energy Technology Investment Fund and the Royalties Conservation Fund as provided in this section.

(2) ADJUSTMENTS.—Adjustments to bonus, rental, and royalty amounts from oil and gas leasing and operations authorized under this title shall be made as necessary for overpayments and refunds from lease revenues received in current or subsequent periods before distribution of such revenues pursuant to this section.

(3) TIMING OF PAYMENTS TO STATE.—Payments to the State of Alaska under this section shall be made semiannually.

(b) RENEWABLE ENERGY TECHNOLOGY INVESTMENT FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the "Renewable Energy Technology Investment Fund".

(2) DEPOSITS.—Fifty percent of adjusted revenues from bonus payments for leases issued under this title shall be deposited into the Renewable Energy Technology Investment Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Renewable Energy Technology Investment Fund shall be used by the Secretary of Energy to finance research grants, contracts, and cooperative agreements and expenses of direct research by Federal agencies, including the costs of

administering and reporting on such a program of research, to improve and demonstrate technology and develop basic science information for development and use of renewable and alternative fuels including wind energy, solar energy, geothermal energy, and energy from biomass. Such research may include studies on deployment of such technology including research on how to lower the costs of introduction of such technology and of barriers to entry into the market of such technology.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, adjustments or refunds of bonus amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid by the Secretary from the Renewable Energy Technology Investment Fund.

(5) CONSULTATION AND COORDINATION.—Any specific use of the Renewable Energy Technology Investment Fund shall be determined only after the Secretary of Energy consults and coordinates with the heads of other appropriate Federal agencies.

(6) REPORTS.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of Energy shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the use of funds under this subsection and the impact of and efforts to integrate such uses with other energy research efforts.

(c) ROYALTIES CONSERVATION FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the "Royalties Conservation Fund".

(2) DEPOSITS.—Fifty percent of revenues from rents and royalty payments for leases issued under this title shall be deposited into the Royalties Conservation Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Royalties Conservation Fund—

(A) may be used by the Secretary of the Interior and the Secretary of Agriculture to finance grants, contracts, cooperative agreements, and expenses for direct activities of the Department of the Interior and the Forest Service to restore and otherwise conserve lands and habitat and to eliminate maintenance and improvements backlogs on Federal lands, including the costs of administering and reporting on such a program; and

(B) may be used by the Secretary of the Interior to finance grants, contracts, cooperative agreements, and expenses—

(i) to preserve historic Federal properties;

(ii) to assist States and Indian Tribes in preserving their historic properties;

(iii) to foster the development of urban parks; and

(iv) to conduct research to improve the effectiveness and lower the costs of habitat restoration.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, refunds or adjustments of royalty and rental amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid from the Royalties Conservation Fund.

(d) AVAILABILITY.—Moneys covered into the accounts established by this section—

(1) shall be available for expenditure only to the extent appropriated therefor;

(2) may be appropriated without fiscal-year limitation; and

(3) may be obligated or expended only as provided in this section.

TITLE VI—CONSERVATION OF ENERGY
BY THE DEPARTMENT OF THE INTERIOR
SEC. 6601. ENERGY CONSERVATION BY THE DEPARTMENT OF THE INTERIOR.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) conduct a study to identify, evaluate, and recommend opportunities for conserving energy by reducing the amount of energy used by facilities of the Department of the Interior; and

(2) wherever feasible and appropriate, reduce the use of energy from traditional sources by encouraging use of alternative energy sources, including solar power and power from fuel cells, throughout such facilities and the public lands of the United States.

(b) REPORTS.—The Secretary shall submit to the Congress—

(1) by not later than 90 days after the date of the enactment of this Act, a report containing the findings, conclusions, and recommendations of the study under subsection (a)(1); and

(2) by not later than December 31 each year, an annual report describing progress made in—

(A) conserving energy through opportunities recommended in the report under paragraph (1); and

(B) encouraging use of alternative energy sources under subsection (a)(2).

SEC. 6602. AMENDMENT TO BUY INDIAN ACT.

Section 23 of the Act of June 25, 1910 (25 U.S.C. 47; commonly known as the “Buy Indian Act”) is amended by inserting “energy products, and energy by-products,” after “printing.”

TITLE VII—COAL

SEC. 6701. LIMITATION ON FEES WITH RESPECT TO COAL LEASE APPLICATIONS AND DOCUMENTS.

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating coal leases.

SEC. 6702. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

“(i) will ensure the maximum economic recovery of a coal deposit; or

“(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resources.”

SEC. 6703. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended to read as follows:

“(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

“(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

“(B) Such advance royalties shall be computed based on the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year.

“(C) The aggregate number of years during the initial and any extended term of any

lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

“(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

“(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

“(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.”

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

SEC. 6704. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking “and not later than three years after a lease is issued.”

TITLE VIII—INSULAR AREAS ENERGY SECURITY

SEC. 6801. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (Public Law 96-597; 94 Stat. 3480-3481), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

“(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

“(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, and indigenous sources in regard to the insular areas.”

(3) by amending subsection (e) to read as follows:

“(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the chief executive officer of each insular area, shall update the plans required under subsection (c) by—

“(A) updating the contents required by subsection (c);

“(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010 and maximizing, to the extent feasible, use of indigenous energy sources; and

“(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

“(2) Not later than May 31, 2003, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection.”; and

(4) by amending subsection (g)(4) to read as follows:

“(4) POWER LINE GRANTS FOR TERRITORIES.—“(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to gov-

ernments of territories of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such territories from damage caused by hurricanes and typhoons.

“(B) ELIGIBLE PROJECTS.—The Secretary may award grants under subparagraph (A) only to governments of territories of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

“(i) The project is designed to protect electric power transmission and distribution lines located in one or more of the territories of the United States from damage caused by hurricanes and typhoons.

“(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

“(iii) The project addresses one or more problems that have been repetitive or that pose a significant risk to public health and safety.

“(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

“(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

“(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

“(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

“(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

“(i) have the greatest impact on reducing future disaster losses; and

“(ii) best conform with plans that have been approved by the Federal Government or the government of the territory where the project is to be carried out for development or hazard mitigation for that territory.

“(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

“(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

“(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.”

DIVISION G

SEC. 7101. BUY AMERICAN.

No funds authorized under this Act shall be available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a-10c).

SA 2125. Mr. BAUCUS proposed an amendment to the bill H.R. 3090, to provide tax incentives for economic recovery; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Economic Recovery and Homeland Defense Act of 2001”.

(b) **REFERENCES TO INTERNAL REVENUE CODE OF 1986.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—

Sec. 1. Short title; etc.

TITLE I—SUPPLEMENTAL REBATE FOR INDIVIDUAL TAXPAYERS

Sec. 101. Supplemental rebate.

TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

Sec. 201. Special depreciation allowance for certain property.

Sec. 202. Increase in section 179 expensing.

Sec. 203. Carryback of certain net operating losses allowed for 5 years.

TITLE III—TAX INCENTIVES AND RELIEF FOR VICTIMS OF TERRORISM, DISASTERS, AND DISTRESSED CONDITIONS**Subtitle A—Tax Incentives for New York City and Distressed Areas**

Sec. 301. Expansion of work opportunity tax credit targeted categories to include certain employees in New York City.

Sec. 302. Tax-exempt private activity bonds for rebuilding portion of New York City damaged in the September 11, 2001, terrorist attack.

Sec. 303. Gain or loss from property damaged or destroyed in New York Recovery Zone.

Sec. 304. Reenactment of exceptions for qualified-mortgage-bond-financed loans to victims of Presidentially declared disasters.

Sec. 305. One-year expansion of authority for Indian tribes to issue tax-exempt private activity bonds.

Subtitle B—Victims of Terrorism Tax Relief

Sec. 310. Short title.

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Sec. 410. Deduction for clean-fuel vehicles and certain refueling property.

Sec. 411. Credit for qualified electric vehicles.

Sec. 412. Parity in the application of certain limits to mental health benefits.

Sec. 413. Combined employment tax reporting.

TITLE V—EXTENSION OF CERTAIN TRADE PROVISIONS EXPIRING IN 2001.

Sec. 501. Generalized System of Preferences.

Sec. 502. Andean Trade Preference Act.

Sec. 503. Reauthorization of trade adjustment assistance.

TITLE VI—HEALTH INSURANCE**Subtitle A—Health Insurance Coverage Options for Recently Unemployed Individuals and Their Families**

Sec. 601. Premium assistance for COBRA continuation coverage for individuals and their families.

Sec. 602. State option to provide temporary medicaid coverage for certain uninsured individuals.

Sec. 603. State option to provide temporary coverage under medicaid for the unsubsidized portion of COBRA continuation premiums.

Sec. 604. Temporary increases of medicaid FMAP for fiscal year 2002.

Sec. 605. Definitions.

Subtitle B—Other Provisions

Sec. 611. Inclusion of Indian women with breast or cervical cancer in optional medicaid eligibility category.

Sec. 612. Increase in floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

Sec. 613. Moratorium on changes to certain upper payment limits under medicaid.

Sec. 614. Revision and simplification of the Transitional Medical Assistance Program (TMA).

TITLE VII—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

Sec. 701. Short title.

Sec. 702. Federal-State agreements.

Sec. 703. Temporary supplemental unemployment compensation account.

Sec. 704. Payments to States having agreements under this title.

Sec. 705. Financing provisions.

Sec. 706. Fraud and overpayments.

Sec. 707. Definitions.

Sec. 708. Applicability.

TITLE VIII—EMERGENCY AGRICULTURE ASSISTANCE**Subtitle A—Income Loss Assistance**

Sec. 801. Income loss assistance.

Sec. 802. Livestock assistance program.

Sec. 803. Commodity purchases.

Subtitle B—Administration

Sec. 811. Commodity Credit Corporation.

Sec. 812. Administrative expenses.

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TITLE IX—ADDITIONAL PROVISIONS

Sec. 901. Credit to holders of qualified Amtrak bonds.

Sec. 902. Broadband Internet access tax credit.

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Sec. 904. Allowance of electronic 1099s.

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Sec. 906. Recovery period for certain wireless telecommunications equipment.

Sec. 907. Special rules for taxation of life insurance companies for 2001 and 2002.

Sec. 908. No impact on social security trust funds.

Sec. 909. Emergency designation.

TITLE X—HOMELAND DEFENSE**TITLE I—SUPPLEMENTAL REBATE FOR INDIVIDUAL TAXPAYERS****SEC. 101. SUPPLEMENTAL REBATE.**

(a) **IN GENERAL.**—Section 6428 (relating to acceleration of 10 percent income tax rate bracket benefit for 2001) is amended by adding at the end the following new subsection:“(f) **SUPPLEMENTAL REBATE.**—

“(1) **IN GENERAL.**—Each individual who was an eligible individual for such individual’s first taxable year beginning in 2000 and who, before October 16, 2001—

“(A) filed a return of tax imposed by subtitle A for such taxable year, or

“(B) filed a return of income tax with the government of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States, shall be treated as having made a payment against the tax imposed by chapter 1 for such first taxable year in an amount equal to the supplemental refund amount for such taxable year.

“(2) **SUPPLEMENTAL REFUND AMOUNT.**—For purposes of this subsection, the supplemental refund amount is an amount equal to the excess (if any) of—

“(A)(i) \$600 in the case of taxpayers to whom section 1(a) applies,

“(ii) \$500 in the case of taxpayers to whom section 1(b) applies, and

“(iii) \$300 in the case of taxpayers to whom subsections (c) or (d) of section 1 applies, over

“(B) the amount of any advance refund amount paid to the taxpayer under subsection (e).

“(3) **TIMING OF PAYMENTS.**—In the case of any overpayment attributable to this subsection, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible.

“(4) **NO INTEREST.**—No interest shall be allowed on any overpayment attributable to this subsection.

“(5) **SPECIAL RULE FOR CERTAIN NON-RESIDENTS.**—The determination under subsection (c)(2) as to whether an individual who filed a return of tax described in paragraph (1)(B) is a nonresident alien individual shall, under rules prescribed by the Secretary, be made by reference to the possession or Commonwealth with which the return was filed and not the United States.”.

(b) **TECHNICAL CORRECTION.**—

(1) **IN GENERAL.**—Subsection (b) of section 6428 is amended to read as follows:

“(b) **CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.**—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Subsection (d) of section 6428 is amended to read as follows:

“(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

“(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

“(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.”.

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

“(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

“(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

“(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).”.

(C) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6428(d), as amended by subsection (b), is amended by striking “subsection (e)” and inserting “subsections (e) and (f)”.

(2) Paragraph (2) of section 6428(d), as amended by subsection (b), is amended by striking “subsection (e)” and inserting “subsection (e) or (f)”.

(3) Paragraph (3) of section 6428(e) is amended by striking “December 31, 2001” and inserting “the date of the enactment of the Economic Recovery and Assistance for American Workers Act of 2001”.

(d) REPORTING REQUIREMENT.—For purposes of determining the individuals who are eligible for the supplemental rebate under section 6428(f) of the Internal Revenue Code of 1986, the governments of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States shall provide, at such time and in such manner as provided by the Secretary of the Treasury, the names, addresses, and taxpayer identifying numbers (within the meaning of section 6109 of the Internal Revenue Code of 1986) of residents who filed returns of income tax with such governments for 2000.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TECHNICALS.—The amendments made by subsection (b) shall take effect as if included in the amendment made by section 101(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2002.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 10 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i)(I) to which this section applies which has an applicable recovery period of 20 years or less or which is water utility property,

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(III) which is qualified leasehold improvement property, or

“(IV) which is eligible for depreciation under section 167(g),

“(i) the original use of which commences with the taxpayer after September 10, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2002, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2002, and

“(iv) which is placed in service by the taxpayer before January 1, 2003.

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(C) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2002.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service after September 10, 2001, by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease-back referred to in subclass (II).

“(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$1,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

“(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified leasehold improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—

“(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

“(I) by the lessee (or any sublessee) of such portion, or

“(II) by the lessor of such portion,

“(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

“(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefiting a common area, and

“(iv) the internal structural framework of the building.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

“(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term ‘related persons’ means—

“(I) members of an affiliated group (as defined in section 1504), and

“(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such subsection.

“(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.”.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2002.—The deduction under section 168(k) shall be allowed.”.

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking “clause (ii)” both places it appears and inserting “clauses (ii) and (iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SEC. 202. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—The table contained in section 179(b)(1) (relating to dollar limitation) is amended to read as follows:

“If the taxable year begins in:	The applicable amount is:
2001	\$24,000
2002	\$35,000
2003 or thereafter	\$25,000.”.

(b) TEMPORARY INCREASE IN AMOUNT OF PROPERTY TRIGGERING PHASEOUT OF MAXIMUM BENEFIT.—Paragraph (2) of section 179(b) is amended by inserting before the period “(\$325,000 in the case of taxable years beginning during 2002)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 203. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

“(H) In the case of a taxpayer which has a net operating loss for any taxable year ending in 2001, subparagraph (A)(i) shall be applied by substituting ‘5’ for ‘2’ and subparagraph (F) shall not apply.”.

(b) ELECTION TO DISREGARD 5-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) ELECTION TO DISREGARD 5-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

“(A) the amount of such deduction shall not exceed the sum of—

“(i) the lesser of—

“(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

“(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

“(ii) the lesser of—

“(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending in 2001, or

“(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years ending in 2001.

TITLE III—TAX INCENTIVES AND RELIEF FOR VICTIMS OF TERRORISM, DISASTERS, AND DISTRESSED CONDITIONS

Subtitle A—Tax Incentives for New York City and Distressed Areas

SEC. 301. EXPANSION OF WORK OPPORTUNITY TAX CREDIT TARGETED CATEGORIES TO INCLUDE CERTAIN EMPLOYEES IN NEW YORK CITY.

(a) IN GENERAL.—For purposes of section 51 of the Internal Revenue Code of 1986 (relating to work opportunity credit), a New York Recovery Zone business employee shall be treated as a member of a targeted group.

(b) NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE.—For purposes of this section—

(1) IN GENERAL.—The term “New York Recovery Zone business employee” means, with

respect to the period beginning after September 10, 2001, and ending before January 1, 2003, any employee of a New York Recovery Zone business if—

(A) substantially all the services performed during such period by such employee for such business are performed in a trade or business of such business located in an area described in paragraph (2), and

(B) with respect to any employee of such business described in paragraph (2)(B), such employee is certified by the New York State Department of Labor as not exceeding, when added to all other employees previously certified with respect to such period as New York Recovery Zone business employees with respect to such business, the number of employees of such business on September 11, 2001, in the New York Recovery Zone.

(2) NEW YORK RECOVERY ZONE BUSINESS.—The term “New York Recovery Zone business” means any business establishment which is—

(A) located in the New York Recovery Zone, or

(B) located in the City of New York, New York, outside the New York Recovery Zone, as the result of the destruction or damage of such establishment by the September 11, 2001, terrorist attack.

(3) NEW YORK RECOVERY ZONE.—The term “New York Recovery Zone” means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(4) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart E of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 to wages paid or incurred to any New York Recovery Zone business employee—

(A) section 51(a) of such Code shall be applied by substituting “qualified wages” for “qualified first-year wages”,

(B) section 51(d)(12)(A)(i) of such Code shall be applied to the certification of individuals employed by a New York Recovery Zone business before April 1, 2002, by substituting “on or before May 1, 2002” for “on or before the day on which such individual begins work for the employer”,

(C) subsections (c)(4) and (i)(2) of section 51 of such Code shall not apply, and

(D) in determining qualified wages, the following shall apply in lieu of section 51(b) of such Code:

(i) QUALIFIED WAGES.—The term “qualified wages” means the wages paid or incurred by the employer for work performed during the period beginning on September 11, 2001, and ending on December 31, 2002, to individuals who are New York Recovery Zone business employees of such employer.

(ii) ONLY FIRST \$12,000 OF WAGES PER TAXABLE YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed \$12,000 per taxable year of the employer.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE CREDIT.—

“(A) IN GENERAL.—In the case of the New York Recovery Zone business employee credit—

“(i) this section and section 39 shall be applied separately with respect to such credit, and

“(ii) in applying paragraph (1) to such credit—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Recovery Zone business employee credit).

“(B) NEW YORK RECOVERY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term ‘New York Recovery Zone business employee credit’ means the portion of work opportunity credit under section 51 determined under section 301 of the Economic Recovery and Assistance for American Workers Act of 2001.”.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting “or the New York Recovery Zone business employee credit” after “employment credit”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after September 11, 2001.

SEC. 302. TAX-EXEMPT PRIVATE ACTIVITY BONDS FOR REBUILDING PORTION OF NEW YORK CITY DAMAGED IN THE SEPTEMBER 11, 2001, TERRORIST ATTACK.

(a) TREATMENT AS QUALIFIED BONDS.—For purposes of the Internal Revenue Code of 1986, any qualified NYC recovery bond shall be treated as an exempt facility bond under section 141(e) of such Code.

(b) QUALIFIED NYC RECOVERY BOND.—For purposes of this section, the term “qualified NYC recovery bond” means any bond which—

(1) is issued by the State of New York or any political subdivision thereof (or any agency, instrumentality or constituted authority on behalf thereof), and

(2) meets the requirements of subsections (c) through (f).

(c) DESIGNATION REQUIREMENTS.—A bond meets the requirements of this subsection if it is issued as part of an issue designated as a qualified NYC recovery bond by the Mayor of the City of New York, New York, or an individual specifically appointed to make such designation.

(d) ISSUANCE AND VOLUME REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (3), a bond issued as part of an issue meets the requirements of this subsection if such bond is issued during 2002 (or during the period elected under paragraph (2)) and the aggregate face amount of the bonds issued pursuant to such issue, when added to the aggregate face amount of qualified NYC recovery bonds previously issued, does not exceed \$15,000,000,000.

(2) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION.—If the volume cap under paragraph (1) exceeds the aggregate amount of qualified NYC recovery bonds issued during 2002, the issuing authority under subsection (b) may elect to carry forward such excess volume cap for an additional 3-year period under rules similar to the rules of section 146(f) of the Internal Revenue Code of 1986 (other than paragraph (2) thereof).

(3) CERTAIN CURRENT REFUNDINGS NOT COUNTED.—For purposes of paragraph (1), there shall not be taken into account any current refunding bond the proceeds of which are used to refund any bond described in paragraph (1) to the extent the face amount of such current refunding bond does not exceed the outstanding face amount of the refunded bond.

(e) QUALIFIED PROJECT REQUIREMENTS.—

(1) IN GENERAL.—A bond meets the requirements of this subsection if it is issued as part of an issue at least 95 percent of the net proceeds of which are to be used for qualified project costs.

(2) **QUALIFIED PROJECT COSTS.**—For purposes of this subsection—

(A) **IN GENERAL.**—The term “qualified project costs” means—

(i) with respect to a qualified project described in paragraph (3)(A)(i), the costs of acquisition, construction, reconstruction, and renovation of commercial real property and residential rental real property, including—

(I) buildings and their structural components,

(II) fixed tenant improvements, and

(III) public utility property, and

(ii) with respect to a qualified project described in paragraph (3)(A)(ii), the costs of acquisition, construction, reconstruction, and renovation of commercial real property, including—

(I) buildings and their structural components, and

(II) fixed tenant improvements.

(B) **LIMITATIONS.**—

(i) **RESIDENTIAL RENTAL REAL PROPERTY.**—Such term shall not include costs with respect to residential rental real property to the extent such costs for all such property exceed 20 percent of the aggregate face amount of the bonds issued under this section.

(ii) **RETAIL SALES PROPERTY.**—Such term shall not include costs with respect to property used for retail sales of tangible property and functionally related and subordinate property to the extent such costs for all such property exceeds 10 percent of the aggregate face amount of the bonds issued under this section.

(iii) **MOVABLE FIXTURES AND EQUIPMENT.**—Such term shall not include costs with respect to movable fixtures and equipment.

(3) **QUALIFIED PROJECTS.**—For purposes of this subsection—

(A) **IN GENERAL.**—The term “qualified project” means any project—

(i) located within the New York Recovery Zone, or

(ii) located within the City of New York, New York, but outside of the New York Recovery Zone, but only if—

(I) such project consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings, and

(II) the aggregate face amount of the bonds issued to finance such project, when added to the aggregate face amount of all bonds issued to finance all other projects described in this clause, does not exceed \$7,000,000,000.

(B) **NEW YORK RECOVERY ZONE.**—The term “New York Recovery Zone” means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(f) **GENERAL REQUIREMENTS.**—A bond meets the requirements of this subsection if it is issued as part of an issue which meets the requirements of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 applicable to an exempt facility bond, except as follows:

(1) Sections 142(d) and 150(b)(2) (relating to qualified residential rental project), and section 146 (relating to volume cap) of such Code shall not apply to bonds issued under this section.

(2) The application of section 147(c) of such Code (relating to limitation on use for land acquisition) shall be determined by reference to the aggregate authorized face amount of all bonds issued under this section rather than the net proceeds of each issue.

(3) Section 147(d) of such Code (relating to acquisition of existing property not permitted) shall be applied by substituting “50

percent” for “15 percent” each place it appears.

(4) Section 148(f)(4)(C) of such Code (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to construction proceeds of bonds issued under this section.

(5) Rules similar to the rules of section 143(a)(2)(A)(iv) of such Code (relating to use of loan repayments) shall apply to bonds issued under this section.

(g) **BOND INTEREST NOT AN AMT PREFERENCE ITEM.**—For purposes of section 57(a)(5) of the Internal Revenue Code of 1986, a qualified NYC recovery bond shall not be treated as a specified private activity bond.

(h) **SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.**—This section shall not apply to the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to subsection (a)), if the issuer elects to so treat such portion.

(i) **NET PROCEEDS.**—For purposes of this section, the term “net proceeds” has the meaning given such term by section 150(a)(3) of the Internal Revenue Code of 1986.

(j) **INTEREST ON DEBT USED TO PURCHASE OR CARRY QUALIFIED NYC RECOVERY BONDS.**—

(1) **IN GENERAL.**—Section 265(b)(3) (relating to exception for certain tax-exempt obligations) is amended—

(A) by inserting “a tax-exempt obligation issued pursuant to section 302 of the Economic Recovery and Assistance for American Workers Act of 2001 or” after “means” in subparagraph (B)(i),

(B) by inserting “other than an obligation issued pursuant to section 302 of the Economic Recovery and Assistance for American Workers Act of 2001” after “of a qualified tax-exempt obligation” in subparagraph (D)(ii), and

(C) by adding at the end of subparagraph (D) the following new clause:

“(iv) **REFUNDINGS OF CERTAIN OBLIGATIONS.**—In the case of a refunding (or a series of refundings) of a qualified tax-exempt obligation that is an obligation issued pursuant to section 302 of the Economic Recovery and Assistance for American Workers Act of 2001, the refunding obligation shall be treated as a qualified tax-exempt obligation if the refunding obligation meets the requirements of such section.”

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years ending on or after the date of the enactment of this Act.

SEC. 303. GAIN OR LOSS FROM PROPERTY DAMAGED OR DESTROYED IN NEW YORK RECOVERY ZONE.

(a) **GENERAL RULE.**—For purposes of the Internal Revenue Code of 1986, if a taxpayer elects the application of this section with respect to any eligible property, then any gain or loss on the disposition of the property shall be determined without regard to any compensation (by insurance or otherwise) received by the taxpayer for damages sustained to the property as a result of the terrorist attacks occurring on September 11, 2001. Such election shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and, once made, is irrevocable.

(b) **LIMITATION BASED ON PURCHASE OF REPLACEMENT PROPERTY.**—

(1) **IN GENERAL.**—Subsection (a) shall apply to compensation received with respect to eligible property only to the extent of the cost of any qualified replacement property purchased by the taxpayer.

(2) **ALLOCATION.**—If the aggregate compensation received by a taxpayer with respect to all eligible property exceeds the aggregate cost of all qualified replacement

property purchased by the taxpayer, such cost shall be allocated to such eligible property in accordance with rules prescribed by the Secretary.

(3) **SPECIAL RULE FOR CONSOLIDATED GROUPS.**—For purposes of paragraph (1), an affiliated group filing a consolidated return may elect to treat any qualified replacement property purchased by a member of the group as purchased by another member of the group.

(c) **ELIGIBLE PROPERTY.**—For purposes of this section, the term “eligible property” means any tangible property—

(1) which is section 1245 property (as defined in section 1245(a)(3) of the Internal Revenue Code of 1986) or qualified leasehold improvement property (as defined in section 168(k)(3) of such Code),

(2) substantially all of the use of which as of September 11, 2001, was in a business establishment of the taxpayer located in the New York Recovery Zone, and

(3) which was damaged or destroyed in the terrorist attacks of September 11, 2001.

(d) **QUALIFIED REPLACEMENT PROPERTY.**—For purposes of this section—

(1) **IN GENERAL.**—The term “qualified replacement property” means tangible property—

(A) which is described in subsection (c)(1),

(B) which is purchased by the taxpayer on or after September 11, 2001, and placed in service in the City of New York, New York, before January 1, 2001,

(C) the original use of which in such city begins with the taxpayer, and

(D) substantially all of the use of which is reasonably expected to be in connection with a business establishment of the taxpayer located in such city.

(2) **RECAPTURE.**—The Secretary shall, by regulations, provide for the recapture of any Federal tax benefit provided by this section in cases where a taxpayer ceases to use property as qualified replacement property and such recapture is necessary to prevent the avoidance of the purposes of this section.

(e) **COORDINATION WITH OTHER PROVISIONS OF CODE.**—For purposes of the Internal Revenue Code of 1986—

(1) **SPECIAL RULE FOR TREATMENT OF UNRECOGNIZED GAIN IN ELIGIBLE PROPERTY.**—Sections 1245 and 1250 of such Code shall not apply to any gain on the disposition of eligible property not recognized by reason of this section.

(2) **LOSS ELECTION NOT TO APPLY TO ELIGIBLE PROPERTY.**—If a taxpayer elects the application of this section with respect to any eligible property, the taxpayer may not make an election under section 165(i) of such Code with respect to any loss attributable to the property.

(3) **BASIS ADJUSTMENTS OF QUALIFIED REPLACEMENT PROPERTY.**—

(A) **IN GENERAL.**—The basis of any qualified replacement property shall be reduced by the amount of any compensation disregarded by reason of subsection (a).

(B) **SPECIAL RULES FOR RECAPTURE.**—For purposes of sections 1245 and 1250 of such Code, any reduction under subparagraph (A) shall be treated as a deduction allowed for depreciation, except that for purposes of section 1250(b) of such Code, the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under subparagraph (A).

(4) **SPECIAL RULES FOR APPLYING SECTION 1033.**—For purposes of applying section 1033 of such Code to converted property which is eligible property with respect to which an election under subsection (a) has been made—

(A) the amount realized from the eligible property shall not include any compensation

received by the taxpayer which is disregarded by reason of subsection (a), and

(B) any qualified replacement property shall be disregarded in determining whether property was acquired for the purposes of replacing the converted property.

(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

(1) NEW YORK RECOVERY ZONE.—The term “New York Recovery Zone” means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

(2) TIME FOR ASSESSMENT.—Rules similar to the rules of subparagraphs (C) and (D) of section 1033(a)(2) of such Code shall apply for purposes of this section.

(3) RELATED PARTY LIMITATION.—Section 1033(i) of such Code shall apply for purposes of this section.

SEC. 304. REENACTMENT OF EXCEPTIONS FOR QUALIFIED-MORTGAGE-BOND-FINANCED LOANS TO VICTIMS OF PRESIDENTIALLY DECLARED DISASTERS.

Section 143(k)(11) (relating to special rules for residences located in disaster areas) is amended—

(1) by inserting “damaged or destroyed by a disaster and” after “In the case of a residence”;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Paragraph (4) of this subsection shall be applied by substituting ‘\$25,000’ for ‘\$15,000.’; and

(3) by inserting “, and after December 31, 2001, and before January 1, 2003” after “1999” in the last sentence.

SEC. 305. ONE-YEAR EXPANSION OF AUTHORITY FOR INDIAN TRIBES TO ISSUE TAX-EXEMPT PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Section 7871(c) (relating to additional requirements for tax-exempt bonds) is amended by adding at the end the following new paragraph:

“(4) EXCEPTION FOR QUALIFIED INDIAN PRIVATE ACTIVITY BONDS.—

“(A) IN GENERAL.—In the case of any qualified Indian private activity bond—

“(i) paragraph (2) shall not apply,

“(ii) such bond shall be treated as a qualified bond under section 141(e), and

“(iii) section 146 shall not apply.

“(B) QUALIFIED INDIAN PRIVATE ACTIVITY BOND.—For purposes of this paragraph, the term ‘qualified Indian private activity bond’ means any bond which—

“(i) is issued by a qualified Indian tribal government—

“(I) as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as determined under section 142(d), by substituting ‘statewide median gross income’ for ‘area median gross income’),

“(II) as part of a qualified mortgage issue (as defined in section 143(a)(2)),

“(III) as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any facility described in section 1394(b)(1) for any business (whether tribally owned or not) that would qualify as an enterprise zone business if the Indian reservation (as defined in section 168(j)(6)) over which the qualified Indian tribal government exercises general governmental authority were treated as an empowerment zone, or

“(IV) as part of an issue to be used for more than 1 of the purposes described in the preceding subclauses, and

“(ii) meets the requirements of subparagraphs (D) and (E).

“(C) QUALIFIED INDIAN TRIBAL GOVERNMENT.—For purposes of this paragraph, the

term ‘qualified Indian tribal government’ means an Indian tribal government which exercises general governmental authority over an Indian reservation (as so defined) with an unemployment rate among members of the tribe of at least 25 percent. For purposes of the preceding sentence, determinations of unemployment shall be made with respect to any issuance of a bond under this section on the basis of the most recent report published by the Bureau of Indian Affairs under section 17(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3416(a)) before such issuance.

“(D) DESIGNATION REQUIREMENTS.—A bond meets the requirements of this subparagraph if it is issued as part of an issue designated as a qualified Indian private activity bond for a purpose described in subclause (I), (II), or (III) of subparagraph (B)(i) by the qualified Indian tribal government.

“(E) VOLUME REQUIREMENTS.—

“(i) IN GENERAL.—A bond issued as part of an issue meets the requirements of this subparagraph if such bond is issued during 2002 (or during the period elected under clause (ii)) and the aggregate face amount of the bonds issued pursuant to such issue, when added to the aggregate face amount of qualified Indian private activity bonds previously issued by such qualified Indian tribal government, does not exceed \$10,000,000.

“(ii) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION.—If the volume cap under clause (i) exceeds the aggregate amount of qualified Indian private activity bonds issued during 2002, the qualified Indian tribal government may elect to carry forward such excess volume cap for an additional 3-year period under rules similar to the rules of section 146(f) (other than paragraph (2) thereof).

“(F) APPLICATION OF SECTION 42 TO RESIDENTIAL RENTAL PROJECTS FINANCED BY BONDS UNDER THIS PARAGRAPH.—In the case of bonds described in subparagraph (B)(i)(I), issuance under the requirements of subparagraph (E) shall be treated as issuance under the requirements of section 146 for purposes of determining the application of section 42 to projects financed by the net proceeds of such bonds.

“(G) SPECIAL RULE FOR DETERMINING ENTERPRISE ZONE BUSINESS.—For purposes of subparagraph (B)(i)(III), an enterprise zone business shall not include any facility a principal business of which is the sale of tobacco products or highway motor fuels, unless the qualified Indian tribal government has entered into an agreement with the State in which such facility is located to collect applicable State taxes on such products or fuels.

“(H) BOND INTEREST NOT AN AMT PREFERENCE ITEM.—For purposes of section 57(a)(5), a bond designated under subparagraph (D) as a qualified Indian private activity bond shall not be treated as a specified private activity bond.

“(I) REPORT.—The Secretary shall compile necessary data from reports required under section 149(e) relating to the issuance of bonds under this paragraph and shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than September 30 of any year following the calendar year in which Indian tribal governments issued bonds under this paragraph and the activities for which such bonds were issued.”

(b) CONFORMING AMENDMENTS.—

(1) Section 7871(c)(2) is amended by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”.

(2) Section 7871 is amended—

(A) by striking clause (iii) of subsection (c)(3)(E), and

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

“(f) NET PROCEEDS.—For purposes of this section, the term ‘net proceeds’ has the meaning given such term by section 150(a)(3).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2001.

Subtitle B—Victims of Terrorism Tax Relief

SEC. 310. SHORT TITLE.

This subtitle may be cited as the “Victims of Terrorism Tax Relief Act of 2001”.

PART I—RELIEF PROVISIONS FOR VICTIMS OF APRIL 19, 1995, AND SEPTEMBER 11, 2001, TERRORIST ATTACKS

SEC. 311. INCOME AND EMPLOYMENT TAXES OF VICTIMS OF TERRORIST ATTACKS.

(a) IN GENERAL.—Section 692 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end the following new subsection:

“(d) CERTAIN INDIVIDUALS DYING AS A RESULT OF APRIL 19, 1995, AND SEPTEMBER 11, 2001, TERRORIST ATTACKS.—

“(1) IN GENERAL.—In the case of any individual who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, any tax imposed by this subtitle shall not apply—

“(A) with respect to the taxable year in which falls the date of such individual’s death, and

“(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

“(2) EXCEPTIONS.—

“(A) TAXATION OF CERTAIN BENEFITS.—Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this subtitle which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

“(i) amounts payable in the taxable year by reason of the death of an individual described in paragraph (1) which would have been payable in such taxable year if the death had occurred by reason of an event other than the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

“(ii) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after April 19, 1995, or after September 11, 2001 (as the case may be).

“(B) NO RELIEF FOR PERPETRATORS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.”

(b) REFUND OF OTHER TAXES PAID.—Section 692, as amended by subsection (a), is amended by adding at the end the following new subsection:

“(e) REFUND OF OTHER TAXES PAID.—In determining the amount of tax under this section to be credited or refunded as an overpayment with respect to any individual for any period, such amount shall be increased by an amount equal to the amount of taxes imposed and collected under chapter 21 and sections 3201(a), 3211(a)(1), and 3221(a) with respect to such individual for such period.”

(c) CONFORMING AMENDMENTS.—

(1) Section 5(b)(1) is amended by inserting “and victims of certain terrorist attacks” before “on death”.

(2) Section 6013(f)(2)(B) is amended by inserting “and victims of certain terrorist attacks” before “on death”.

(d) CLERICAL AMENDMENTS.—

(1) The heading of section 692 is amended to read as follows:

“SEC. 692. INCOME AND EMPLOYMENT TAXES OF MEMBERS OF ARMED FORCES AND VICTIMS OF CERTAIN TERRORIST ATTACKS ON DEATH.”

(2) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended to read as follows:

“Sec. 692. Income and employment taxes of members of Armed Forces and victims of certain terrorist attacks on death.”

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending before, on, or after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 312. ESTATE TAX REDUCTION.

(a) IN GENERAL.—Section 2201 is amended to read as follows:

“SEC. 2201. COMBAT ZONE-RELATED DEATHS OF MEMBERS OF THE ARMED FORCES AND DEATHS OF VICTIMS OF CERTAIN TERRORIST ATTACKS.

“(a) IN GENERAL.—Unless the executor elects not to have this section apply, in applying section 2001 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

“(b) QUALIFIED DECEDENT.—For purposes of this section, the term ‘qualified decedent’ means—

“(1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

“(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

“(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service, or

“(2) any individual who died as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001.

Paragraph (2) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in any such terrorist attack, or a representative of such individual.

“(c) RATE SCHEDULE.—

Table with 2 columns: 'If the amount with respect to which the tentative tax to be computed is:' and 'The tentative tax is:'. Rows show tax rates for various income brackets from \$150,000 to over \$900,000.

“If the amount with respect to which the tentative tax to be computed is: The tentative tax is:

Table with 2 columns: 'If the amount with respect to which the tentative tax to be computed is:' and 'The tentative tax is:'. Rows show tax rates for various income brackets from over \$1,100,000 to over \$10,100,000.

“(d) DETERMINATION OF UNIFIED CREDIT.—In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.”

(b) CONFORMING AMENDMENTS.—

(1) Section 2011 is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 2053(d)(3)(B) is amended by striking “section 2011(e)” and inserting “section 2011(d)”.

(3) Paragraph (9) of section 532(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) CLERICAL AMENDMENT.—The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended to read as follows:

“Sec. 2201. Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.”

(d) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents—

(A) dying on or after September 11, 2001, and

(B) in the case of individuals dying as a result of the April 19, 1995, terrorist attack, dying on or after April 19, 1995.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 313. PAYMENTS BY CHARITABLE ORGANIZATIONS TREATED AS EXEMPT PAYMENTS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code by reason of the death, injury, or wounding of an individual incurred as the result of the

terrorist attacks against the United States on September 11, 2001, shall be treated as related to the purpose or function constituting the basis for such organization’s exemption under section 501 of such Code if such payments are made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made on or after September 11, 2001.

SEC. 314. EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, and

(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

(b) EFFECTIVE DATE.—This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

PART II—GENERAL RELIEF FOR VICTIMS OF DISASTERS AND TERRORISTIC OR MILITARY ACTIONS

SEC. 321. EXCLUSION FOR DISASTER RELIEF PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

“SEC. 139. DISASTER RELIEF PAYMENTS.

“(a) GENERAL RULE.—Gross income shall not include—

“(1) any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act, or

“(2) any amount received by an individual as a qualified disaster relief payment.

“(b) QUALIFIED DISASTER RELIEF PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster relief payment’ means any amount paid to or for the benefit of an individual—

“(1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,

“(2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,

“(3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or

“(4) if such amount is paid by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment is not otherwise compensated for by insurance or otherwise.

“(c) QUALIFIED DISASTER DEFINED.—For purposes of this section, the term ‘qualified disaster’ means—

“(1) a disaster which results from a terrorist or military action (as defined in section 692(c)(2)),

“(2) a Presidentially declared disaster (as defined in section 1033(h)(3)),

“(3) a disaster which results from an accident involving a common carrier, or from any other event, which is determined by the Secretary to be of a catastrophic nature, or

“(4) with respect to amounts described in subsection (b)(4), a disaster which is determined by an applicable Federal, State, or local authority (as determined by the Secretary) to warrant assistance from the Federal, State, or local government or agency or instrumentality thereof.

“(d) COORDINATION WITH EMPLOYMENT TAXES.—For purposes of chapter 2 and subtitle C, a qualified disaster relief payment shall not be treated as net earnings from self-employment, wages, or compensation subject to tax.

“(e) NO RELIEF FOR CERTAIN INDIVIDUALS.—Subsection (a) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.”.

(b) CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

“Sec. 139. Disaster relief payments.

“Sec. 140. Cross references to other Acts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 322. AUTHORITY TO POSTPONE CERTAIN DEADLINES AND REQUIRED ACTIONS.

(a) EXPANSION OF AUTHORITY RELATING TO DISASTERS AND TERRORISTIC OR MILITARY ACTIONS.—Section 7508A is amended to read as follows:

“SEC. 7508A. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to one year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—

“(1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

“(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

“(3) the amount of any credit or refund.

“(b) SPECIAL RULES REGARDING PENSIONS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a disaster or action described in subsection (a), the Secretary may specify a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.

“(c) SPECIAL RULES FOR OVERPAYMENTS.—The rules of section 7508(b) shall apply for purposes of this section.”.

(b) CLARIFICATION OF SCOPE OF ACTS SECRETARY MAY POSTPONE.—Section

7508(a)(1)(K) (relating to time to be disregarded) is amended by striking “in regulations prescribed under this section”.

(c) CONFORMING AMENDMENTS TO ERISA.—

(1) Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

“SEC. 518. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

“In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(2) Section 4002 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following new subsection:

“(i) SPECIAL RULES REGARDING DISASTERS, ETC.—In the case of a pension or other employee benefit plan, or any sponsor, administrator, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the corporation may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to one year which may be disregarded in determining the date by which any action is required or permitted to be completed under this Act. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as the result of disregarding any period by reason of the preceding sentence.”.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 6404 is amended—

(A) by striking subsection (h),

(B) by redesignating subsection (i) as subsection (h), and

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

“(i) CROSS REFERENCE.—

“For authority of the Secretary to abate certain amounts by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(2) Section 6081(c) is amended to read as follows:

“(c) CROSS REFERENCES.—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(3) Section 6161(d) is amended by adding at the end the following new paragraph:

“(3) POSTPONEMENT OF CERTAIN ACTS.—

“For time for performing certain acts postponed by reason of war, see section 7508, and by reason of Presidentially declared disaster or terroristic or military action, see section 7508A.”.

(d) CLERICAL AMENDMENTS.—

(1) The item relating to section 7508A in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7508A. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(2) The table of contents for the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 517 the following new item:

“Sec. 518. Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military actions.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after the date of the enactment of this Act.

SEC. 323. INTERNAL REVENUE SERVICE DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7508A, as amended by section 322(a), is amended by adding at the end the following new subsection:

“(d) DUTIES OF DISASTER RESPONSE TEAM.—The Secretary shall establish as a permanent office in the national office of the Internal Revenue Service a disaster response team which, in coordination with the Federal Emergency Management Agency, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)) or a terroristic or military action (as defined in section 692(c)(2)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 324. APPLICATION OF CERTAIN PROVISIONS TO TERRORISTIC OR MILITARY ACTIONS.

(a) EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

“(i) CERTAIN EMPLOYEE DEATH BENEFITS PAYABLE BY REASON OF DEATH FROM TERRORISTIC OR MILITARY ACTIONS.—

“(1) IN GENERAL.—Gross income does not include amounts which are received (whether in a single sum or otherwise) if such amounts are paid by an employer by reason of the death of an employee incurred as a result of a terroristic or military action (as defined in section 692(c)(2)).

“(2) NO RELIEF FOR CERTAIN INDIVIDUALS.—Paragraph (1) shall not apply with respect to any individual identified by the Attorney General to have been a participant or conspirator in a terroristic action (as so defined), or a representative of such individual.

“(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, the term ‘employee’ includes a self-employed person (as described in section 401(c)(1)).”.

(b) DISABILITY INCOME.—Section 104(a)(5) (relating to compensation for injuries or sickness) is amended by striking “a violent attack” and all that follows through the period and inserting “a terroristic or military action (as defined in section 692(c)(2)).”.

(c) EXEMPTION FROM INCOME TAX FOR CERTAIN MILITARY OR CIVILIAN EMPLOYEES.—Section 692(c) is amended—

(1) by striking “outside the United States” in paragraph (1), and

(2) by striking “SUSTAINED OVERSEAS” in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

SEC. 325. CLARIFICATION OF DUE DATE FOR AIRLINE EXCISE TAX DEPOSITS.

(a) IN GENERAL.—Paragraph (3) of section 301(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107-42) is amended to read as follows:

“(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter C of chapter 33 of such Code (relating to transportation by air).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).

SEC. 326. COORDINATION WITH AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

No reduction in Federal tax liability by reason of any provision of, or amendment made by, this title shall be considered as being received from a collateral source for purposes of section 402(4) of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).

TITLE IV—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS**SEC. 401. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “RULE FOR 2000 AND 2001.” and inserting “RULE FOR 2000, 2001, AND 2002.”, and

(2) by striking “during 2000 or 2001,” and inserting “during 2000, 2001, or 2002.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking “during 2000 or 2001” and inserting “during 2000, 2001, or 2002”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002.

(c) TECHNICAL CORRECTION.—Section 24(d)(1)(B) is amended by striking “amount of credit allowed by this section” and inserting “aggregate amount of credits allowed by this subpart”.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2001.

(2) The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2000.

SEC. 402. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking “2001” and inserting “2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 403. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking “2001” and inserting “2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 404. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “2002” and inserting “2003”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 405. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “2002” and inserting “2003”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 406. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “2000, and 2001” and inserting “2000, 2001, and 2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 407. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking “2002” and inserting “2003”, and

(B) by striking “2001” and inserting “2002”.

(2) Section 954(h)(9) is amended by striking “2002” and inserting “2003”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 408. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “2002” and inserting “2003”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 409. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 (Public Law 105-34) is amended by striking “2002” and inserting “2003”.

SEC. 410. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking “December 31, 2001,” and inserting “December 31, 2002,” and

(B) in clauses (i), (ii), and (iii), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2003”, “2004”, and “2005”, respectively, and

(2) in subsection (f), by striking “2004” and inserting “2005”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 411. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking “December 31, 2001,” and inserting “December 31, 2002,” and

(B) in subparagraphs (A), (B), and (C), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2003”, “2004”, and “2005”, respectively, and

(2) in subsection (e), by striking “2004” and inserting “2005”.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause

“(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2005.”.

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking “and before January 1, 2005”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 412. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking “2001” and inserting “2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2001.

SEC. 413. COMBINED EMPLOYMENT TAX REPORTING.

(a) DEMONSTRATION PROJECT.—Section 976 of the Taxpayer Relief Act of 1997 is amended by striking “with the date which is 5 years after the date of the enactment of this Act” and inserting “on December 31, 2002”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE V—EXTENSION OF ADDITIONAL PROVISIONS EXPIRING IN 2001.**SEC. 501. GENERALIZED SYSTEM OF PREFERENCES.**

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “September 30, 2001” and inserting “December 31, 2002”.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—

(A) ENTRY OF CERTAIN ARTICLES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), the entry—

(i) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001;

(ii) that was made after September 30, 2001, and before the date of enactment of this Act; and

(iii) to which duty-free treatment under title V of that Act did not apply, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—In this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2001.

SEC. 502. ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended by striking “10 years after December 4, 1991” and inserting “after June 4, 2002”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 5, 2001.

SEC. 503. REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking “October 1, 1998, and ending September 30, 2001,” each place it appears and inserting “October 1, 2001, and ending December 31, 2002.”.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking “October 1, 1998, and ending September 30, 2001” and inserting “October 1, 2001, and ending December 31, 2002.”.

(c) **TERMINATION.**—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2771 note) is amended in paragraphs (1) and (2)(A), by striking “September 30, 2001” and inserting “December 31, 2002”.

(d) **TRAINING LIMITATION UNDER NAFTA PROGRAM.**—Section 250(d)(2) of the Trade Act of 1974 (19 U.S.C. 2331(d)(2)) is amended by striking “October 1, 1998, and ending September 30, 2001” and inserting “October 1, 2001, and ending December 31, 2002”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act.

TITLE VI—HEALTH INSURANCE

Subtitle A—Health Insurance Coverage Options for Recently Unemployed Individuals and Their Families

SEC. 601. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.

(a) ESTABLISHMENT.—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which 75 percent of the premium for COBRA continuation coverage shall be provided for an individual who—

(A) at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment; and

(B) is eligible for, and has elected coverage under, COBRA continuation coverage.

(2) **INCLUSION OF CERTAIN INDIVIDUALS.**—For purposes of paragraph (1), the spouse, child, or other individual who was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period described in that paragraph, and who is eligible for, and has elected coverage under, COBRA continuation coverage shall be eligible for premium assistance under the program established under this section.

(3) STATE OPTION TO ELECT ADMINISTRATION OF PROGRAM.—

(A) **IN GENERAL.**—A State may elect to administer the premium assistance program established under this section if the State submits to the Secretary of the Treasury, not later than January 1, 2002, a plan that describes how the State will administer such program on behalf of the individuals described in paragraph (1) or (2) who reside in the State beginning on that date.

(B) **STATE ENTITLEMENT.**—In the case of a State that submits a plan under subparagraph (A), the Secretary of the Treasury shall pay to each such State an amount for each quarter equal to the total amount of premium subsidies provided in that quarter on behalf of such individuals.

(4) **IMMEDIATE IMPLEMENTATION.**—The program established under this section shall be implemented without regard to whether or not final regulations to carry out such program have been promulgated by the date described in paragraph (1).

(b) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

(1) **IN GENERAL.**—Premium assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(A) the date the individual is no longer covered under COBRA continuation coverage; or

(B) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(2) **NO ASSISTANCE AFTER DECEMBER 31, 2002.**—No premium assistance (including payment for such assistance) may be provided under this section after December 31, 2002.

(c) PAYMENT ARRANGEMENTS; CREDITING OF ASSISTANCE.—

(1) PROVISION OF ASSISTANCE.—

(A) **IN GENERAL.**—Premium assistance shall be provided under the program established under this section through direct payment arrangements with a group health plan (including a multiemployer plan), an issuer of health insurance coverage, an administrator, or an employer as appropriate with respect to the individual provided such assistance.

(B) **ADDITIONAL OPTION FOR STATE-RUN PROGRAM.**—In the case of a State that elects to administer the program established under this section, such assistance may be provided through the State public employment office or other agency responsible for administering the State unemployment compensation program.

(2) **PREMIUMS PAYABLE BY INDIVIDUAL REDUCED BY AMOUNT OF ASSISTANCE.**—Premium assistance provided under this section shall be credited by the group health plan, issuer of health insurance coverage, or an administrator against the premium otherwise owed by the individual involved for COBRA continuation coverage.

(d) **PROGRAM REQUIREMENTS.**—Premium assistance shall be provided under the program established under this section consistent with the following:

(1) **ALL QUALIFYING INDIVIDUALS MAY APPLY.**—All individuals described in paragraph (1) or (2) of subsection (a) may apply for such assistance at any time during the period described in subsection (a)(1)(A).

(2) **SELECTION ON FIRST-COME, FIRST-SERVED BASIS.**—Such assistance shall be provided to such individuals who apply for the assistance in the order in which they apply.

(e) **LIMITATION ON ENTITLEMENT.**—Nothing in this section shall be construed as establishing any entitlement of individuals described in paragraph (1) or (2) of subsection (a) to premium assistance under this section.

(f) **DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.**—Notwithstanding any other provision of law, any premium assistance provided to, or on behalf of, an individual under this section, shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other Federal public benefit or State or local public benefit.

(g) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—

(A) **IN GENERAL.**—In the case of notices provided under section 4980B(f)(6) of the Internal Revenue Code of 1986, section 2206 of the Public Health Service Act (42 U.S.C. 300bb-6), section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in subsection (a)(1)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section and for temporary medicaid assistance under section 603 for the remaining portion of COBRA continuation premiums.

(B) **ALTERNATIVE NOTICE.**—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure the provision of such notice.

(C) **FORM.**—The requirement of the additional notification under this paragraph may be met by amendment of existing notice

forms or by inclusion of a separate document with the notice otherwise required.

(2) **SPECIFIC REQUIREMENTS.**—Each additional notification under paragraph (1) shall include—

(A) the forms necessary for establishing eligibility and enrollment in the premium assistance program established under this section in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

“You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums and with temporary medicaid coverage for the remaining premium portion for a duration of not to exceed 12 months.”

(3) **NOTICE RELATING TO RETROACTIVE COVERAGE.**—In the case of such notices previously transmitted before the date of enactment of this Act in the case of an individual described in paragraph (1) who has elected (or is still eligible to elect) COBRA continuation coverage as of the date of enactment of this Act, the administrator of the group health plan (or other entity) involved or the Secretary of the Treasury, in consultation with the Secretary of Labor, (in the case described in the paragraph (1)(B)) shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under paragraph (1).

(4) **MODEL NOTICES.**—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe models for the additional notification required under this subsection.

(h) **REPORTS.**—Beginning on January 1, 2002, and every 3 months thereafter until January 1, 2003, the Secretary of the Treasury shall submit a report to Congress regarding the premium assistance program established under this section that includes the following:

(1) The status of the implementation of the program.

(2) The number of individuals provided assistance under the program as of the date of the report.

(3) The average dollar amount (monthly and annually) of the premium assistance provided under the program.

(4) The number and identification of the States that have elected to administer the program.

(5) The total amount of expenditures incurred (with administrative expenditures noted separately) under the program as of the date of the report.

(i) APPROPRIATION.—

(1) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, such sums as are necessary for each of fiscal years 2002 and 2003.

(2) **OBLIGATION OF FUNDS.**—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of premium assistance under this section.

(j) **SUNSET.**—No premium assistance (including payment for such assistance) may be provided under this section after December 31, 2002.

SEC. 602. STATE OPTION TO PROVIDE TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED INDIVIDUALS.

(a) **STATE OPTION.**—Notwithstanding any other provision of law, a State may elect to provide under its medicaid program under

title XIX of the Social Security Act medical assistance in the case of an individual—

(1) who at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment;

(2) who is not eligible for COBRA continuation coverage;

(3) who is uninsured; and

(4) whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish.

(b) **LIMITATION OF PERIOD OF COVERAGE.**—

Medical assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer uninsured; or

(2) subject to subsection (c)(4), 12 months after the date the individual first receives such assistance.

(c) **SPECIAL RULES.**—In the case of medical assistance provided under this section—

(1) the Federal medical assistance percentage under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall be the enhanced FMAP (as defined in section 2105(b) of such Act (42 U.S.C. 1397ee(b)));

(2) a State may elect to apply any income, asset, or resource limitation permitted under the State medicaid plan or under title XIX of such Act;

(3) the provisions of section 1916(g) of the Social Security Act (42 U.S.C. 1396o) shall apply to the provision of such assistance in the same manner as the provisions of such section apply with respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii));

(4) a State may elect to provide such assistance in accordance with section 1902(a)(34) of the Social Security Act (42 U.S.C. 1396a(a)(34)) and any assistance provided with respect to a month described in that section shall not be included in the determination of the 12-month period under subsection (b)(2);

(5) a State may elect to make eligible for such medical assistance a dependent spouse or children of an individual eligible for medical assistance under subsection (a), if such spouse or children are uninsured;

(6) individuals eligible for medical assistance under this section shall be deemed to be described in the list of individuals described in the matter preceding paragraph (1) of section 1905(a) of such Act (42 U.S.C. 1396d(a));

(7) a State may elect to provide such medical assistance without regard to any limitation under sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(a), 1612(b), 1613, and 1631) and no debt shall accrue under an affidavit of support against any sponsor of an individual who is an alien who is provided such assistance, and the cost of such assistance shall not be considered as an unreimbursed cost; and

(8) the Secretary of Health and Human Services shall not count, for purposes of section 1108(f) of the Social Security Act (42 U.S.C. 1308(f)), such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(d) **SUNSET.**—No medical assistance may be provided under this section after December 31, 2002.

SEC. 603. STATE OPTION TO PROVIDE TEMPORARY COVERAGE UNDER MEDICAID FOR THE UNSUBSIDIZED PORTION OF COBRA CONTINUATION PREMIUMS.

(a) **STATE OPTION.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, a State may elect to provide under its medicaid program under title XIX of the Social Security Act medical assistance in the form of payment for the portion of the premium for COBRA continuation coverage for which an individual does not receive a subsidy under the premium assistance program established under section 601 in the case of an individual—

(A) who at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment;

(B) who is eligible for, and has elected coverage under, COBRA continuation coverage;

(C) who is receiving premium assistance under the program established under section 601; and

(D) whose family income does not exceed 200 percent of the poverty line.

(2) **INCLUSION OF CERTAIN INDIVIDUALS.**—For purposes of paragraph (1), the spouse, child, or other individual who was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period described in that paragraph, and who satisfies the requirements of subparagraphs (B), (C), and (D) of paragraph (1) shall be eligible for medical assistance under this section.

(b) **LIMITATION OF PERIOD OF COVERAGE.**—Medical assistance provided in accordance with this section shall end with respect to an individual on the earlier of—

(1) the date the individual is no longer covered under COBRA continuation coverage; or

(2) 12 months after the date the individual first receives such assistance under this section.

(c) **SPECIAL RULES.**—In the case of medical assistance provided under this section—

(1) such assistance may be provided without regard to—

(A) whether the State otherwise has elected to make medical assistance available for COBRA premiums under section 1902(a)(10)(F) of the Social Security Act (42 U.S.C. 1396a(a)(10)(F)); or

(B) the conditions otherwise imposed for the provision of medical assistance for such COBRA premiums under clause (XII) of the matter following section 1902(a)(10)(G) of the Social Security Act (42 U.S.C. 1396a(a)(10)(G)), or paragraphs (1)(B), (1)(C), (1)(D), and (4) of section 1902(u) of such Act (42 U.S.C. 1396a(u)); and

(2) paragraphs (1), (2), (4), (5), (7), and (8) of subsection (c) of section 602 apply to such assistance in the same manner as such paragraphs apply to the provision of medical assistance under that section.

(d) **SUNSET.**—No medical assistance may be provided under this section after December 31, 2002.

SEC. 604. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEAR 2002.

(a) **PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP.**—Notwithstanding any other provision of law, but subject to subsection (d), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) **GENERAL 1.50 PERCENTAGE POINTS INCREASE.**—Notwithstanding any other provision of law, but subject to subsections (d)

and (e), for each State for each calendar quarter in fiscal year 2002, the FMAP (taking into account the application of subsection (a)) shall be increased by 1.50 percentage points.

(c) **FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, but subject to subsections (d) and (e), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 (and any subsequent calendar quarter in such fiscal year regardless of whether the State continues to be a high unemployment State for a calendar quarter in such fiscal year) shall be increased (after the application of subsections (a) and (b)) by 1.50 percentage points.

(2) **HIGH UNEMPLOYMENT STATE.**—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive months beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an unemployment rate that exceeds the national average unemployment rate. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(d) **1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.**—Notwithstanding any other provision of law, with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 3.093 percentage points of such amounts.

(e) **SCOPE OF APPLICATION.**—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4); and

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) **STATE ELIGIBILITY.**—A State is eligible for an increase in its FMAP under subsection (b) or (c) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

SEC. 605. DEFINITIONS.

In this subtitle:

(1) **ADMINISTRATOR.**—The term “administrator” has the meaning given that term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(A)).

(2) **COBRA CONTINUATION COVERAGE.**—

(A) **IN GENERAL.**—The term “COBRA continuation coverage” means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

(B) **APPLICATION TO EMPLOYERS IN STATES REQUIRING SUCH COVERAGE.**—Such term includes such coverage provided by an employer in a State that has enacted a law that requires the employer to provide such coverage even though the employer would not otherwise be required to provide such coverage under the provisions of law referred to in subparagraph (A).

(3) COVERED EMPLOYEE.—The term “covered employee” has the meaning given that term in section 607(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(2)).

(4) FEDERAL PUBLIC BENEFIT.—The term “Federal public benefit” has the meaning given that term in section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)).

(5) FMAP.—The term “FMAP” means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(6) GROUP HEALTH PLAN.—The term “group health plan” has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)) and in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)).

(7) HEALTH INSURANCE COVERAGE.—The term “health insurance coverage” has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)).

(8) MULTIEMPLOYER PLAN.—The term “multiemployer plan” has the meaning given that term in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)).

(9) POVERTY LINE.—The term “poverty line” has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(10) QUALIFIED BENEFICIARY.—The term “qualified beneficiary” has the meaning given that term in section 607(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)).

(11) STATE.—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(12) STATE OR LOCAL PUBLIC BENEFIT.—The term “State or local public benefit” has the meaning given that term in section 411(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)).

(13) UNINSURED.—

(A) IN GENERAL.—The term “uninsured” means, with respect to an individual, that the individual is not covered under—

(i) a group health plan;

(ii) health insurance coverage; or

(iii) a program under title XVIII, XIX, or XXI of the Social Security Act (other than under such title XIX pursuant to section 602).

(B) EXCLUSION.—Such coverage under clause (i) or (ii) shall not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg–91(c)).

Subtitle B—Other Provisions

SEC. 611. INCLUSION OF INDIAN WOMEN WITH BREAST OR CERVICAL CANCER IN OPTIONAL MEDICAID ELIGIBILITY CATEGORY.

(a) IN GENERAL.—Notwithstanding any other provision of law, during fiscal year 2002, the subsection (aa) of section 1902 of the Social Security Act (42 U.S.C. 1396a) added by section 2(a)(2) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Public Law 106–354; 114 Stat. 1381) shall be applied as if “, but applied without regard to paragraph (1)(F) of such section” were inserted before the period in paragraph (4).

(b) TECHNICAL AMENDMENTS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 702(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554) (114 Stat. 2763A–572), is

amended by redesignating the subsection (aa) added by such section as subsection (bb).

(2) Section 1902(a)(15) of the Social Security Act (42 U.S.C. 1396a(a)(15)), as added by section 702(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as so enacted into law) (114 Stat. 2763A–572), is amended by striking “subsection (aa)” and inserting “subsection (bb)”.

(3) Section 1915(b) of the Social Security Act (42 U.S.C. 1396n(b)), as amended by section 702(c)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as so enacted into law) (114 Stat. 2763A–574), is amended by striking “1902(aa)” and inserting “1902(bb)”.

(4) The amendments made this subsection shall take effect as if included in the enactment of section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554) (114 Stat. 2763A–572).

SEC. 612. INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2002.

Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(1) by striking “In the case of” and inserting the following:

“(A) IN GENERAL.—In the case of”; and

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

“(B) FISCAL YEAR 2002.—With respect to fiscal year 2002, subparagraph (A) shall be applied—

“(i) as if ‘fiscal year 2000’ were substituted for ‘fiscal year 1999’;

“(ii) as if ‘August 31, 2001’ were substituted for ‘August 31, 2000’;

“(iii) as if ‘3 percent’ were substituted for ‘1 percent’ each place it appears;

“(iv) as if ‘fiscal year 2002’ were substituted for ‘fiscal year 2001’; and

“(v) without regard to the second sentence of that subparagraph.”.

SEC. 613. MORATORIUM ON CHANGES TO CERTAIN UPPER PAYMENT LIMITS UNDER MEDICAID.

(a) IN GENERAL.—Except as provided in subsection (b), during the period that begins on October 1, 2001, and ends on March 31, 2002, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) may not implement any modification to the upper payment limit requirements under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for services furnished by non-State government-owned or operated hospitals.

(b) EXCEPTION.—The Secretary may implement any changes to such limits that were published in the Federal Register as a final rule before October 1, 2001.

SEC. 614. REVISION AND SIMPLIFICATION OF THE TRANSITIONAL MEDICAL ASSISTANCE PROGRAM (TMA).

(a) OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS; OPTION OF CONTINUING COVERAGE FOR UP TO AN ADDITIONAL YEAR.—

(1) OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS BY MAKING REPORTING REQUIREMENTS OPTIONAL.—Section 1925(b) of the Social Security Act (42 U.S.C. 1396r–6(b)) is amended—

(A) in paragraph (1), by inserting “, at the option of a State,” after “and which”;

(B) in paragraph (2)(A), by inserting “Subject to subparagraph (C)—” after “(A) NOTICES.—”;

(C) in paragraph (2)(B), by inserting “Subject to subparagraph (C)—” after “(B) REPORTING REQUIREMENTS.—”;

(D) by adding at the end the following new subparagraph:

“(C) STATE OPTION TO WAIVE NOTICE AND REPORTING REQUIREMENTS.—A State may waive some or all of the reporting requirements

under clauses (i) and (ii) of subparagraph (B). Insofar as it waives such a reporting requirement, the State need not provide for a notice under subparagraph (A) relating to such requirement.”; and

(E) in paragraph (3)(A)(iii), by inserting “the State has not waived under paragraph (2)(C) the reporting requirement with respect to such month under paragraph (2)(B) and if” after “6-month period if”.

(2) STATE OPTION TO EXTEND ELIGIBILITY FOR LOW-INCOME INDIVIDUALS FOR UP TO 12 ADDITIONAL MONTHS.—Section 1925 of such Act (42 U.S.C. 1396r–6) is further amended—

(A) by redesignating subsections (c) through (f) as subsections (d) through (g); and

(B) by inserting after subsection (b) the following new subsection:

“(c) STATE OPTION OF UP TO 12 MONTHS OF ADDITIONAL ELIGIBILITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, each State plan approved under this title may provide, at the option of the State, that the State shall offer to each family which received assistance during the entire 6-month period under subsection (b) and which meets the applicable requirement of paragraph (2), in the last month of the period the option of extending coverage under this subsection for the succeeding period not to exceed 12 months.

“(2) INCOME RESTRICTION.—The option under paragraph (1) shall not be made available to a family for a succeeding period unless the State determines that the family’s average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) as of the end of the 6-month period under subsection (b) does not exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

“(3) APPLICATION OF EXTENSION RULES.—The provisions of paragraphs (2), (3), (4), and (5) of subsection (b) shall apply to the extension provided under this subsection in the same manner as they apply to the extension provided under subsection (b)(1), except that for purposes of this subsection—

“(A) any reference to a 6-month period under subsection (b)(1) is deemed a reference to the extension period provided under paragraph (1) and any deadlines for any notices or reporting and the premium payment periods shall be modified to correspond to the appropriate calendar quarters of coverage provided under this subsection; and

“(B) any reference to a provision of subsection (a) or (b) is deemed a reference to the corresponding provision of subsection (b) or of this subsection, respectively.”.

(b) STATE OPTION TO WAIVE RECEIPT OF MEDICAID FOR 3 OF PREVIOUS 6 MONTHS TO QUALIFY FOR TMA.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r–6(a)(1)) is amended by adding at the end the following: “A State may, at its option, also apply the previous sentence in the case of a family that was receiving such aid for fewer than 3 months, or that had applied for and was eligible for such aid for fewer than 3 months, during the 6 immediately preceding months described in such sentence.”.

(c) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by subsection (a)(2)(A), is amended—

(1) by further redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsection:

“(g) ADDITIONAL PROVISIONS.—

“(1) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

“(A) IN GENERAL.—Each State shall—

“(i) collect and submit to the Secretary, in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section; and

“(ii) make such information publicly available.

“(B) TIMING OF SUBMISSION.—Information required to be submitted under subparagraph (A)(i) shall be submitted under that subparagraph at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

“(C) ANNUAL REPORT TO CONGRESS.—The Secretary shall submit to Congress annual reports concerning such rates using the information required to be submitted under subparagraph (A)(i).”

(d) COORDINATION OF WORK.—Section 1925(g) of such Act (42 U.S.C. 1396r-6), as added by subsection (c), is amended by adding at the end the following new paragraph:

“(2) COORDINATION WITH ADMINISTRATION FOR CHILDREN AND FAMILIES.—The Administrator of the Centers for Medicare & Medicaid Services, in carrying out this section, shall work with the Assistant Secretary for the Administration for Children and Families to develop guidance or other technical assistance for States regarding best practices in guaranteeing access to transitional medical assistance under this section.”

(e) ELIMINATION OF TMA REQUIREMENT FOR STATES THAT EXTEND COVERAGE TO CHILDREN AND PARENTS THROUGH 185 PERCENT OF POVERTY.—

(1) IN GENERAL.—Section 1925 of such Act (42 U.S.C. 1396r-6), as amended by subsection (c), is further amended by inserting after subsection (g) the following new subsection:

“(h) PROVISIONS OPTIONAL FOR STATES THAT EXTEND COVERAGE TO CHILDREN AND PARENTS THROUGH 185 PERCENT OF POVERTY.—A State may (but is not required to) meet the requirements of subsections (a) and (b) if it provides for medical assistance under this title (whether under section 1931, through a waiver under section 1115, or otherwise) to families (including both children and caretaker relatives) the average gross monthly earning of which (less such costs for such child care as is necessary for the employment of a caretaker relative) is at or below a level that is at least 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.”

(2) CONFORMING AMENDMENTS.—Section 1925 of such Act (42 U.S.C. 1396r-6) is further amended, in subsections (a)(1) and (b)(1), by inserting “, but subject to subsection (h),” after “Notwithstanding any other provision of this title,” each place it appears.

(f) REQUIREMENT OF NOTICE FOR ALL FAMILIES LOSING TANF.—Subsection (a)(2) of section 1925 of such Act (42 U.S.C. 1396r-6) is amended by adding after and below subparagraph (B), the following:

“Each State shall provide, to families whose aid or assistance under part A or E of title IV has terminated but whose eligibility for medical assistance under this title continues, written notice of their ongoing eligibility for such medical assistance. If a State makes a determination that any member of a family whose aid or assistance under part A or E of title IV is being terminated is also no longer eligible for medical assistance under this title, the notice of such determination shall be supplemented by a 1-page notification form describing the different ways in which individuals and families may

qualify for such medical assistance and explaining that individuals and families do not have to be receiving aid or assistance under part A or E of title IV in order to qualify for such medical assistance.”

(g) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT APPLICATIONS FOR TRANSITIONAL MEDICAL ASSISTANCE.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by inserting “and under section 1931” after “(a)(10)(A)(i)(IX)”.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) NOTICE REQUIREMENT.—The amendment made by subsection (f) shall take effect on the date that is 6 months after the date of enactment of this Act.

(3) EXTENSION OF EFFECTIVE DATES FOR STATE LAW AMENDMENT.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE VII—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 701. SHORT TITLE.

This title may be cited as the “Temporary Unemployment Compensation Act of 2001”.

SEC. 702. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of regular compensation to individuals in amounts and to the extent that such payments would be determined if the State law were applied with the modifications described in paragraph (2); and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have exhausted all rights to regular compensation under the State law;

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State (whether one that has entered into an agreement under this title or otherwise) nor compensation under any other Federal law (other than under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note)), and are not paid or entitled to be paid any additional compensation under any Federal or State law; and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) ALTERNATIVE BASE PERIOD.—An individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this title had not been enacted; or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual’s application for benefits, provided that wage data for that quarter has been reported to the State; whichever results in the greater amount.

(B) PART-TIME EMPLOYMENT.—An individual shall not be denied regular compensation under the State law’s provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or is available for, only part-time (and not full-time) work, if—

(i) the individual’s employment on which eligibility for the regular compensation is based was part-time employment; or

(ii) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(C) INCREASED BENEFITS.—

(i) IN GENERAL.—The amount of regular compensation (including dependents’ allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an amount equal to the greater of—

(I) 15 percent of the amount so determined; or

(II) \$25.

(ii) ROUNDING.—For purposes of determining the amount under clause (i)(I), such amount shall be rounded to the dollar amount specified under State law.

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i), an individual shall be considered to have exhausted such individual’s rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on

employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TSUC.—For purposes of any agreement under this title—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 703 shall not exceed the amount established in such account for such individual.

SEC. 703. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law; or

(B) 13 times the individual's weekly benefit amount.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(3) RULE OF CONSTRUCTION.—For purposes of any computation under paragraph (1) (and any determination of amount under section 702(f)(1)), the modification described in section 702(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

SEC. 704. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any regular compensation made payable to individuals by such State by virtue of the modifications which are described in section 702(b)(2) and deemed to be in effect with respect to such State pursuant to section 702(b)(1)(A);

(2) 100 percent of any regular compensation—

(A) which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modi-

fications described in subparagraphs (A) and (B) of section 702(b)(2); but only

(B) to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 702(b)(1)(A), have been reimbursable under paragraph (1); and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) \$500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 501(a)) and certified by the Secretary to the Secretary of the Treasury.

SEC. 705. FINANCING PROVISIONS.

(a) BENEFITS.—There is hereby appropriated, without fiscal year limitation, out of funds in the Treasury not otherwise appropriated such sums as may be necessary for the making of payments (described in section 704(a)) to States having agreements entered into under this title.

(b) ADDITIONAL AMOUNTS.—There is hereby appropriated, without fiscal year limitation, out of funds in the Treasury not otherwise appropriated \$6,000,000,000 to the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))).

SEC. 706. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any regular compensation or temporary supplemental unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any regular compensation

or temporary supplemental unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation or temporary supplemental unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the regular compensation or temporary supplemental unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 707. DEFINITIONS.

For purposes of this title:

(1) IN GENERAL.—The terms "compensation", "regular compensation", "extended compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to paragraph (2).

(2) STATE LAW AND REGULAR COMPENSATION.—In the case of a State entering into an agreement under this title—

(A) "State law" shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 702(b)(2), subject to section 702(c); and

(B) "regular compensation" shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)); except as otherwise provided or where the context clearly indicates otherwise.

SEC. 708. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

(b) SPECIFIC RULES.—

(1) IN GENERAL.—Under such an agreement, the following rules shall apply:

(A) ALTERNATIVE BASE PERIODS.—The modification described in section 702(b)(2)(A) (relating to alternative base periods) shall not apply except in the case of initial claims filed on or after the first day of the week that includes September 11, 2001.

(B) PART-TIME EMPLOYMENT AND INCREASED BENEFITS.—The modifications described in subparagraphs (B) and (C) of section 702(b)(2) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment described in subsection (a), regardless of the date on which an individual's initial claim for benefits is filed.

(C) ELIGIBILITY FOR TSUC.—The payments described in section 702(b)(1)(B) (relating to temporary supplemental unemployment compensation) shall not apply except in the case of individuals exhausting their rights to regular compensation (as described in clause (i) of such section) on or after the first day of the week that includes September 11, 2001.

(2) REAPPLICATION PROCESS.—

(A) ALTERNATIVE BASE PERIODS.—In the case of an individual who filed an initial claim for regular compensation on or after the first day of the week that includes September 11, 2001, and before the date that the State entered into an agreement under subsection (a)(1) that was denied as a result of the application of the base period that applied under the State law prior to the date on which the State entered into the such agreement, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 702(b)(2)(A) (relating to alternative base periods) on or after the date on which the State enters into such agreement and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(B) PART-TIME EMPLOYMENT.—In the case of an individual who before the date that the State entered into an agreement under subsection (a)(1) was denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work, such individual—

(i) may refile a claim for regular compensation based on the modification described in section 702(b)(2)(B) (relating to part-time employment) on or after the date on which the State enters into the agreement under subsection (a)(1) and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(3) NO RETROACTIVE PAYMENTS FOR WEEKS PRIOR TO AGREEMENT.—No amounts shall be payable to an individual under an agreement entered into under this title for any week of unemployment prior to the week beginning after the date on which such agreement is entered into.

TITLE VIII—EMERGENCY AGRICULTURE ASSISTANCE

Subtitle A—Income Loss Assistance

SEC. 801. INCOME LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the "Secretary") shall use \$1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Develop-

ment, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. 802. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use \$500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1549A-51).

SEC. 803. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use \$220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2001 calendar year, as determined by the Secretary.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than \$20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than \$55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

Subtitle B—Administration

SEC. 811. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. 812. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this title \$50,400,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. 813. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

TITLE IX—ADDITIONAL PROVISIONS

SEC. 901. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Amtrak Bonds

"Sec. 54. Credit to holders of qualified Amtrak bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified Amtrak bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified Amtrak bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified Amtrak bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

“(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(e) QUALIFIED AMTRAK BOND.—For purposes of this part, the term ‘qualified Amtrak bond’ means any bond issued as part of an issue if—

“(1) 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred after the date of the enactment of this section for any qualified project,

“(2) the bond is issued by the National Railroad Passenger Corporation, is in registered form, and meets the bond limitation requirements under subsection (f),

“(3) the issuer designates such bond for purposes of this section,

“(4) the issuer certifies that it meets the State contribution requirement of subsection (k) with respect to such project, as in effect on the date of issuance,

“(5) the issuer certifies that it has obtained the written approval of the Secretary of Transportation for such project in accordance with subsection (l),

“(6) the term of each bond which is part of such issue does not exceed 20 years,

“(7) the payment of principal with respect to such bond is the obligation of the National Railroad Passenger Corporation, and

“(8) the issue meets the requirements of subsection (g) (relating to arbitrage).

“(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(1) NATIONAL LIMITATION.—There is a qualified Amtrak bond limitation for each calendar year. Such limitation is—

“(A) for 2002—

“(i) with respect to qualified projects described in subparagraphs (A), (B), and (C) of subsection (j)(1), \$7,000,000,000, and

“(ii) with respect to the qualified project described in subsection (j)(1)(D), \$2,000,000,000, and

“(B) except as provided in paragraph (4), zero thereafter.

“(2) LIMITS ON BONDS FOR NORTHEAST RAIL CORRIDOR AND INDIVIDUAL STATES.—

“(A) NORTHEAST RAIL CORRIDOR.—Not more than \$2,000,000,000 of the limitation under paragraph (1) may be designated for qualified projects on the northeast rail corridor between Washington, D.C., and Boston, Massachusetts.

“(B) INDIVIDUAL STATES.—Not more than \$2,000,000,000 of the limitation under paragraph (1) may be designated for any individual State. The dollar limitation under this subparagraph is in addition to the dollar limitation for the qualified projects described in subparagraph (A).

“(3) SET ASIDE FOR BONDS FOR NON-FEDERALLY DESIGNATED HIGH-SPEED RAIL CORRIDOR PROJECTS.—Not less than 15 percent of the limitation under paragraph (1) shall be designated for qualified projects described in subsection (j)(1)(C).

“(4) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

“(A) the qualified Amtrak limitation amount, exceeds

“(B) the amount of bonds issued during such year which are designated under subsection (e)(3),

the qualified Amtrak limitation amount for the following calendar year shall be increased by the amount of such excess.

Any carryforward of a qualified Amtrak limitation amount may be carried only to calendar year 2003 or 2004.

“(g) SPECIAL RULES RELATING TO ARBITRAGE.—

“(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the issuer reasonably expects—

“(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

“(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

“(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

“(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

“(A) the issuer uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

“(B) the following requirements are met:

“(i) The issuer spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

“(ii) Either—

“(I) the issuer spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, or

“(II) the issuer pays to the Federal Government any earnings on the proceeds from the sale of the issue that accrue after the end of the 3-year period beginning on the date of issuance and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

“(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

“(1) IN GENERAL.—If any bond which when issued purported to be a qualified Amtrak bond ceases to be such a qualified bond, the issuer shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

“(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

“(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

“(2) FAILURE TO PAY.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the

aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

“(3) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this part, or

“(ii) the amount of the tax imposed by section 55.

“(i) TRUST ACCOUNT.—

“(1) IN GENERAL.—The following amounts shall be held in a trust account by a trustee independent of the National Railroad Passenger Corporation:

“(A) The proceeds from the sale of all bonds designated for purposes of this section.

“(B) The amount of any matching contributions with respect to such bonds.

“(C) The investment earnings on proceeds from the sale of such bonds.

“(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

“(2) USE OF FUNDS.—Amounts in the trust account may be used only to pay costs of qualified projects and redeem qualified Amtrak bonds, except that amounts withdrawn from the trust account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of all qualified Amtrak bonds issued under this section.

“(3) USE OF REMAINING FUNDS IN TRUST ACCOUNT.—Upon the redemption of all qualified Amtrak bonds issued under this section, any remaining amounts in the trust account described in paragraph (1) shall be available to the issuer for any qualified project.

“(j) QUALIFIED PROJECT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified project’ means—

“(A) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements (including the introduction of new high-speed technologies such as magnetic levitation systems), including track or signal improvements or the elimination of grade crossings, for the northeast rail corridor between Washington, D.C., and Boston, Massachusetts,

“(B) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements (including the introduction of new high-speed technologies such as magnetic levitation systems), including development of intermodal facilities, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, as in effect on the date of the enactment of this section,

“(C) the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements, including station rehabilitation or construction, development of intermodal facilities, track or signal improvements, or the elimination of grade crossings, for the improvement of train speeds or safety (or both) for other intercity passenger rail corridors and for the Alaska Railroad, and

“(D) construction, installation of facilities, performance of railroad force account

work, and environmental impact studies that facilitate and maximize intercity and regional rail system capacity and connectivity intended to benefit all users, including the National Passenger Rail Corporation, related to the construction of the Trans Hudson Tunnel, an additional railroad passenger tunnel connecting Newark, New Jersey to the City of New York, New York.

“(2) REFINANCING RULES.—For purposes of paragraph (1), a refinancing shall constitute a qualified project only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by the issuer—

“(A) after the date of the enactment of this section,

“(B) for a term of not more than 3 years,

“(C) to finance or acquire capital improvements described in paragraph (1), and

“(D) in anticipation of being refinanced with proceeds of a qualified Amtrak bond.

“(k) STATE CONTRIBUTION REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of subsection (e)(4), the State contribution requirement of this subsection is met with respect to any qualified project if the National Railroad Passenger Corporation has received from 1 or more States, not later than the date of issuance of the bond, matching contributions of not less than 20 percent of the cost of the qualified project.

“(2) NO STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECTS.—The State contribution requirement of this subsection is zero with respect to any project described in subsection (j)(1)(C) for the Alaska Railroad.

“(3) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

“(1) DEPARTMENT OF TRANSPORTATION APPROVAL FOR QUALIFIED PROJECTS.—

“(1) IN GENERAL.—The written approval of a qualified project by the Secretary of Transportation required for purposes of subsection (e)(5) shall include—

“(A) the finding by the Inspector General of the Department of Transportation described in paragraph (2),

“(B) the certification by the Secretary of Transportation described in paragraph (3), and

“(C) the agreement by the National Railroad Passenger Corporation described in paragraph (4).

“(2) FINDING BY INSPECTOR GENERAL.—For purposes of paragraph (1), the finding described in this paragraph is a finding by the Inspector General of the Department of Transportation that there is a reasonable likelihood that the proposed project will result in a positive financial contribution to the National Railroad Passenger Corporation and that the investment evaluation process includes consideration of a return on investment, leveraging of funds (including State capital and operating contributions), cost effectiveness, safety improvement, mobility improvement, and feasibility.

“(3) CERTIFICATION.—For purposes of paragraph (1), the certification described in this paragraph is a certification by the Secretary of Transportation that the issuer of the qualified Amtrak bond—

“(A) except with respect to projects described in subsection (j)(1)(C), has entered into a written agreement with the owners of rail properties which are to be improved by the project to be funded by the qualified Amtrak bond, as to the scope and estimated cost of such project and the impact on rail freight capacity, and

“(B) has met the State contribution requirements described in subsection (k).

The National Railroad Passenger Corporation shall not exercise its rights under section 24308(a)(2) of title 49, United States Code, to resolve disputes with respect to a project to be funded by a qualified Amtrak bond, or with respect to the cost of such a project, unless the project is intended to result in railroad speeds of 79 miles per hour or less.

“(4) AGREEMENT BY AMTRAK TO ISSUE ADDITIONAL BONDS FOR PROJECTS OF OTHER CARRIERS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the agreement described in this paragraph is an agreement by the National Railroad Passenger Corporation with the Secretary of Transportation to issue bonds which meet the requirements of this section for use in financing projects described in subparagraph (B).

“(B) PROJECTS COVERED.—For purposes of subparagraph (A), the projects described in this subparagraph are any project described in subsection (j)(1)(B) or (j)(1)(C) for an intercity rail passenger carrier other than the National Railroad Passenger Corporation or for the Alaska Railroad.

“(C) RESPONSIBILITY OF INTERCITY RAIL PASSENGER CARRIER.—Any project financed by bonds referred to in subparagraph (A) shall be carried out by the intercity rail passenger carrier other than the National Railroad Passenger Corporation, through a contract entered into by the National Railroad Passenger Corporation with such carrier.

“(D) INTERCITY RAIL PASSENGER CARRIER DEFINED.—For purposes of this paragraph, the term ‘intercity rail passenger carrier’ means any rail carrier (as defined in section 24102(7) of such title 49, as in effect on the date of the enactment of this section) which is part of the interstate system of rail transportation and which provides intercity rail passenger transportation (as defined in section 24102(5) of such title 49 (as so in effect)).

“(5) ADDITIONAL SELECTION CRITERIA.—In determining projects to be approved under this subsection (other than projects for the Alaska Railroad), or to be included in an agreement under paragraph (4), the Secretary of Transportation—

“(A) shall base such approval on—

“(i) the results of alternatives analysis and preliminary engineering, and

“(ii) a comprehensive review of mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies, and

“(B) shall give preference to—

“(i) projects supported by evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension,

“(ii) projects expected to have a significant impact on air traffic congestion,

“(iii) projects expected to also improve commuter rail operations,

“(iv) projects that anticipate fares designed to recover costs and generate a return on investment, and

“(v) projects that promote regional balance in infrastructure investment and the national interest in ensuring the development of a nationwide high-speed rail transportation network.

“(m) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BOND.—The term ‘bond’ includes any obligation.

“(2) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be

taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a qualified Amtrak bond.

“(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

“(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified Amtrak bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(5) REPORTING.—Issuers of qualified Amtrak bonds shall submit reports similar to the reports required under section 149(e).”

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

“(8) REPORTING OF CREDIT ON QUALIFIED AMTRAK BONDS.—

“(A) IN GENERAL.—For purposes of subsection (a), the term ‘interest’ includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

“(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) SPECIAL RULE FOR HOLDERS OF QUALIFIED AMTRAK BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.”

(B) CORPORATE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end of subsection (g) the following new paragraph:

“(5) SPECIAL RULE FOR HOLDERS OF QUALIFIED AMTRAK BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.”

(3) EXCLUSION FROM GROSS INCOME OF CONTRIBUTIONS BY AMTRAK TO OTHER RAIL CARRIERS.—

(A) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) SPECIAL RULE FOR CONTRIBUTIONS BY AMTRAK TO OTHER RAIL CARRIERS.—For purposes of this section, the term ‘contribution to the capital of the taxpayer’ includes any

contribution by the National Railroad Passenger Corporation of personal or real property funded by the proceeds of qualified Amtrak bonds under section 54.”.

(B) CONFORMING AMENDMENT.—Subsection (b) of such section 118 is amended by striking “subsection (c)” and inserting “subsections (c) and (d)”.

(4) PROTECTION OF HIGHWAY TRUST FUND.—Section 9503 (relating to Highway Trust Fund) is amended by adding at the end the following new subsection:

“(g) SPECIAL RULES RELATING TO NATIONAL RAILROAD PASSENGER CORPORATION.—

“(1) IN GENERAL.—Except as provided in subsection (c), as in effect on the date of the enactment of this subsection, amounts in the Highway Trust Fund may not be used, either directly or indirectly through a State or local transit authority, to provide funds to the National Railroad Passenger Corporation for any purpose, including issuance of any qualified Amtrak bond pursuant to section 54. The preceding sentence may not be waived by any provision of law which is not contained or referenced in this title, whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of such sentence.

“(2) CERTIFICATION BY THE SECRETARY.—The issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 is conditioned on certification by the Secretary, after consultation with the Secretary of Transportation, within 30 days of a request by the issuer, that with respect to funds of the Highway Trust Fund described under paragraph (1), the issuer either—

“(A) has not received such funds during calendar years commencing with 2002 and ending before the calendar year the bonds are issued, or

“(B) has repaid to the Highway Trust Fund any such funds which were received during such calendar years.

“(3) NO RETROACTIVE EFFECT.—Nothing in this subsection shall adversely affect the entitlement of the holders of qualified Amtrak bonds to the tax credit allowed pursuant to section 54 or to repayment of principal upon maturity.”.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Subpart H. Nonrefundable Credit for Holders of Qualified Amtrak Bonds.”.

(2) Section 6401(b)(1) is amended by striking “and G” and inserting “G, and H”.

(d) ANNUAL REPORT BY TREASURY ON AMTRAK TRUST ACCOUNT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(i) of the Internal Revenue Code of 1986, as added by this section, is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(f) MULTI-YEAR CAPITAL SPENDING PLAN AND OVERSIGHT.—

(1) AMTRAK CAPITAL SPENDING PLAN.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall annually submit

to the President and Congress a multi-year capital spending plan, as approved by the Board of Directors of the Corporation.

(B) CONTENTS OF PLAN.—Such plan shall identify the capital investment needs of the Corporation over a period of not less than 5 years and the funding sources available to finance such needs and shall prioritize such needs according to corporate goals and strategies.

(C) INITIAL SUBMISSION DATE.—The first plan shall be submitted before the issuance of any qualified Amtrak bonds by the National Railroad Passenger Corporation pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERSIGHT OF AMTRAK TRUST ACCOUNT AND QUALIFIED PROJECTS.—

(A) TRUST ACCOUNT OVERSIGHT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Railroad Passenger Corporation under section 54(i) of such Code (as so added) is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added), together with amounts expected to be deposited into such account, as certified by the National Railroad Passenger Corporation in accordance with procedures prescribed by the Secretary of the Treasury.

(B) PROJECT OVERSIGHT.—The National Railroad Passenger Corporation shall contract for an annual independent assessment of the costs and benefits of the qualified projects financed by such qualified Amtrak bonds, including an assessment of the investment evaluation process of the Corporation. The annual assessment shall be included in the plan submitted under paragraph (1).

SEC. 902. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

“SEC. 48A. BROADBAND CREDIT.

“(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

“(1) the current generation broadband credit, plus

“(2) the next generation broadband credit.

“(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

“(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

“(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

“(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

“(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

“(A) current generation broadband services are provided through such equipment to qualified subscribers, or

“(B) next generation broadband services are provided through such equipment to qualified subscribers.

“(2) LIMITATION.—

“(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

“(i) the original use of which commences with the taxpayer, and

“(ii) which is placed in service, after December 31, 2001.

“(B) LEASED EQUIPMENT.—Except as provided in regulations, rules similar to the rules of section 203(b)(3) of the Tax Reform Act of 1986 shall apply.

“(d) SPECIAL ALLOCATION RULES.—

“(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

“(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of—

“(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

“(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

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

“(1) ANTENNA.—The term ‘antenna’ means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

“(2) CABLE OPERATOR.—The term ‘cable operator’ has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

“(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term ‘commercial mobile service carrier’ means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) CURRENT GENERATION BROADBAND SERVICE.—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) MULTIPLEXING OR DEMULTIPLEXING.—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) NEXT GENERATION BROADBAND SERVICE.—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

“(7) NONRESIDENTIAL SUBSCRIBER.—The term ‘nonresidential subscriber’ means a person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) OPEN VIDEO SYSTEM OPERATOR.—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) OTHER WIRELESS CARRIER.—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

“(10) PACKET SWITCHING.—The term ‘packet switching’ means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

“(11) PROVIDER.—The term ‘provider’ means, with respect to any qualified equipment—

“(A) a cable operator,

“(B) a commercial mobile service carrier,

“(C) an open video system operator,

“(D) a satellite carrier,

“(E) a telecommunications carrier, or

“(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

“(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

“(A) a subscriber has been passed by the provider’s equipment and can be connected to such equipment for a standard connection fee,

“(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

“(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

“(D) such services have been purchased by one or more such subscribers, and

“(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

“(13) QUALIFIED EQUIPMENT.—

“(A) IN GENERAL.—The term ‘qualified equipment’ means equipment which provides current generation broadband services or next generation broadband services—

“(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

“(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a sub-

scriber in the case of a telecommunications carrier,

“(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

“(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

“(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

“(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

“(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptations, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber’s premises.

“(14) QUALIFIED EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified expenditure’ means any amount—

“(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

“(ii) incurred after December 31, 2001, and before January 1, 2003.

“(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

“(15) QUALIFIED SUBSCRIBER.—The term ‘qualified subscriber’ means—

“(A) with respect to the provision of current generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

“(B) with respect to the provision of next generation broadband services—

“(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

“(ii) a residential subscriber.

“(16) RESIDENTIAL SUBSCRIBER.—The term ‘residential subscriber’ means an individual who purchases broadband services which are delivered to such individual’s dwelling.

“(17) RURAL AREA.—The term ‘rural area’ means any census tract which—

“(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

“(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

“(18) RURAL SUBSCRIBER.—The term ‘rural subscriber’ means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

“(19) SATELLITE CARRIER.—The term ‘satellite carrier’ means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

“(20) SATURATED MARKET.—The term ‘saturated market’ means any census tract in which, as of the date of the enactment of this section—

“(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

“(B) such services can be utilized—

“(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

“(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

“(21) SUBSCRIBER.—The term ‘subscriber’ means a person who purchases current generation broadband services or next generation broadband services.

“(22) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

“(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

“(B) does not include a commercial mobile service carrier.

“(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term ‘total potential subscriber population’ means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

“(24) UNDERSERVED AREA.—The term ‘underserved area’ means any census tract which is located in—

“(A) an empowerment zone or enterprise community designated under section 1391,

“(B) the District of Columbia Enterprise Zone established under section 1400,

“(C) a renewal community designated under section 1400E, or

“(D) a low-income community designated under section 45D.

“(25) UNDERSERVED SUBSCRIBER.—The term ‘underserved subscriber’ means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

“(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section,

designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate."

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following:

"(4) the broadband credit."

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end the following:

"(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease."

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following:

"Sec. 48A. Broadband credit."

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48A of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2001, and before January 1, 2003.

SEC. 903. CITRUS TREE CANKER RELIEF.

(a) EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.—

(1) IN GENERAL.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: '4 years after the close of the taxable year in which a State or Federal plant health authority determines that the land on which such trees grew is free from the bacteria that causes citrus tree canker'."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(b) 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.—

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

"SEC. 1302. 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

"(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10-year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Any election under the preceding sentence shall be irrevocable.

"(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00-37-4)."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after the item relating to section 1301 the following new item:

"Sec. 1302. 10-year ratable income inclusion for citrus canker tree payments."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made before, on, or after the date of the enactment of this Act.

SEC. 904. ALLOWANCE OF ELECTRONIC 1099S.

Except as otherwise provided by the Secretary of the Treasury, any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act and before January 1, 2003, may electronically furnish such statement to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.

SEC. 905. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or

other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms."

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations), but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SEC. 906. RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.

(a) 5-YEAR RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 168(i)(2) (defining qualified technological equipment) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following:

"(iv) any wireless telecommunication equipment."

(2) DEFINITION OF WIRELESS TELECOMMUNICATION EQUIPMENT.—Paragraph (2) of section 168(i) is amended by adding at the end the following:

"(D) WIRELESS TELECOMMUNICATION EQUIPMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'wireless telecommunication equipment' means equipment which is—

"(I) used in the transmission, reception, coordination, or switching of wireless telecommunications service, and

"(II) placed in service before September 11, 2002.

For purposes of this clause, the term 'wireless telecommunications service' includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.

"(ii) EXCEPTION.—The term 'wireless telecommunication equipment' shall not include towers, buildings, T-1 lines, or other cabling which connects cell sites to mobile switching centers."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001.

SEC. 907. SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES FOR 2001 AND 2002.

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY IN 2001.—

(1) IN GENERAL.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

“(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO FOR 2001.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company’s first taxable year beginning in 2001.”

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

(b) DISTRIBUTIONS DURING 2002 TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

(1) IN GENERAL.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following:

“(g) SPECIAL RULES APPLICABLE DURING 2002.—In the case of a stock life insurance company’s first taxable year beginning in 2002—

“(1) the amount under subsection (a)(2) for such taxable year shall be treated as zero, and

“(2) notwithstanding subsection (b), in determining any subtractions from an account under subsections (c)(3) and (d)(3), any distribution to shareholders during such taxable year shall be treated as made first out of the policyholders surplus account, then out of the shareholders surplus account, and finally out of other accounts.”

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 908. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 909. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of

fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

**TITLE X—HOMELAND DEFENSE
CHAPTER 1**

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for “Office of the Secretary”, \$95,000,000.

DEPARTMENTAL ADMINISTRATION

For an additional amount for “Departmental Administration”, \$20,000,000.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for “Office of the Inspector General”, \$15,000,000.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$40,000,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Salaries and Expenses”, \$267,100,000, of which \$115,000,000 may be transferred and merged with the Agriculture Quarantine Inspection User Fee Account, and of which \$108,000,000 shall remain available until September 30, 2003.

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, \$14,081,400, to remain available until September 30, 2003.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for “Food Safety and Inspection Service”, \$23,900,000.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)”, \$39,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$164,300,000.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

For an additional amount for “Commodity Futures Trading Commission”, \$10,196,000.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

LEGAL ACTIVITIES OFFICE AUTOMATION

For an additional amount for “Legal Activities Office Automation”, \$56,000,000, to remain available until September 30, 2003.

SECTION 405 PATRIOT ACT ACTIVITIES

For necessary expenses for “Patriot Act Activities”, \$100,000,000, to remain available until September 30, 2003, for a report on the feasibility of enhancing the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation and other identification systems and for

implementation of such enhancements as deemed necessary, as authorized by Section 405 of Public Law 107–56.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for “Salaries and Expenses”, \$25,000,000.

COURT SECURITY

For an additional amount for “Court Security”, \$25,000,000, to remain available until September 30, 2003.

CONSTRUCTION

For an additional amount for “Construction”, \$36,000,000, to remain available until September 30, 2003.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$573,000,000, to remain available until September 30, 2003, for necessary computer modernization and infrastructure improvements.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$600,000 for continuing expenses associated with the September 11, 2001 terrorist attacks, to remain available until September 30, 2002, and \$58,400,000 for communications interception, intelligence capabilities, and increased security measures, to remain available until September 30, 2003.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$25,100,000, to remain available until September 30, 2003, for the Student and Exchange Visitor Program (SEVP).

CONSTRUCTION

For an additional amount for “Construction”, \$700,000,000, to remain available until September 30, 2003, for construction, maintenance, repair and rehabilitation.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for “Justice Assistance”, \$2,000,000,000, to remain available until September 30, 2003, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counter terrorism programs.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDINGS AND GROUNDS

For an additional amount for “Care of the Building and Grounds”, \$20,000,000 for security upgrades and enhancements for the Supreme Court building, to remain available until September 30, 2003.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

COURT SECURITY

For an additional amount for “Court Security”, \$36,000,000, to remain available until September 30, 2003.

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$45,661,000, to remain available until September 30, 2002. In addition, for an additional amount for the costs of worldwide security upgrades, \$182,900,000, to remain available until September 30, 2003.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS
INTERNATIONAL BROADCASTING OPERATIONS
For an additional amount for "International Broadcasting Operations", \$4,700,000.

RELATED AGENCY

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION
OPERATIONS AND TRAINING

For an additional amount for "Operations and Training", \$11,000,000, to remain available until September 30, 2003, for a port security program. Of this amount, \$6,000,000 shall be for port assessments and \$5,000,000 shall be for security personnel training.

MARITIME GUARANTEED LOAN (TITLE XI)
PROGRAM ACCOUNT

For an additional amount for the "Maritime Guaranteed Loan Program Account", \$12,000,000, to remain available until September 30, 2003, for port security infrastructure upgrades and equipment.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY CORPS OF
ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", \$150,000,000 for increased security at critical Corps of Engineers owned and operated facilities.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION WATER AND
RELATED RESOURCES

For an additional amount for "Water and Related Resources", \$35,000,000, to enhance preparedness for possible attacks against Bureau of Reclamation dams, power plants, and other critical features.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY
ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for "Weapons Activities", \$294,000,000 to increase the security of the Nation's nuclear weapons complex.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for "Defense Nuclear Non-proliferation", \$205,000,000 for non-proliferation and verification research and development, international material protection, control, and accounting, and other non-proliferation safety and security upgrades.

INDEPENDENT AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$15,000,000 to enhance security at the Nation's nuclear power plants.

CHAPTER 4

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for the protection and use of the Dalton Highway and the Trans-Alaska Pipeline System, \$4,500,000: *Provided*, That of that amount, up to \$4,250,000 may be made available to the State of Alaska to assist the Federal Government in its security functions.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", \$13,500,000, for the installation of permanent protective barriers at monuments

and memorials within the National Capital Region.

CHAPTER 5

DEPARTMENT OF HEALTH AND HUMAN
SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES
EMERGENCY FUND

For an additional amount for emergency expenses necessary to support activities related to countering potential biological, disease, and chemical threats to civilian populations, for "Public Health and Social Services Emergency Fund", \$3,311,000,000. Of this amount, \$1,302,000,000 shall be for the Centers for Disease Control and Prevention for improving State and local capacity; \$50,000,000 shall be for grants to hospitals for improving response capabilities; \$90,000,000 shall be for upgrading capacity at the centers for Disease Control and Prevention; \$83,000,000 shall be for improving disaster response teams and the Office of the Secretary; \$116,000,000 shall be for research and development on vaccines, antibiotics and anti-virals; \$4,000,000 shall be for training and education regarding effective workplace responses to bioterrorism; \$593,000,000 shall be for the National Pharmaceutical Stockpile; \$1,000,000,000 shall be for the purchase and deployment of the smallpox vaccine; and \$73,000,000 shall be for improving laboratory security at the National Institutes of Health and the centers for Disease Control and Prevention. At the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures.

CHAPTER 6

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY OF
TRANSPORTATION

SALARIES AND EXPENSES

For necessary expenses for aviation security activities, \$1,200,000,000: *Provided*, That not to exceed \$1,200,000,000 in fees authorized for this purpose shall be credited to this appropriation as offsetting collections and use for necessary and authorized expenses under this heading: *Provided further*, That the Secretary of Transportation may transfer amounts made available under this heading to other federal agencies consistent with authorizing law governing aviation security activities: *Provided further*, That no funds provided under this heading shall be available for obligation unless an act authorizing the collection of such fees and the crediting of such fees to serve as offsetting collections to the appropriation account for aviation security activities is enacted into law.

COAST GUARD

OPERATING EXPENSES

For an additional amount for the operation and maintenance of the Coast Guard, not otherwise provided for, \$70,000,000.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For an additional amount for necessary expenses of the Federal Aviation Administration, not otherwise provided for, \$10,000,000.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for necessary expenses for research, engineering, and development, \$100,000,000, to be derived from the Airport and Airway Trust Fund.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

To enable the Federal Aviation Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements im-

posed on airport operators by the Administrator on or after September 11, 2001, \$1,000,000,000.

FEDERAL RAILROAD ADMINISTRATION
SAFETY AND OPERATIONS

For an additional amount to enable the Federal Railroad Administrator to make grants for the purpose of enhancing security of the nation's freight railroads, \$50,000,000.

CAPITAL GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

For an additional amount of necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), \$760,062,000.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For an additional amount to enable the Federal Transit Administrator to make formula grants to the nation's transit systems for the purpose of enhancing security at said systems, \$500,000,000: *Provided*, That the provisions of 49 U.S.C. 5307(e) and 49 U.S.C. 5311(g)(2) shall not apply to funds made available under this paragraph.

CAPITAL INVESTMENT GRANTS

For an additional amount to enable the Federal Transit Administrator to make discretionary grants to the nation's transit systems for the purpose of enhancing security at said systems and for the operation and capital expansion of systems severely impacted by the September 11, 2001, terrorist attacks on the United States, \$750,000,000: *Provided*, That in administering funds made available under this paragraph, the Federal Transit Administrator shall consult with other appropriate federal agencies so as to direct funds to the most vulnerable and most severely impacted transit systems: *Provided further*, That the provisions of 49 U.S.C. 5309(h) shall not apply to funds made available under this paragraph.

CHAPTER 7

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$327,000,000 shall be available until September 30, 2003; of this amount, not to exceed \$125,000,000 shall be available for the procurement and deployment of non-intrusive and counterterrorism inspection technology; \$31,070,000 shall be available for increased staffing to combat terrorism; not less than \$77,500,000 shall be available for equipment and infrastructure improvements to combat terrorism; of which not less than \$68,130,000 shall be available for seaport security; of which not to exceed \$25,300,000 shall be used to establish a backup data center.

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional payment to the Postal Service Fund to enable the Postal Service to build and establish a system for sanitizing and screening mail matter, to protect postal employees and postal customers from exposure to biohazardous material, and to replace or repair Postal Service facilities destroyed or damaged in New York City as a result of the September 11, 2001, terrorist attacks, \$1,120,000,000, to remain available until September 30, 2003.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATION ON AVAILABILITY OF REVENUE

For an additional amount, and to be deposited into the Federal Buildings Fund, \$85,000,000, for Capital Improvements to

United States-Canada and United States-Mexico Border Facilities: *Provided*, That these funds shall not be available for expenses in connection with a construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for required expenses in connection with the development of a proposed prospectus.

FUNDS APPROPRIATED TO THE PRESIDENT
INFORMATION TECHNOLOGY SYSTEMS TO ENHANCE
HOMELAND DEFENSE AND INFORMATION
SECURITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for expenses related to improving Federal agency information technology systems associated with homeland defense and information security, \$1,000,000,000, to remain available until September 30, 2003: *Provided*, That these projects may include, but are not limited to, efforts to improve the Federal Government's information security systems; to protect critical infrastructure; to provide stronger defenses against natural and man-made threats to the nation; and to enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with one another and with state and local governments in furtherance of the above goals: *Provided further*, That the funds made available shall be transferred, as necessary, by the Director of the Office of Management and Budget to all affected Federal Departments and Agencies, for expenses necessary to ensure that information technology that is used or acquired by the Federal government meets one or more of these goals: *Provided further*, That none of the funds provided under this heading may be transferred to any Department or Agency until fifteen days after the Director of the Office of Management and Budget has submitted to the House and Senate Committees on Appropriations, the House Committee on Government Reform and the Senate Governmental Affairs Committee a proposed allocation and plan for that Department or Agency to improve information technology systems: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this or any other Act.

The Director of the Office of Management and Budget shall establish procedures for accepting and reviewing proposals for funding, and shall consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and procurement councils, in establishing procedures and reviewing proposals. When reviewing proposals, the Director of the Office of Management and Budget shall observe and incorporate the following procedures—

- (1) a project requiring substantial involvement or funding from a Department must be approved by a senior official with agency-wide authority on behalf of the Secretary or agency head, who shall report directly to the Secretary or agency head;
- (2) agencies must demonstrate measurable mission benefits commensurate with the proposed costs;
- (3) funded projects must adhere to fundamental capital planning and processes;
- (4) agencies must assess the results of funded projects;
- (5) agencies shall identify in their proposals resource commitments from any other agencies involved, and shall include plans for potential continuation of projects after funds from this appropriation are exhausted; and
- (6) after considering the recommendations to the interagency councils, the Director of

the Office of Management and Budget shall have final authority to determine which of the candidate projects shall be funded.

CHAPTER 8

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY
EMERGENCY MANAGEMENT PLANNING AND
ASSISTANCE

For an additional amount for "Emergency management planning and assistance", \$600,000,000 for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.): *Provided*, That up to 5 percent of this amount shall be transferred to "Salaries and expenses" for program administration.

CHAPTER 9

GENERAL PROVISION, THIS TITLE

SEC. 901. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SA 2126. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking "this Act" and all that follows through "2010." in subsection (a) and inserting "this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.", and

(2) by striking ", estates, gifts, and transfers" in subsection (b).

SA 2127. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ PERSONAL TRAVEL CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. PERSONAL TRAVEL CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified personal travel expenses which are incurred and paid by the taxpayer on or after the date of the enactment of this section and before January 1, 2002.

"(b) MAXIMUM CREDIT.—The credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed \$500 (\$1,000, in the case of a joint return).

"(c) QUALIFIED PERSONAL TRAVEL EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified personal travel expenses' means reasonable expenses in connection with 1 qualifying personal trip away from the taxpayer's residence for—

"(A) travel by aircraft, rail, watercraft, or motor vehicle, and

"(B) lodging while away from home at any commercial lodging facility.

Such term does not include expenses for meals, entertainment, amusement, or recreation.

"(2) QUALIFYING PERSONAL TRIP.—

"(A) IN GENERAL.—The term 'qualifying personal trip' means travel within the United States (including the Commonwealth of Puerto Rico and the possessions of the United States)—

"(i) the farthest destination of which is at least 100 miles from the taxpayer's residence,

"(ii) involves an overnight stay at a commercial lodging facility and

"(iii) which is taken on or after the date of the enactment of this section.

"(B) ONLY PERSONAL TRAVEL INCLUDED.—Such term shall not include travel if, without regard to this section, any expenses in connection with such travel are deductible in connection with a trade or business or activity for the production of income.

"(3) COMMERCIAL LODGING FACILITY.—The term 'commercial lodging facility' includes any hotel, motel, resort, rooming house, or campground.

"(d) SPECIAL RULES.—

"(1) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) EXPENSES MUST BE SUBSTANTIATED.—No credit shall be allowed by subsection (a) unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement the amount of the expenses described in subsection (c)(1).

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any expense for which credit is allowed under this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B), as added and amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking "23 and 25B" and inserting "23, 25B, and 25C".

(2) Section 25(e)(1)(C) is amended by striking "23 and 1400C" and by inserting "23, 25C, and 1400C".

(3) Section 25(e)(1)(C), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by inserting "25C," after "25B".

(4) Section 25B, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking "section 23" and inserting "sections 23 and 25C".

(5) Section 26(a)(1), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking "and 25B" and inserting "25B, and 25C".

(6) Section 1400C(d) is amended by inserting "and section 25C" after "this section".

(7) Section 1400C(d), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking "and 25B" and inserting "25B, and 25C".

(8) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 26 the following new item:

"Sec. 25C. Personal travel credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 2128. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end add the following:

**TITLE XI—SUBCHAPTER S
MODERNIZATION**

SEC. 1101. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This title may be cited as the “Subchapter S Modernization Act of 2001”.

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

Sec. 1101. Short title; table of contents.

Subtitle A—Eligible Shareholders of an S Corporation

Sec. 1111. Members of family treated as 1 shareholder.

Sec. 1112. Nonresident aliens allowed to be shareholders.

Sec. 1113. Expansion of bank S corporation eligible shareholders to include IRAs.

Sec. 1114. Increase in number of eligible shareholders to 150.

Subtitle B—Qualification and Eligibility Requirements of S Corporations

Sec. 1121. Issuance of preferred stock permitted.

Sec. 1122. Safe harbor expanded to include convertible debt.

Sec. 1123. Repeal of excessive passive investment income as a termination event.

Sec. 1124. Modifications to passive income rules.

Sec. 1125. Adjustment to basis of S corporation stock for certain charitable contributions.

SubTitle C—TREATMENT OF S CORPORATION SHAREHOLDERS

Sec. 1131. Treatment of losses to shareholders.

Sec. 1132. Transfer of suspended losses incident to divorce.

Sec. 1133. Use of passive activity loss and at-risk amounts by qualified subchapter S trust income beneficiaries.

Sec. 1134. Deductibility of interest expense incurred by an electing small business trust to acquire S corporation stock.

Sec. 1135. Disregard of unexercised powers of appointment in determining potential current beneficiaries of ESBT.

Sec. 1136. Clarification of electing small business trust distribution rules.

Sec. 1137. Allowance of charitable contributions deduction for electing small business trusts.

Sec. 1138. Shareholder basis not increased by income derived from cancellation of S corporation's debt.

Sec. 1139. Back to back loans as indebtedness.

SubTitle D—EXPANSION OF S CORPORATION ELIGIBILITY FOR BANKS.

Sec. 1141. Exclusion of investment securities income from passive income test for bank S corporations.

Sec. 1142. Treatment of qualifying director shares.

Sec. 1143. Recapture of bad debt reserves.

SubTitle E—QUALIFIED SUBCHAPTER S SUBSIDIARIES

Sec. 1151. Relief from inadvertently invalid qualified subchapter S subsidiary elections and terminations.

Sec. 1152. Information returns for qualified subchapter S subsidiaries.

Sec. 1153. Treatment of the sale of interest in a qualified subchapter S subsidiary.

Sec. 1154. Exception to application of step transaction doctrine for restructuring in connection with making qualified subchapter S subsidiary elections.

SubTitle F—ADDITIONAL PROVISIONS

Sec. 1161. Elimination of all earnings and profits attributable to pre-1983 years.

Sec. 1162. No gain or loss on deferred intercompany transactions because of conversion to S corporation or qualified S corporation subsidiary.

Sec. 1163. Treatment of charitable contribution and foreign tax credit carryforwards.

Sec. 1164. Distributions by an S corporation to an employee stock ownership plan.

Sec. 1165. Special rules of application.

SubTitle A—Eligible Shareholders of an S Corporation

SEC. 1111. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

(a) **IN GENERAL.**—Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

“(1) **MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.**—

“(A) **IN GENERAL.**—For purpose of subsection (b)(1)(A)—

“(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

“(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

“(B) **MEMBERS OF THE FAMILY.**—For purpose of subparagraph (A)(ii), the term ‘members of the family’ means the common ancestor, lineal descendants of the common ancestor and the spouses (or former spouses) of such lineal descendants or common ancestor.

“(C) **COMMON ANCESTOR.**—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

“(D) **EFFECT OF ADOPTION, ETC.**—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

“(E) **ELECTION.**—An election under subparagraph (A)(ii)—

“(i) must be made with the consent of shareholders (including those that are family members) holding in the aggregate more than one-half of the shares of stock in the corporation on the day the election is made,

“(ii) in the case of—

“(I) an electing small business trust, shall be made by the trustee of the trust, and

“(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

“(iii) under regulations, shall remain in effect until terminated, and

“(iv) shall apply only with respect to 1 family in any corporation.”

(b) **RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.**—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by section 1151, is amended—

(1) by inserting “or under section 1361(c)(1)(A)(ii)” after “section 1361(b)(3)(B)(ii)” in paragraph (1), and

(2) by inserting “or under section 1361(c)(1)(E)(iii)” after “section 1361(b)(3)(C)” in paragraph (1)(B).

(c) **EFFECTIVE DATES.**—

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to elections and terminations made after December 31, 2001.

SEC. 1112. NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.

(a) **NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.**—

(1) **IN GENERAL.**—Paragraph (1) of section 1361(b) (defining small business corporation) is amended—

(A) by adding “and” at the end of subparagraph (B),

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) **CONFORMING AMENDMENTS.**—Paragraph (4) and (5)(A) of section 1361(c) (relating to special rules for applying subsection (b)) are each amended by striking “subsection (b)(1)(D)” and inserting “subsection (b)(1)(C)”.

(b) **NONRESIDENT ALIEN SHAREHOLDER TREATED AS ENGAGED IN TRADE OR BUSINESS WITHIN UNITED STATES.**—

(1) **IN GENERAL.**—Section 875 is amended—

(A) by striking “and” at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting “, and”, and

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

“(3) a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the S corporation of which such individual is a shareholder is so engaged.”

(2) **APPLICATION OF WITHHOLDING TAX ON NONRESIDENT ALIEN SHAREHOLDERS.**—Section 1446 (relating to withholding tax on foreign partners' share of effectively connected income) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **S CORPORATION TREATED AS PARTNERSHIP, ETC.**—For purposes of this section—

“(1) an S corporation shall be treated as a partnership.

“(2) the shareholders of such corporation shall be treated as partners of such partnership.

“(3) any reference to section 704 shall be treated as a reference to section 1366, and

“(4) no withholding tax under subsection (a) shall be required in the case of any income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).”

(3) **CONFORMING AMENDMENTS.**—

(A) The heading of section 875 is amended to read as follows:

“**SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS; S CORPORATIONS.**”

(B) The heading of section 1446 is amended to read as follows:

“**SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' AND S CORPORATION SHAREHOLDERS' SHARE OF EFFECTIVELY CONNECTED INCOME.**”

(4) **CLERICAL AMENDMENTS.**—

(A) The item relating to section 875 in the table of sections for subpart A of part II of subchapter N of chapter 1 is amended to read as follows:

“Sec. 875. Partnerships; beneficiaries of estates and trusts; S corporations.”

(B) The item relating to section 1446 in the table of sections for subchapter A of chapter 3 is amended to read as follows:

“Sec. 1446 Withholding tax on foreign partners' and S corporation shareholders' share of effectively connected income.”

(C) **PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.**—

Section 894 (relating to income affected by treaty) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—If a partnership or S corporation has a permanent establishment in the United States (within the meaning of a treaty to which the United States is a party) at any time during a taxable year of such entity, a nonresident alien individual or foreign corporation which is a partner in such partnership, or a nonresident alien individual who is a shareholder in such S corporation, shall be treated as having a permanent establishment in the United States for purposes of such treaty.”

(c) APPLICATION OF OTHER WITHHOLDING TAX RULES ON NONRESIDENT ALIEN SHAREHOLDERS.—

(1) SECTION 1441.—Section 1441 (relating to withholding of tax on nonresident aliens) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

“(1) an S corporation shall be treated as a partnership,

“(2) the shareholders of such corporation shall be treated as partners of such partnership, and

“(3) no deduction or withholding under subsection (a) shall be required in the case of any item of income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).”

(2) SECTION 1445.—Section 1445(e) (relating to special rules relating to distributions, etc., by corporations, partnerships, trusts, or estates) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

“(A) an S corporation shall be treated as a partnership, and

“(B) the shareholders of such corporation shall be treated as partners of such partnership, and

“(C) no deduction or withholding under subsection (a) shall be required in the case of any gain realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).”

(d) CONFORMING AMENDMENT.—Section 1361(e)(2) is amended by inserting “(including a nonresident alien)” after “person” the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1113. EXPANSION OF BANK S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(2)(A) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following new clause:

“(vi) In the case of a corporation which is a bank (as defined in section 581), a trust which constitutes an individual retirement account under section 408(a), including one designated as a Roth IRA under section 408A, but only to the extent of the stock held by such trust in such bank as of the date of the enactment of this clause.”

(b) TREATMENT AS SHAREHOLDER.—Section 1361(c)(2)(B) (relating to treatment as shareholders) is amended by adding at the end the following new clause:

“(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder.”

(c) SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.—Section 4975(d) (relating to exemptions) is amended by striking “or” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “; or”, and by adding at the end the following new paragraph:

“(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).”

(d) CONFORMING AMENDMENT.—Section 512(e)(1) is amended by inserting “1361(c)(2)(A)(vi) or” before “1361(c)(6)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to trusts which constitute individual retirement accounts on the date of the enactment of this Act.

SEC. 1114. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 150.

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking “75” and inserting “150”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Qualification and Eligibility Requirements of S Corporations

SEC. 1121. ISSUANCE OF PREFERRED STOCK PERMITTED.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

“(f) TREATMENT OF QUALIFIED PREFERRED STOCK.—

“(1) IN GENERAL.—For purposes of this subchapter—

“(A) qualified preferred stock shall not be treated as a second class of stock, and

“(B) no person shall be treated as a shareholder of the corporation by reason of holding qualified preferred stock.

“(2) QUALIFIED PREFERRED STOCK DEFINED.—For purposes of this subsection, the term “qualified preferred stock” means stock which meets the requirements of subparagraphs (A), (B), and (C) of section 1504(a)(4). Stock shall not fail to be treated as qualified preferred stock merely because it is convertible into other stock.

“(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualified preferred stock shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1361(b) is amended by inserting “, except as provided in subsection (f),” before “which does not”.

(2) Subsection (a) of section 1366 is amended by adding at the end the following new paragraph:

“(3) ALLOCATION WITH RESPECT TO QUALIFIED PREFERRED STOCK.—The holders of qualified preferred stock (as defined in section 1361(f)) shall not, with respect to such stock, be allocated any of the items described in paragraph (1).”

(3) So much of clause (ii) of section 354(a)(2)(C) as precedes subclause (II) is amended to read as follows:

“(ii) RECAPITALIZATION OF FAMILY-OWNED CORPORATIONS AND S CORPORATIONS.—

“(I) IN GENERAL.—Clause (i) shall not apply in the case of a recapitalization under section 368(a)(1)(E) of a family-owned corporation or S corporation.”

(4) Subsection (a) of section 1373 is amended by striking “and” at the end of paragraph (1), by striking the period at the end of para-

graph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) no amount of an expense deductible under this subchapter by reason of section 1361(f)(3) shall be apportioned or allocated to such income.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1122. SAFE HARBOR EXPANDED TO INCLUDE CONVERTIBLE DEBT.

(a) IN GENERAL.—Subparagraph (B) of section 1361(c)(5) (defining straight debt) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

“(ii) in any case in which the terms of such promise include a provision under which the obligation to pay may be converted (directly or indirectly) into stock of the corporation, such terms, taken as a whole, are substantially the same as the terms which could have been obtained on the effective date of the promise from a person which is not a related person (within the meaning of section 465(b)(3)(C)) to the S corporation or its shareholders, and

“(iii) the creditor is—

“(I) an individual,

“(II) an estate,

“(III) a trust described in paragraph (2),

“(IV) an exempt organization described in paragraph (6), or

“(V) a person which is actively and regularly engaged in the business of lending money.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1123. REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT.

(a) IN GENERAL.—Section 1362(d) (relating to termination) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 1362(f)(1) is amended by striking “or (3)”.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking “section 1362(d)(3)(C)” and inserting “section 1375(b)(4)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1124. MODIFICATIONS TO PASSIVE INCOME RULES.

(a) INCREASED LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking “25 percent” and inserting “60 percent”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (J) of section 26(b)(2) is amended by striking “25 percent” and inserting “60 percent”.

(B) Clause (i) of section 1375(b)(1)(A) is amended by striking “25 percent” and inserting “60 percent”.

(C) The heading for section 1375 is amended by striking “25 percent” and inserting “60 percent”.

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking “25 percent” in the item relating to section 1375 and inserting “60 percent”.

(b) REPEAL OF PASSIVE INCOME CAPITAL GAIN CATEGORY.—

(1) IN GENERAL.—Subsection (b) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 60 percent of gross receipts), as amended by subsection (a), is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

“(3) PASSIVE INVESTMENT INCOME DEFINED.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘passive investment income’ means gross receipts derived from royalties, rents, dividends, interest, and annuities.

“(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term ‘passive investment income’ shall not include interest on any obligation acquired in the ordinary course of the corporation’s trade or business from its sale of property described in section 1221(a)(1).

“(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term ‘passive investment income’ shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

“(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term ‘passive investment income’ shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

“(E) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meaning as when used in section 1374.”

(2) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking “subchapter C” both places it appears and inserting “accumulated”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1125. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Paragraph (1) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding at the end the following new subparagraph:

“(D) the excess of the amount of the shareholder’s proportionate share of any charitable contribution made by the S corporation over the shareholder’s proportionate share of the adjusted basis of the property contributed.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle C—Treatment of S Corporation Shareholders

SEC. 1131. TREATMENT OF LOSSES TO SHAREHOLDERS.

(a) LIQUIDATIONS.—Section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) LOSS ON LIQUIDATIONS OF S CORPORATION.—

“(1) IN GENERAL.—The portion of any net loss recognized by a shareholder of an S corporation (as defined in section 1361(a)(1))—

“(A) on amounts received by such shareholder in a distribution in complete liquidation of such S corporation, or

“(B) on an installment obligation received by such shareholder with respect to a sale or

exchange by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted if the liquidation is completed during such 12-month period,

which does not exceed the ordinary income basis of stock of such S corporation in the hands of such shareholder shall not be treated as a loss from the sale or exchange of a capital asset but shall be treated as an ordinary loss.

“(2) ORDINARY INCOME BASIS.—For purposes of this subsection, the ordinary income basis of stock of an S corporation in the hands of a shareholder of such S corporation shall be an amount equal to the portion of such shareholder’s basis in such stock which is equal to the aggregate increases in such basis under section 1367(a)(1) resulting from such shareholder’s pro rata share of ordinary income of such S corporation attributable to the complete liquidation.”

(b) SUSPENDED PASSIVE ACTIVITY LOSSES.—Paragraph (3) of section 1371(b) is amended to read as follows:

“(3) TREATMENT OF S YEAR AS ELAPSED YEAR; PASSIVE LOSSES.—Nothing in paragraphs (1) and (2) shall prevent treating a taxable year for which a corporation is an S corporation as a taxable year for purposes of determining the number of taxable years to which an item may be carried back or carried forward nor prevent the allowance of a passive activity loss deduction to the extent provided by section 469(g).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1132. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

“(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder’s stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 1133. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking “and” at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting “, and”, and

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

“(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 1134. DEDUCTIBILITY OF INTEREST EXPENSE INCURRED BY AN ELECTING SMALL BUSINESS TRUST TO ACQUIRE S CORPORATION STOCK.

(a) IN GENERAL.—Subparagraph (C) of section 641(c)(2) (relating to modifications) is amended by inserting after clause (iii) the following new clause:

“(iv) Any interest expense incurred to acquire stock in an S corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1135. DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended—

(1) by inserting “(determined without regard to any unexercised (in whole or in part) power of appointment during such period)” after “of the trust” in the first sentence, and

(2) by striking “60-day” in the second sentence and inserting “1-year”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1136. CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking “and” at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

“(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1137. ALLOWANCE OF CHARITABLE CONTRIBUTIONS DEDUCTION FOR ELECTING SMALL BUSINESS TRUSTS.

(a) IN GENERAL.—Section 641(c)(2)(C) (relating to modifications), as amended by section 1134(a), is amended by inserting after clause (iv) the following new clause:—

“(v) Deductions described in section 642(c)(1).”

(b) CONFORMING AMENDMENT.—Section 512(e) (relating to special rules applicable to S corporations) is amended by redesignating subparagraph (3) as subparagraph (4) and by inserting after subparagraph (2) the following new subparagraph:

“(3) AMOUNTS RECEIVED FROM AN ELECTING SMALL BUSINESS TRUST.—Notwithstanding any other provision of this part, amounts received by an organization described in section 511(a)(2) from an electing small business trust (as defined in section 1361(e)) shall be taken into account in computing the unrelated business taxable income of such organization to the extent such amount is deducted by such trust under section 641(c)(2)(C)(v).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1138. SHAREHOLDER BASIS NOT INCREASED BY INCOME DERIVED FROM CANCELLATION OF S CORPORATION’S DEBT.

(a) IN GENERAL.—Section 1366(a)(1) (relating to determination of shareholder’s tax liability) is amended by inserting “but not including income excludable from gross income under section 108” after “tax-exempt income”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges of indebtedness occurring after December 31, 2000.

SEC. 1139. BACK TO BACK LOANS AS INDEBTEDNESS.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

“(4) LOANS INCLUDED IN INDEBTEDNESS OF AN S CORPORATION.—For purposes of subsection (d), the indebtedness of an S corporation to the shareholder shall include any loans made or acquired (by purchase, gift, or distribution from another person) by a shareholder to the S corporation, regardless of whether the funds loaned by the shareholder to the S corporation were obtained by the shareholder by means of a recourse loan from another person (whether related or unrelated to the shareholder).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle D—Expansion of S Corporation Eligibility for Banks.

SEC. 1141. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1374(b)(3) (defining passive investment income) is amended by adding at the end the following new subparagraph:

“(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term ‘passive investment income’ shall not include—

“(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

“(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1142. TREATMENT OF QUALIFYING DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation), as amended by section 1121(a), is amended by adding at the end the following new subsection:

“(g) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

“(1) IN GENERAL.—For purposes of this subchapter—

“(A) qualifying director shares shall not be treated as a second class of stock, and

“(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

“(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term ‘qualifying director shares’ means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

“(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

“(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder’s status as a director at the same price as the individual acquired such shares of stock.

“(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1361(b)(1) is amended by inserting “, except as provided in subsection (f),” before “which does not”.

(2) Section 1366(a) is amended by adding at the end the following new paragraph:

“(3) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).”.

(3) Section 1373(a) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and adding at the end the following new paragraph:

“(3) no amount of an expense deductible under this subchapter by reason of section 1361(f)(3) shall be apportioned or allocated to such income.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1143. RECAPTURE OF BAD DEBT RESERVES.

Notwithstanding section 481 of the Internal Revenue Code of 1986, with respect to any S corporation election made by any bank in taxable years beginning after December 31, 1996, such bank may recognize built-in gains from changing its accounting method for recognizing bad debts from the reserve method under section 585 or 593 of such Code to the charge-off method under section 166 of such Code either in the taxable year ending with or beginning with such an election.

Subtitle E—Qualified Subchapter S Subsidiaries

SEC. 1151. RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting “or under section 1361(b)(3)(B)(ii)” after “subsection (a)” in paragraph (1),

(2) by inserting “or under section 1361(b)(3)(C)” after “subsection (d)” in paragraph (1)(B),

(3) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “small business corporation” in paragraph (3)(A),

(4) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “S corporation” in paragraph (4), and

(5) by inserting “or a qualified subchapter S subsidiary, as the case may be” after “S corporation” in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1152. INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting “and in the case of information returns required under part III of subchapter A of chapter 61” after “Secretary”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1153. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Section 1361(b)(3) (relating to treatment of certain wholly owned subsidiaries) is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE ON TERMINATION.—The tax treatment of the disposition of the stock of the qualified subchapter S subsidiary shall be determined as if such disposition were—

“(i) a sale of the undivided interest in the subsidiary’s assets based on the percentage of the stock transferred, and

“(ii) followed by a deemed contribution by the S corporation and the transferee in a section 351 transaction.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1154. EXCEPTION TO APPLICATION OF STEP TRANSACTION DOCTRINE FOR RESTRUCTURING IN CONNECTION WITH MAKING QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS.

(a) IN GENERAL.—Section 1361(b)(3) (relating to treatment of certain wholly owned subsidiaries), as amended by section 1153, is amended by redesignating subparagraphs (C), (D), and (E), as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) TREATMENT OF ELECTION.—The election under subparagraph (B)(ii) shall be treated as a liquidation of the qualified subchapter S subsidiary to which section 332 applies.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to elections effective after December 31, 2001.

Subtitle F—Additional Provisions

SEC. 1161. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

“(a) IN GENERAL.—If a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation’s accumulated earnings and profits (as of the beginning of any taxable year beginning after December 31, 1982) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1162. NO GAIN OR LOSS ON DEFERRED INTERCOMPANY TRANSACTIONS BECAUSE OF CONVERSION TO S CORPORATION OR QUALIFIED S CORPORATION SUBSIDIARY.

With respect to taxable years beginning before, on, or after July 12, 1995, the regulations under section 1502 of the Internal Revenue Code of 1986 shall not cause gain or loss to be recognized by reason of an election under section 1361(b)(3)(B) or 1362(a) of such Code.

SEC. 1163. TREATMENT OF CHARITABLE CONTRIBUTION AND FOREIGN TAX CREDIT CARRYFORWARDS.

(a) CHARITABLE CONTRIBUTION CARRYFORWARDS.—The last sentence of section 1374(b)(2) (relating to net operating loss carryforwards from C years allowed) is amended by inserting “or a charitable contribution carryforward under section 170(d)(2)” after “capital loss carryforward”.

(b) FOREIGN TAX CREDIT CARRYFORWARDS.—The last sentence of section 1374(b)(3)(B) (relating to business credit carryforwards from C years allowed) is amended by inserting “and the foreign tax credit carryforward under section 904” after “section 53”.

SEC. 1164. TREATMENT OF ADDITIONAL CARRYFORWARDS.—Section 1374(b) (relating to amount of tax) is amended by adding at the end the following new paragraph:

“(5) TREATMENT OF ADDITIONAL CARRYFORWARDS.—The Secretary under regulations shall provide treatment similar to the preceding paragraphs of this subsection

for other carryforwards attributable to taxable years for which an S corporation was a C corporation.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 1164. DISTRIBUTIONS BY AN S CORPORATION TO AN EMPLOYEE STOCK OWNERSHIP PLAN.

(a) IN GENERAL.—Section 1368(f) (relating to distributions) is amended by adding at the end the following new subsection:

“(f) DISTRIBUTIONS BY AN S CORPORATION TO AN EMPLOYEE STOCK OWNERSHIP PLAN.—Any distribution described in subsection (a) to an employee stock ownership plan (as defined in section 4975(e)(7)) shall be treated as a dividend under section 404(k)(2)(A).”.

(b) TECHNICAL AMENDMENT.—Section 404(a)(9)(C) (relating to S corporations) is amended to read as follows:

“(C) S CORPORATIONS.—The deduction provided in this paragraph shall not apply to an S corporation.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 1165. SPECIAL RULES OF APPLICATION.

(a) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of any amendment made by this Act is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claimed therefor is filed before the close of such period.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination or revocation under section 1362(d) of such Code (as in effect on the day before enactment of this Act) shall not be taken into account.

SA 2129. Mr. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At an appropriate place in title IX and insert the following:

SEC. . . . TAX INCENTIVES FOR QUALIFIED UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

“SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION WAGE CREDIT.

“(a) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, the United States independent film and television production wage credit determined under this section with respect to any employer for any taxable year is an amount equal to 25 percent of the qualified wages paid or incurred during such taxable year.

“(2) HIGHER PERCENTAGE FOR PRODUCTION EMPLOYMENT IN CERTAIN AREAS.—In the case of qualified wages for any qualified United States independent film and television production located in an area eligible for designation as a low-income community under section 45D or eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress, paragraph (1) shall be applied by substituting ‘35 percent’ for ‘25 percent’.

“(b) ONLY FIRST \$25,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of

qualified wages paid or incurred to each qualified employee which may be taken into account for a taxable year shall not exceed \$25,000.

“(c) QUALIFIED WAGES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified wages’ means—

“(A) any wages paid or incurred by an employer for services performed in the United States by an employee while such employee is a qualified employee, and

“(B) the employee fringe benefit expenses of the employer allocable to such services performed by such employee.

“(2) QUALIFIED EMPLOYEE.—

“(A) IN GENERAL.—The term ‘qualified employee’ means, with respect to any period, any employee of an employer if substantially all of the services performed during such period by such employee for such employer are performed in an activity related to any qualified United States independent film and television production in a trade or business of the employer.

“(B) CERTAIN INDIVIDUALS NOT ELIGIBLE.—Such term shall not include—

“(i) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

“(ii) any 5-percent owner (as defined in section 416(i)(1)(B)).

“(3) COORDINATION WITH OTHER WAGE CREDITS.—No credit shall be allowed under any other provision of this chapter for wages paid to any employee during any taxable year if the employer is allowed a credit under this section for any of such wages.

“(4) WAGES.—The term ‘wages’ has the same meaning as when used in section 51.

“(5) EMPLOYEE FRINGE BENEFIT EXPENSES.—The term ‘employee fringe benefit expenses’ means the amount allowable as a deduction under this chapter to the employer for any taxable year with respect to—

“(A) employer contributions under stock bonus, pension, profit-sharing, or annuity plan,

“(B) employer-provided coverage under any accident or health plan for employees, and

“(C) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (1)(A) shall not be taken into account under this subparagraph.

“(d) QUALIFIED UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified United States independent film and television production’ means any production of any motion picture (whether released theatrically, for television or cable programming, or directly to video cassette or any other format) or any seasonal television series (including any pilot production) if—

“(A) 75 percent of the total wages of the production are qualified wages,

“(B) the production is created primarily for use as public entertainment or for educational purposes, and

“(C) the total cost of wages of the production is more than \$200,000 but less than \$1,000,000.

Such term shall not include any production if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with sexually explicit conduct).

“(2) PUBLIC ENTERTAINMENT.—The term ‘public entertainment’ includes a motion picture film, video tape, or television program intended for initial broadcast via the public broadcast spectrum or delivered via cable distribution, or productions that are submitted to a national organization in existence on July 27, 2001, that rates films for

violent or adult content. Such term does not include any film or tape the market for which is primarily topical, is otherwise essentially transitory in nature, or is produced for private noncommercial use.

“(3) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2001, the \$10,000,000 amount contained in paragraph (1)(C) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2000’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$500,000, such amount shall be rounded to the nearest multiple of \$500,000.

“(e) CONTROLLED GROUPS.—For purposes of this section—

“(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

“(2) the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

“(f) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of section 51(k) and subsections (c) and (d) of section 52 shall apply.

“(g) APPLICATION OF SECTION.—This section shall not apply to taxable years beginning after December 31, 2004.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking “plus” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, plus”, and by adding at the end the following new paragraph:

“(16) the United States independent film and television production wage credit determined under section 45G(a).”.

(c) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

“(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the United States independent film and television production wage credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.”.

(d) DENIAL OF DOUBLE BENEFIT.—Subsection (a) of section 280C is amended by inserting “45G(a),” after “45A(a),”.

(e) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45G. United States independent film and television production wage credit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SA 2130. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At an appropriate place in title IX insert the following:

SEC. —. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) REMOVAL OF CAP ON AMORTIZABLE BASIS.—

(1) IN GENERAL.—Section 194 (relating to amortization of reforestation expenditures) is amended by striking subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 194, as redesignated by paragraph (1), is amended by striking paragraph (4).

(b) INCREASE IN CAP ON REFORESTATION CREDIT.—Paragraph (1) of section 48(b) (relating to reforestation credit) is amended—

(1) by inserting “of the first \$25,000” after “10 percent”, and

(2) by striking “(after the application of section 194(b)(1))”.

(c) EFFECTIVE DATES.—

(1) AMORTIZATION PROVISIONS.—The amendments made by subsection (a) shall apply to additions to capital account made after December 31, 2001.

(2) TAX CREDIT PROVISIONS.—The amendments made by subsection (b) shall apply to property acquired after December 31, 2001.

SA 2131. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

On page 11, line 17, strike “or”.

On page 11, line 19, strike the comma and insert “, or”.

On page 11, between lines 19 and 20, insert: “(V) which is qualified retail improvement property.”

On page 16, line 25, strike the end quotation marks and the second period.

On page 16, after line 25, insert:

“(4) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified retail improvement property’ means any improvement to an interior portion of a building which is primarily used or held for use in a qualified retail business at the location of such improvement, but only if such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—The term ‘qualified retail improvement’ does not include any improvement of a type described in clauses (i) through (iv) of subsection (k)(3)(B).

“(C) QUALIFIED RETAIL BUSINESS.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified retail business’ means a trade or business of selling tangible personal property to the general public.

“(ii) TREATMENT OF CERTAIN SALES OF INTANGIBLE PROPERTY OR SALES.—Any sale of intangible property or services shall be considered a sale of tangible property if such sale is incidental to the sale of tangible property. A trade or business shall not fail to be treated as a qualified retail business by reason of sales of intangible property or services if such sales (other than sales that are incidental to the sale of tangible personal property) represent less than 10 percent of the total sales of the trade or business at the location.”.

SA 2132. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

Strike section 602(a) and insert the following:

(a) STATE OPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State may elect to provide under its medicaid program under title XIX of the Social Security Act medical assistance in the case of an individual—

(A) who at any time during the period that begins on September 11, 2001, and ends on December 31, 2002, is separated from employment;

(B) who is not eligible for COBRA continuation coverage;

(C) who is uninsured; and

(D) whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish.

(2) EXPANDED ELIGIBILITY FOR CERTAIN STATES WITH HIGH UNEMPLOYMENT.—In the case of a State that, during the period that begins on January 1, 2000, and ends on December 31, 2002, has an unemployment rate that exceeds 5.0 percent for more than 2 consecutive months, the State may apply paragraph (1)(A) as if “January 1, 2000” were substituted for “September 11, 2001”.

SA 2133. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

“Section 45(c)(3)(A) of the Internal Revenue Code of 1986 (relating to wind facility) is amended by striking ‘January 1, 2002’ and inserting ‘January 1, 2007.’”

SA 2134. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

Strike section 201 and insert the following:

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i)(I) to which this section applies which has an applicable recovery period of 20 years or less or which is water utility property, or

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(ii) the original use of which commences with the taxpayer after September 10, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2004, and

“(iv) which is placed in service by the taxpayer before January 1, 2005.

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term ‘qualified property’ shall not include any repaired or reconstructed property.

“(iv) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—The term ‘qualified property’ shall not include any qualified leasehold improvement property (as defined in section 168(e)(6)).

“(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2004.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service after September 10, 2001, by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

“(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$4,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).”.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—The deduction under section 168(k) shall be allowed.”.

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking “clause (ii)” both places it appears and inserting “clauses (ii) and (iii)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SA 2135. Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. 9 . FEDERAL-AID HIGHWAY PROGRAMS.

(a) **INCREASE IN OBLIGATION AUTHORITY.**—

(1) **IN GENERAL.**—In addition to any obligation authority provided by any other law enacted before, on, or after the date of enactment of this Act, \$5,000,000,000 in obligation authority shall be made available for fiscal year 2002 for obligation of funds apportioned under section 104(b) of title 23, United States Code.

(2) **DISTRIBUTION OF OBLIGATION AUTHORITY.**—The obligation authority made available by paragraph (1) shall be distributed—

(A) to each State in accordance with the percentage specified for the State in section 105(b) of title 23, United States Code; and

(B) subject to the redistribution of unused obligation authority using the method prescribed in section 1102(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 117).

(b) **TEMPORARY INCREASE OF FEDERAL SHARE FOR PROJECTS CARRIED OUT USING INCREASE IN OBLIGATION AUTHORITY.**—

(1) **DEFINITION OF QUALIFYING PROJECT.**—In this section, the term “qualifying project” means a construction project under title 23, United States Code, with respect to which a project agreement is executed during the period beginning October 1, 2001, and ending September 30, 2002.

(2) **INCREASED FEDERAL SHARE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), notwithstanding any other provision of law, the Federal share of the cost of a qualifying project shall be a percentage of the cost of the qualifying project specified by the State, up to 100 percent.

(B) **LIMITATION.**—Subparagraph (A) shall apply only to obligation authority distributed under subsection (a)(2).

(3) **REPAYMENT.**—

(A) **IN GENERAL.**—A State that receives an increased Federal share under paragraph (2) with respect to 1 or more qualifying projects shall repay to the United States the total amount of the increased Federal share with respect to all such qualifying projects of the State not later than September 30, 2003.

(B) **TREATMENT.**—Each repayment by a State under subparagraph (A) shall be deposited in the Highway Trust Fund and credited to the appropriate apportionment accounts of the State.

(c) **USE OF INCREASE IN OBLIGATION AUTHORITY.**—

(1) **HIGHWAY INFRASTRUCTURE SECURITY ASSESSMENTS AND PLANS.**—

(A) **IN GENERAL.**—Each State shall use not less than 1 percent of the obligation authority distributed under subsection (a)(2) to assess and develop a plan to improve the protection, security, and emergency response capabilities of the transportation system of the State.

(B) **REQUIRED ELEMENTS.**—Under subparagraph (A), a State shall—

(i) conduct a system-wide assessment of the scope and future implications of security and emergency response concerns;

(ii) develop and apply criteria to identify critical infrastructure and assess the vulner-

ability of the critical infrastructure to physical threats; and

(iii) evaluate the functional, structural, and informational capacity of key corridors for the purposes of—

(I) management of a major incident;

(II) disaster evacuation; and

(III) military deployment.

(C) **COORDINATION.**—A plan under subparagraph (A) shall be developed subject to subsections (b) and (d) of section 135 of title 23, United States Code.

(2) **DEVELOPMENT AND IMPLEMENTATION OF OTHER PLANS AND PLAN ELEMENTS.**—In addition to the uses described in paragraph (1), a State may use the obligation authority referred to in paragraph (1)(A) to develop and implement plans, processes, guidelines, standards, procedures, and intelligent transportation systems—

(A) to protect critical infrastructure and information systems; or

(B) to ensure optimum performance of the transportation system of the State in the event of a disaster or emergency.

(3) **FEDERAL SHARE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), notwithstanding any other provision of law, the Federal share of the cost of a project described in paragraph (1) or (2) shall be 100 percent.

(B) **LIMITATIONS.**—Subparagraph (A) shall apply only to the extent that obligation authority is distributed under subsection (a)(2), and obligated in fiscal year 2002, for the project.

SA 2136. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . There is appropriated to the Department of Transportation for the Federal Railroad Administration for fiscal year 2002, out of any funds in the Treasury not otherwise appropriated, \$350,000,000 for capital grants to be made by the Secretary of Transportation for rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Funds appropriated by the preceding sentence shall remain available until expended.

SA 2137. Mr. SPECTER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

SEC. . THREE-YEAR RECLASSIFICATION OF CERTAIN COUNTIES FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, effective for discharges occurring during fiscal years 2002, 2003, and 2004, for purposes of making payments under subsections (d) and (j) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) to hospitals (including rehabilitation hospitals and rehabilitation units under such subsection (j))—

(1) in Columbia, Lackawanna, Luzerne, Wyoming, and Lycoming Counties, Pennsylvania, such counties are deemed to be located in the Newburgh, New York-PA Metropolitan Statistical Area;

(2) in Northumberland County, Pennsylvania, such county is deemed to be located in

the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area; and

(3) in Mercer County, Pennsylvania, such county is deemed to be located in the Youngstown-Warren, Ohio Metropolitan Statistical Area.

(b) **RULES.**—The reclassifications made under subsection (a) shall be treated as decisions of the Medicare Geographic Classification Review Board under paragraph (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), except that payments shall be made under such section to any hospital reclassified into—

(1) the Newburgh, New York-PA Metropolitan Statistical Area as of October 1, 2001, as if the counties described in subsection (a)(1) had not been reclassified into such Area under such subsection;

(2) the Harrisburg-Lebanon-Carlisle, Pennsylvania Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(2) had not been reclassified into such Area under such subsection; and

(3) the Youngstown-Warren, Ohio Metropolitan Statistical Area as of October 1, 2001, as if the county described in subsection (a)(3) had not been reclassified into such Area under such subsection.

SA 2138. Mr. GRAHAM (for himself, Mrs. LINCOLN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) **IN GENERAL.**—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

“(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

“(A) **IN GENERAL.**—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual’s spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service.

“(B) **QUALIFIED OFFICIAL EXTENDED DUTY.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The term ‘qualified official extended duty’ means any period of extended duty as a member of the uniformed services or a member of the Foreign Service during which the member serves at a duty station which is at least 50 miles from such property or is under Government orders to reside in Government quarters.

“(ii) **UNIFORMED SERVICES.**—The term ‘uniformed services’ has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

“(iii) **FOREIGN SERVICE OF THE UNITED STATES.**—The term ‘member of the Foreign Service’ has the meaning given the term ‘member of the Service’ by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on such date of enactment.

“(iv) **EXTENDED DUTY.**—The term ‘extended duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SA 2139. Mr. GRAHAM (for himself, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ . METHOD OF ACCOUNTING FOR DEPOSITS RECEIVED BY ACCRUAL BASIS TOUR OPERATORS.

In the case of a tour operator using an accrual method of accounting, amounts received from or on behalf of passengers in advance of the departure of a tour arranged by such operator—

(1) shall be treated as properly accounted for under the Internal Revenue Code of 1986 if they are accounted for under a method permitted by section 3 of Revenue Procedure 71-21, and

(2) for purposes of Revenue Procedure 71-21, shall be deemed earned as of the date the tour departs.

SA 2140. Mr. KERRY (for himself, Mr. LIEBERMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of title IX, insert the following:

SEC. ____ . ALTERNATIVE MINIMUM TAX RELIEF WITH RESPECT TO INCENTIVE STOCK OPTIONS EXERCISED DURING 2000.

In the case of an incentive stock option (as defined in section 422 of the Internal Revenue Code of 1986) exercised during calendar year 2000, the amount taken into account under section 56(b)(3) of such Code by reason of such exercise shall not exceed the amount that would have been taken into account if, on the date of such exercise, the fair market value of the stock acquired pursuant to such option had been an amount equal to 150 percent of its fair market value as of April 15, 2001 (or, if such stock is sold or exchanged on or before such date, 150 percent of the amount realized on such sale or exchange).

SA 2141. Ms. COLLINS (for herself and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of title IX, insert the following:

SEC. ____ . ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

“(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—The deductions allowed by section 162 which consist of expenses, not in excess of \$1,000, paid or incurred by an eligible educator—

“(i) by reason of the participation of the educator in professional development courses related to the curriculum and academic subjects in which the educator provides instruction or to the students for which the educator provides instruction, and

“(ii) in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equip-

ment, and supplementary materials used by the eligible educator in the classroom.”.

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

“(d) DEFINITION; SPECIAL RULES.—

“(1) ELIGIBLE EDUCATOR.—

“(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term ‘eligible educator’ means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

“(B) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

“(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in calendar years 2002 and 2003.

SA 2142. Mr. SMITH of New Hampshire (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. 9 . WATER SECURITY GRANTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means a publicly- or privately-owned drinking water or wastewater facility.

(3) ELIGIBLE PROJECT OR ACTIVITY.—

(A) IN GENERAL.—The term “eligible project or activity” means a project or activity carried out by an eligible entity to address an immediate physical security need.

(B) INCLUSIONS.—The term “eligible project or activity” includes a project or activity relating to—

- (i) security staffing;
- (ii) detection of intruders;
- (iii) installation and maintenance of fencing, gating, or lighting;
- (iv) installation of and monitoring on closed-circuit television;
- (v) rekeying of doors and locks;
- (vi) site maintenance, such as maintenance to increase visibility around facilities, windows, and doorways;
- (vii) development, acquisition, or use of guidance manuals, educational videos, or training programs; and
- (viii) a program established by a State to provide technical assistance or training to water and wastewater facility managers, especially such a program that emphasizes small or rural eligible entities.

(C) EXCLUSIONS.—The term “eligible project or activity” does not include any large-scale or system-wide project that includes a large capital improvement or vulnerability assessment.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program to allocate to States, in accordance with paragraph (2), funds for use in awarding grants to eligible entities under subsection (c).

(2) ALLOCATION TO STATES.—Not later than 30 days after the date on which funds are made available to carry out this section, the

Administrator shall allocate the funds to States in accordance with the formula for the distribution of funds described in section 1452(a)(1)(D) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(1)(D)).

(3) NOTICE.—Not later than 30 days after the date described in paragraph (2), each State shall provide to each eligible entity in the State a notice that funds are available to assist the eligible entity in addressing immediate physical security needs.

(c) AWARD OF GRANTS.—

(1) APPLICATION.—An eligible entity that seeks to receive a grant under this section shall submit to the State in which the eligible entity is located an application for the grant in such form and containing such information as the State may prescribe.

(2) CONDITION FOR RECEIPT OF GRANT.—An eligible entity that receives a grant under this section shall agree to expend all funds provided by the grant not later than September 30 of the fiscal year in which this Act is enacted.

(3) DISADVANTAGED, SMALL, AND RURAL ELIGIBLE ENTITIES.—A State that awards a grant under this section shall ensure, to the maximum extent practicable in accordance with the income and population distribution of the State, that a sufficient percentage of the funds allocated to the State under subsection (b)(2) are available for disadvantaged, small, and rural eligible entities in the State.

(d) ELIGIBLE PROJECTS AND ACTIVITIES.—

(1) IN GENERAL.—A grant awarded by a State under subsection (c) shall be used by an eligible entity to carry out 1 or more eligible projects or activities.

(2) COORDINATION WITH EXISTING TRAINING PROGRAMS.—In awarding a grant for an eligible project or activity described in subsection (a)(3)(B)(vii), a State shall, to the maximum extent practicable, coordinate with training programs of rural water associations of the State that are in effect as of the date on which the grant is awarded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$50,000,000 for the fiscal year in which this Act is enacted.

SA 2143. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. 9 . OPERATION AND MAINTENANCE OF WHITE MOUNTAIN NATIONAL FOREST.

For a program under which the Secretary of Agriculture shall employ former employees of the American Tissue Mills in the cities of Berlin and Gorham in the State of New Hampshire to carry out operation and maintenance projects at White Mountain National Forest in the State of New Hampshire, there is appropriated \$1,750,000, to remain available until expended.

SA 2144. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. ____ . SPECIAL RULE FOR CERTAIN AIRCRAFT CONTRACTS WITH RESPECT TO BONUS DEPRECIATION PROVISION.

(a) IN GENERAL.—Section 168(k)(2)(C) (relating to special allowance for certain property acquired after September 10, 2001, and

before September 22, 2002), as added by this Act, is amended by adding at the end the following:

“(iii) CERTAIN AIRCRAFT CONTRACTS DISREGARDED FOR PURPOSE OF BINDING CONTRACT LIMITATION.—

“(I) IN GENERAL.—For purposes of subparagraph (A)(iii)(I), a qualified domestic aircraft contract shall be disregarded for purposes of determining whether a written binding contract for the acquisition of a domestic aircraft was in effect before September 11, 2001.

“(II) QUALIFIED DOMESTIC AIRCRAFT CONTRACT.—For purposes of this clause, the term ‘qualified domestic aircraft contract’ means a contract in effect before September 11, 2001, for the acquisition of one or more domestic aircraft if less than 50 percent of the stated purchase price for such aircraft had been paid to the seller of the aircraft on or before September 11, 2001.

“(III) DOMESTIC AIRCRAFT.—For purposes of this clause, the term ‘domestic aircraft’ means aircraft manufactured or assembled predominantly in the United States by a domestic corporation, and for use by a domestic corporation engaged in the business of transporting persons or property by air.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SA 2145. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. ____ . ADVANCE REFUNDINGS FOR CERTAIN AIRPORT BONDS.

(a) IN GENERAL.—Paragraph (2) of section 149(d) is amended by inserting at the end the following new sentence: “The preceding sentence shall not apply to a bond issued after September 11, 2001, and before January 1, 2005, to advance refund a qualified airport facility bond (as defined in paragraph (7)).”

(b) POST-SEPTEMBER 11, 2001 ADVANCE REFUNDINGS.—Clause (i) of section 149(d)(3)(A) is amended by striking “or” at the end of subclause (I), by inserting “or” at the end of subclause (II), and by adding the following new subclause:

“(III) the 1st advance refunding after September 11, 2001, and before January 1, 2002, of the original bond if the original bond was issued before September 12, 2001, for an airport (within the meaning of section 142(a)(1)) without regard to whether the refunding bond or the refunded bond is a private activity bond.”

(c) DEFINITION OF QUALIFIED AIRPORT FACILITY BOND.—Section 149(d) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) QUALIFIED AIRPORT FACILITY BOND.—For purposes of this subsection, the term ‘qualified airport facility bond’ means a private activity bond which was outstanding on September 11, 2001, and the proceeds of which were used—

“(A) to provide airport facilities within the meaning of section 142(a)(1) generally available to members of the general public, or

“(B) to finance the costs of issuance of such bonds as described in section 147(g).”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SA 2146. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax

incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of title IX, insert the following:
SEC. ____ . TECHNICAL CORRECTION TO DEFINITION OF HARD CIDER.

(a) IN GENERAL.—Paragraph (6) of section 5041(b) (relating to rates of tax) is amended to read as follows:

“(6) 22.6 cents per wine gallon on hard cider which is a still, carbonated, or sparkling wine—

“(A) which is prepared by fermenting apple or pear juice, either fresh or diluted, without at any time—

“(i) adding alcoholic liquors or fortifying with alcohol, or

“(ii) using any fruit product other than apples and pears, except that flavoring may be added as provided in subparagraph (C)(iii).

“(B) which contains at least one-half of 1 percent and less than 7 percent alcohol by volume, and

“(C) with respect to which, at any time before or after fermentation—

“(i) apple juice, pear juice, water, or sugar, or any combination, may be added, and

“(ii) the cider may be flavored using natural flavorings or natural food products other than apples or pears, but only if such flavorings and products do not exceed 5 percent by volume of the finished cider.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SA 2147. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of title IX, insert the following:
SEC. ____ . CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

“(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

“(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

“(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

“(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term ‘qualified artistic charitable contribution’ means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

“(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

“(ii) the taxpayer—
“(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

“(II) attaches to the taxpayer’s income tax return for the taxable year in which such contribution was made a copy of such appraisal,

“(iii) the donee is an organization described in subsection (b)(1)(A),

“(iv) the use of such property by the donee is related to the purpose or function consti-

tuting the basis for the donee’s exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

“(v) the taxpayer receives from the donee a written statement representing that the donee’s use of the property will be in accordance with the provisions of clause (iv), and

“(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

“(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

“(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

“(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

“(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

“(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

“(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term ‘artistic adjusted gross income’ means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

“(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

“(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

“(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

“(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act in taxable years ending after such date.

SA 2148. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by him to the bill H.R. 3090, to provide tax incentives for economic recovery; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ____ —WATER INFRASTRUCTURE SECURITY AND RESEARCH DEVELOPMENT
SEC. ____ 01. SHORT TITLE.

This title may be cited as the “Water Infrastructure Security and Research Development Act”.

SEC. ____ 02. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) RESEARCH INSTITUTION.—

(A) IN GENERAL.—The term “research institution” means a public or private nonprofit institution or other entity that—

(i) has the expertise to perform research on the security of water supply systems; and

(ii) complies with any applicable laws (including regulations) for the safeguarding of sensitive information.

(B) INCLUSION.—The term “research institution” includes a national laboratory.

(3) WATER SUPPLY SYSTEM.—

(A) IN GENERAL.—The term “water supply system” means a public water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)) or a publicly owned treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)).

(B) INCLUSIONS.—The term “water supply system” includes—

- (i) a water source, including—
- (I) surface water in a lake, reservoir, or other impoundment;
- (II) flowing water in a river; or
- (III) ground water in an aquifer;
- (ii) a system of aqueducts, tunnels, reservoirs, or pumping facilities to convey water from the water source;
- (iii) a treatment facility;
- (iv) a distribution system carrying finished water to users through a system of mains and subsidiary pipes; or
- (v) a wastewater collection and treatment system.

SEC. 03. WATER INFRASTRUCTURE SECURITY GRANT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program under which the Administrator shall make grants to, and enter into cooperative agreements with, research institutions to improve the protection and security of water supply systems by carrying out eligible projects described in subsection (c) on technologies and processes that address physical and cyber threats to water supply systems.

(b) CONSULTATION.—The Administrator shall consult with the Director of Central Intelligence to ensure that programs conducted pursuant to this title appropriately protect classified information.

(c) ELIGIBLE PROJECTS.—To be eligible for assistance under subsection (a), a project shall—

(1) assess security issues for water supply systems by—

(A) conducting system-specific and system-wide assessments of the scope of and future implications of security issues for water supply systems; and

(B) developing and refining vulnerability assessment tools for water supply systems to identify—

(i) physical vulnerabilities, including biological, chemical, and radiological contamination; and

(ii) cyber vulnerabilities;

(2) protect water supply systems from a potential threat by—

(A) developing technologies, processes, guidelines, standards, and procedures that protect—

(i) the physical assets of water supply systems, including protection from the impact of biological, chemical, and radiological contamination;

(ii) information systems, including process controls and supervisory control and data acquisition; and

(iii) cyber systems at water supply systems;

(B) developing real-time monitoring systems to protect against biological, chemical, or radiological attack; and

(C) developing educational and awareness programs for water supply systems;

(3) develop technologies and processes for addressing the mitigation, response, and recovery of biological, chemical, and radiological contamination of water supply systems;

(4) implement the requirements of Presidential Decision Directive 63 by refining and operating the Information Sharing and Analysis Center to capture and share information concerning threats, malevolent events, and best practices; or

(5) test and evaluate new technologies and processes by—

(A) developing regional pilot facilities to demonstrate upgraded security systems, assess new technologies, and determine the effect of enhanced security on operations and costs of the water supply system; or

(B) conducting demonstrations of other technologies and processes to protect water supply systems.

(d) SELECTION CRITERIA.—

(1) IN GENERAL.—The Administrator, in consultation with representatives of appropriate Federal and State agencies, water supply systems, and other appropriate public and private entities, shall establish guidelines, procedures, and criteria for the award of assistance under subsection (a).

(2) REQUIREMENTS.—The Administrator shall ensure that projects carried out under this title reflect the needs of water supply systems of various sizes and geographic areas of the United States.

(3) TRANSMISSION TO CONGRESS.—The Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of the guidelines, procedures, and criteria established under paragraph (1).

(4) PUBLICATION.—Not later than 30 days after the date on which the Administrator transmits to Congress the guidelines, procedures, and criteria under paragraph (3), the Administrator shall publish the guidelines, procedures, and criteria in the Federal Register.

(e) AMOUNT.—Assistance with respect to any 1 project carried out under this title shall not exceed \$1,000,000 in any 1 year.

(f) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out—

(A) a project under subsection (c)(5) shall be 50 percent; and

(B) a project under paragraphs (1) through (4) of subsection (c) shall be 100 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a project under subsection (c)(5) may be provided in cash or in-kind.

(g) INFORMATION SHARING.—As soon as practicable after the results of a project carried out under this title have been evaluated, the Administrator shall disseminate to water supply systems information on the results of the project through—

(1) the Information Sharing and Analysis Center; or

(2) other appropriate means.

(h) REPORT.—The Administrator shall, as appropriate, periodically submit to the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of the program established under subsection (a).

SEC. 04. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title \$12,000,000 for each of fiscal years 2002 through 2007, to remain available until expended.

SEC. 05. ASSISTANCE FOR ARSENIC REQUIREMENTS.

For each of fiscal years 2002 and 2003, from unobligated funds available to the Adminis-

trator, the Administrator shall use \$20,000,000 to provide assistance for small water supply systems to comply with requirements relating to arsenic in drinking water.

AUTHORITY FOR COMMITTEES TO MEET**COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet to conduct a business meeting during the session of the Senate on Wednesday, November 14, 2001. The purpose of this business meeting will be to discuss the new Federal farm bill.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, November 14 at 9:30 a.m. to conduct a hearing. The committee will receive testimony on the nomination of Kathleen Clarke to be Director of the Bureau of Land Management, Department of the Interior.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Superfund, Toxics, Risk, and Waste Management be authorized to meet on Wednesday, November 14, 2001 at 2 p.m. to conduct a hearing on S. 1602, the Chemical Site Security Act of 2001. The hearing will be held in Rm. SD-406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 14, 2001, at 10:30 a.m. to hold a business meeting.

Agenda**Nominations**

George Argyros, Sr., of California, to be Ambassador to Spain, and to serve concurrently and without additional compensation as Ambassador to Andorra.

Robert Beecroft, of Maryland, for rank of Ambassador during his tenure of service as Head of Mission, Organization for Security and Cooperation in Europe (OSCE), Bosnia and Herzegovina.

Lyons Brown, Jr., of Kentucky, to be Ambassador to the Republic of Austria.

Raymond Burghardt, of New York, to be Ambassador to Vietnam.

Larry Dinger, of Iowa, to be Ambassador to Federated States of Micronesia.