

107TH CONGRESS
1ST SESSION

H. R. 4

To enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2001

Mr. TAUZIN (for himself, Mr. THOMAS, Mr. HANSEN, and Mr. OXLEY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science, Ways and Means, Resources, Education and the Workforce, Transportation and Infrastructure, the Budget, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

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

3 **SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

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

Sec. 1. Short title and table of contents.

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Sec. 100. Short title.

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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.

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

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Sec. 141. Energy Star program.

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Sec. 143. Appliance standards.

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Sec. 153. Biodiesel fuel use credits.

Sec. 154. Mobile to stationary source trading.

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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.
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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 nonalternative fuels.
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- Sec. 301. Budget status of Nuclear Waste Fund.
- Sec. 302. License period.
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- Sec. 304. Depleted uranium hexafluoride.
- Sec. 305. Nuclear Regulatory Commission meetings.
- Sec. 306. Cooperative research and development and special demonstration projects for the uranium mining industry.
- Sec. 307. Maintenance of a viable domestic uranium conversion industry.
- Sec. 308. Paducah decontamination and decommissioning plan.

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- Sec. 602. Gasoline blendstock requirements.
- Sec. 603. Boutique fuels.
- Sec. 604. Funding for MTBE contamination.

TITLE VI—RENEWABLE ENERGY

- Sec. 701. Assessment of renewable energy resources.
- Sec. 702. Renewable energy production incentive.

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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

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

4 “(2) Energy Conservation and Production Act,
5 including sections 301 through 308 (42 U.S.C.
6 6831–6837) (energy conservation standards for new
7 buildings).

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

11 “(4) Energy Policy Act of 1992, including sec-
12 tions 103 (42 U.S.C. 13458) (energy efficient light-
13 ing and building centers), 121 (42 U.S.C. 6292
14 note) (energy efficiency labeling for windows and
15 window systems), 125 (42 U.S.C. 6292 note) (en-
16 ergy efficiency information for commercial office
17 equipment), 126 (42 U.S.C. 6292 note) (energy effi-
18 ciency information for luminaires), 131 (42 U.S.C.
19 6348) (energy efficiency in industrial facilities), and
20 132 (42 U.S.C. 6349) (process-oriented industrial
21 energy efficiency).”.

1 **Subtitle B—Federal Leadership in**
2 **Energy Conservation**

3 **SEC. 121. FEDERAL FACILITIES AND NATIONAL ENERGY SE-**
4 **CURITY.**

5 (a) PURPOSE.—Section 542 of the National Energy
6 Conservation Policy Act (42 U.S.C. 8252) is amended by
7 inserting “, and generally to promote the production, sup-
8 ply, and marketing of energy efficiency products and serv-
9 ices and the production, supply, and marketing of uncon-
10 ventional and renewable energy resources” after “by the
11 Federal Government”.

12 (b) ENERGY MANAGEMENT REQUIREMENTS.—Sec-
13 tion 543 of the National Energy Conservation Policy Act
14 (42 U.S.C. 8253) is amended as follows:

15 (1) In subsection (a)(1), by striking “during the
16 fiscal year 1995” and all that follows through the
17 end and inserting “during—

18 “(1) fiscal year 1995 is at least 10 percent;

19 “(2) fiscal year 2000 is at least 20 percent;

20 “(3) fiscal year 2005 is at least 30 percent;

21 “(4) fiscal year 2010 is at least 35 percent;

22 “(5) fiscal year 2015 is at least 40 percent; and

23 “(6) fiscal year 2020 is at least 45 percent,

24 less than the energy consumption per gross square foot
25 of its Federal buildings in use during fiscal year 1985.

1 To achieve the reductions required by this paragraph, an
2 agency shall make maximum practicable use of energy effi-
3 ciency products and services and unconventional and re-
4 newable energy resources, using guidelines issued by the
5 Secretary under subsection (d) of this section.”.

6 (2) In subsection (d), by inserting “Such guide-
7 lines shall include appropriate model technical stand-
8 ards for energy efficiency and unconventional and
9 renewable energy resources products and services.
10 Such standards shall reflect, to the extent prac-
11 ticable, evaluation of both currently marketed and
12 potentially marketable products and services that
13 could be used by agencies to improve energy effi-
14 ciency and increase unconventional and renewable
15 energy resources.” after “implementation of this
16 part.”.

17 (3) By adding at the end the following new sub-
18 section:

19 “(e) STUDIES.—To assist in developing the guidelines
20 issued by the Secretary under subsection (d) and in fur-
21 therance of the purposes of this section, the Secretary
22 shall conduct studies to identify and encourage the pro-
23 duction and marketing of energy efficiency products and
24 services and unconventional and renewable energy re-
25 sources. To conduct such studies, and to provide grants

1 to accelerate the use of unconventional and renewable en-
2 ergy, there are authorized to be appropriated to the Sec-
3 retary \$20,000,000 for each of the fiscal years 2003
4 through 2010.”.

5 (c) DEFINITION.—Section 551 of the National En-
6 ergy Conservation Policy Act (42 U.S.C. 8259) is amend-
7 ed as follows:

8 (1) By striking “and” at the end of paragraph
9 (8).

10 (2) By striking the period at the end of para-
11 graph (9) and inserting “; and”.

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

14 “(10) the term ‘unconventional and renewable
15 energy resources’ includes renewable energy sources,
16 hydrogen, fuel cells, cogeneration, combined heat
17 and power, heat recovery (including by use of a Stir-
18 ling heat engine), and distributed generation.”.

19 (d) EXCLUSIONS FROM REQUIREMENT.—The Na-
20 tional Energy Conservation Policy Act (42 U.S.C. 7201
21 and following) is amended as follows:

22 (1) In section 543(a)—

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

25 and

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

3 (2) By amending subsection (c) of such section
4 543 to read as follows:

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

8 “(A) the President declares the building to re-
9 quire exclusion for national security reasons; and

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

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

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

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

20 “(2) The President shall only declare buildings de-
21 scribed in paragraph (1)(A) to be excluded, not ancillary
22 or nearby facilities that are not in themselves national se-
23 curity facilities.”.

24 (3) In section 548(b)(1)(A)—

25 (A) by striking “copy of the”; and

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

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

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

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

10 “(5)(A)(i) Agencies shall select only Energy Star
11 products when available when acquiring energy-using
12 products. For product groups where Energy Star labels
13 are not yet available, agencies shall select products that
14 are in the upper 25 percent of energy efficiency as des-
15 ignated by FEMP. In the case of electric motors of 1 to
16 500 horsepower, agencies shall select only premium effi-
17 ciency motors that meet a standard designated by the Sec-
18 retary, and shall replace (not rewind) failed motors with
19 motors meeting such standard. The Secretary shall des-
20 ignate such standard within 90 days of enactment of para-
21 graph, after considering recommendations by the National
22 Electrical Manufacturers Association. The Secretary of
23 Energy shall develop guidelines within 180 days after the
24 enactment of this paragraph for exemptions to this section

1 when equivalent products do not exist, are impractical, or
2 do not meet the agency mission requirements.

3 “(ii) The Administrator of the General Services Ad-
4 ministration and the Secretary of Defense (acting through
5 the Defense Logistics Agency), with assistance from the
6 Administrator of the Environmental Protection Agency
7 and the Secretary of Energy, shall create clear catalogue
8 listings that designate Energy Star products in both print
9 and electronic formats. After any existing federal inven-
10 tories are exhausted, Administrator of the General Serv-
11 ices Administration and the Secretary of Defense (acting
12 through the Defense Logistics Agency) shall only replace
13 inventories with energy-using products that are Energy
14 Star, products that are rated in the top 25 percent of en-
15 ergy efficiency, or products that are exempted as des-
16 igned by FEMP and defined in clause (i).

17 “(iii) Agencies shall incorporate energy-efficient cri-
18 teria consistent with Energy Star and other FEMP des-
19 igned energy efficiency levels into all guide specifications
20 and project specifications developed for new construction
21 and renovation, as well as into product specification lan-
22 guage developed for Basic Ordering Agreements, Blanket
23 Purchasing Agreements, Government Wide Acquisition
24 Contracts, and all other purchasing procedures.

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

4 “(B) Not later than 6 months after the date of the
5 enactment of this paragraph, the Secretary of Energy
6 shall establish guidelines defining the circumstances under
7 which an agency shall not be required to comply with sub-
8 paragraph (A). Such circumstances may include the ab-
9 sence of Energy Star products, systems, or designs that
10 serve the purpose of the agency, issues relating to the com-
11 patibility of a product, system, or design with existing
12 buildings or equipment, and excessive cost compared to
13 other available and appropriate products, systems, or de-
14 signs.

15 “(C) Subparagraph (A) shall apply to agency acquisi-
16 tions occurring on or after October 1, 2002.”.

17 (f) METERING.—Section 543 of such Act (42 U.S.C.
18 8254) is amended by adding at the end the following new
19 subsection:

20 “(f) METERING.—(1) By October 1, 2004, all Fed-
21 eral buildings including buildings owned by the legislative
22 branch and the Federal court system and other energy-
23 using structures shall be metered or submetered in accord-
24 ance with guidelines established by the Secretary under
25 paragraph (2).

1 “(2) Not later than 6 months after the date of the
2 enactment of this subsection, the Secretary, in consulta-
3 tion with the General Services Administration and rep-
4 resentatives from the metering industry, energy services
5 industry, national laboratories, colleges of higher edu-
6 cation, and federal facilities energy managers, shall estab-
7 lish guidelines for agencies to carry out paragraph (1).
8 Such guidelines shall take into consideration each of the
9 following:

10 “(A) Cost.

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

14 “(C) Energy management potential.

15 “(D) Energy savings.

16 “(E) Utility contract aggregation.

17 “(F) Savings from operations and maintenance.

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

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

1 “(e) RETENTION OF ENERGY SAVINGS.—An agency
2 may retain any funds appropriated to that agency for en-
3 ergy expenditures, at buildings subject to the requirements
4 of section 543(a) and (b), that are not made because of
5 energy savings. Except as otherwise provided by law, such
6 funds may be used only for energy efficiency or unconven-
7 tional and renewable energy resources projects.”.

8 (h) REPORTS.—Section 548 of such Act (42 U.S.C.
9 8258) is amended as follows:

10 (1) In subsection (a)—

11 (A) by inserting “in accordance with guide-
12 lines established by and” after “to the Sec-
13 retary,”;

14 (B) by striking “and” at the end of para-
15 graph (1);

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

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

20 “(3) an energy emergency response plan devel-
21 oped by the agency.”.

22 (2) In subsection (b)—

23 (A) by striking “and” at the end of para-
24 graph (3);

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

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

5 “(5) all information transmitted to the Sec-
6 retary under subsection (a).”.

7 (3) By amending subsection (c) to read as fol-
8 lows:

9 “(c) AGENCY REPORTS TO CONGRESS.—Each agency
10 shall annually report to the Congress, as part of the agen-
11 cy’s annual budget request, on all of the agency’s activities
12 implementing any Federal energy management require-
13 ment.”.

14 (i) INSPECTOR GENERAL ENERGY AUDITS.—Section
15 160(c) of the Energy Policy Act of 1992 (42 U.S.C.
16 8262f(c)) is amended by striking “is encouraged to con-
17 duct periodic” and inserting “shall conduct periodic”.

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

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

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

4 “(A) increasing energy and water con-
5 servation, and

6 “(B) using renewable energy sources; and

7 “(2) not later than 180 days after completing
8 the review, develop plans to achieve not less than 50
9 percent of the potential efficiency and renewable sav-
10 ings identified in the review.

11 The agency shall implement such measures as soon there-
12 after as is practicable, consistent with compliance with the
13 requirements of this section.”.

14 **SEC. 122. ENHANCEMENT AND EXTENSION OF AUTHORITY**
15 **RELATING TO FEDERAL ENERGY SAVINGS**
16 **PERFORMANCE CONTRACTS.**

17 (a) **COST SAVINGS FROM OPERATION AND MAINTENANCE**
18 **EFFICIENCIES IN REPLACEMENT FACILITIES.—**

19 Section 801(a) of the National Energy Conservation Pol-
20 icy Act (42 U.S.C. 8287(a)) is amended by adding at the
21 end the following new paragraph:

22 “(3)(A) In the case of an energy savings contract or
23 energy savings performance contract providing for energy
24 savings through the construction and operation of one or
25 more buildings or facilities to replace one or more existing

1 buildings or facilities, benefits ancillary to the purpose of
2 such contract under paragraph (1) may include savings
3 resulting from reduced costs of operation and maintenance
4 at such replacement buildings or facilities when compared
5 with costs of operation and maintenance at the buildings
6 or facilities being replaced, established through a method-
7 ology set forth in the contract.

8 “(B) Notwithstanding paragraph (2)(B), aggregate
9 annual payments by an agency under an energy savings
10 contract or energy savings performance contract referred
11 to in subparagraph (A) may take into account (through
12 the procedures developed pursuant to this section) savings
13 resulting from reduced costs of operation and maintenance
14 as described in that subparagraph.”.

15 (b) EXPANSION OF DEFINITION OF ENERGY SAVINGS
16 TO INCLUDE WATER AND REPLACEMENT FACILITIES.—

17 (1) ENERGY SAVINGS.—Section 804(2) of the
18 National Energy Conservation Policy Act (42 U.S.C.
19 8287c(2)) is amended to read as follows:

20 “(2)(A) The term ‘energy savings’ means a re-
21 duction in the cost of energy or water, from a base
22 cost established through a methodology set forth in
23 the contract, used in an existing federally owned
24 building or buildings or other federally owned facili-
25 ties as a result of—

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

4 “(ii) the increased efficient use of existing
5 energy sources by solar and ground source geo-
6 thermal resources, cogeneration or heat recov-
7 ery (including by the use of a Stirling heat en-
8 gine), excluding any cogeneration process for
9 other than a federally owned building or build-
10 ings or other federally owned facilities; or

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

13 “(B) The term ‘energy savings’ also means, in
14 the case of a replacement building or facility de-
15 scribed in section 801(a)(3), a reduction in the cost
16 of energy, from a base cost established through a
17 methodology set forth in the contract, that would
18 otherwise be utilized in one or more existing feder-
19 ally owned buildings or other federally owned facili-
20 ties by reason of the construction and operation of
21 the replacement building or facility.”.

22 (2) ENERGY SAVINGS CONTRACT.—Section
23 804(3) of the National Energy Conservation Policy
24 Act (42 U.S.C. 8287c(3)) is amended to read as fol-
25 lows:

1 “(3) The terms ‘energy savings contract’ and
2 ‘energy savings performance contract’ mean a con-
3 tract which provides for—

4 “(A) the performance of services for the
5 design, acquisition, installation, testing, oper-
6 ation, and, where appropriate, maintenance and
7 repair, of an identified energy or water con-
8 servation measure or series of measures at one
9 or more locations; or

10 “(B) energy savings through the construc-
11 tion and operation of one or more buildings or
12 facilities to replace one or more existing build-
13 ings or facilities.”.

14 (3) ENERGY OR WATER CONSERVATION MEAS-
15 URE.—Section 804(4) of the National Energy Con-
16 servation Policy Act (42 U.S.C. 8287c(4)) is amend-
17 ed to read as follows:

18 “(4) The term ‘energy or water conservation
19 measure’ means—

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

23 “(B) a water conservation measure that
24 improves water efficiency, is life cycle cost effec-
25 tive, and involves water conservation, water re-

1 cycling or reuse, improvements in operation or
2 maintenance efficiencies, retrofit activities, or
3 other related activities, not at a Federal hydro-
4 electric facility.”.

5 (4) CONFORMING AMENDMENT.—Section
6 801(a)(2)(C) of the National Energy Conservation
7 Policy Act (42 U.S.C. 8287(a)(2)(C)) is amended by
8 inserting “or water” after “financing energy”.

9 (c) EXTENSION OF AUTHORITY.—Section 801(c) of
10 the National Energy Conservation Policy Act (42 U.S.C.
11 8287(c)) is repealed.

12 (d) CONTRACTING AND AUDITING.—Section
13 801(a)(2) of the National Energy Conservation Policy Act
14 (42 U.S.C. 8287(a)(2)) is amended by adding at the end
15 the following new subparagraph:

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

21 **SEC. 123. CLARIFICATION AND ENHANCEMENT OF AUTHOR-**
22 **ITY TO ENTER UTILITY INCENTIVE PRO-**
23 **GRAMS FOR ENERGY SAVINGS.**

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

1 (1) In paragraph (3) by adding at the end the
2 following: “Such a utility incentive program may in-
3 clude a contract or contract term designed to pro-
4 vide for cost-effective electricity demand manage-
5 ment, energy efficiency, or water conservation.”.

6 (2) By adding at the end of the following new
7 paragraphs:

8 “(6) A utility incentive program may include a con-
9 tract or contract term for a reduction in the energy, from
10 a base cost established through a methodology set forth
11 in such a contract, that would otherwise be utilized in one
12 or more federally owned buildings or other federally owned
13 facilities by reason of the construction or operation of one
14 or more replacement buildings or facilities, as well as ben-
15 efits ancillary to the purpose of such contract or contract
16 term, including savings resulting from reduced costs of op-
17 eration and maintenance at new or additional buildings
18 or facilities when compared with the costs of operation and
19 maintenance at existing buildings or facilities.

20 “(7) Federal agencies are encouraged to participate
21 in State or regional demand side reduction programs, in-
22 cluding those operated by wholesale market institutions
23 such as independent system operators, regional trans-
24 mission organizations and other entities. The availability
25 of such programs, and the savings resulting from such

1 participation, should be included in the evaluation of en-
2 ergy options for Federal facilities.”.

3 **SEC. 124. FEDERAL CENTRAL AIR CONDITIONER AND HEAT**
4 **PUMP EFFICIENCY.**

5 (a) REQUIREMENT.—Federal agencies shall be re-
6 quired to acquire central air conditioners and heat pumps
7 that meet or exceed the standards established under sub-
8 section (b) or (c) in the case of all central air conditioners
9 and heat pumps acquired after the date of enactment of
10 this Act.

11 (b) STANDARDS.—The standards referred to in sub-
12 section (a) are the following:

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

16 (2) For air-source heat pumps with cooling ca-
17 pacities less than 65,000 Btu/hour, a Seasonal En-
18 ergy Efficiency Ratio of 12 SEER, and a Heating
19 Seasonal Performance Factor of 7.4.

20 (c) MODIFIED STANDARDS.—The Secretary of En-
21 ergy may establish, after appropriate notice and comment,
22 revised standards providing for reduced energy consump-
23 tion or increased energy efficiency of central air condi-
24 tioners and heat pumps acquired by the Federal Govern-

1 ment, but may not establish standards less rigorous than
2 those established by subsection (b).

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

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

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

18 (2) space constraints or other technical factors
19 would make compliance with this section cost-prohib-
20 itive; or

21 (3) in the case of the Departments of Defense
22 and Energy, compliance with this section would be
23 inconsistent with the proper discharge of national se-
24 curity functions.

1 **SEC. 125. ADVANCED BUILDING EFFICIENCY TESTBED.**

2 (a) ESTABLISHMENT.—The Secretary of Energy
3 shall establish an Advanced Building Efficiency Testbed
4 program for the development, testing, and demonstration
5 of advanced engineering systems, components, and mate-
6 rials to enable innovations in building technologies. The
7 program shall evaluate government and industry building
8 efficiency concepts, and demonstrate the ability of next
9 generation buildings to support individual and organiza-
10 tional productivity and health as well as flexibility and
11 technological change to improve environmental sustain-
12 ability.

13 (b) PARTICIPANTS.—The program established under
14 subsection (a) shall be led by a university having dem-
15 onstrated experience with the application of intelligent
16 workplaces and advanced building systems in improving
17 the quality of built environments. Such university shall
18 also have the ability to combine the expertise from more
19 than 12 academic fields, including electrical and computer
20 engineering, computer science, architecture, urban design,
21 and environmental and mechanical engineering. Such uni-
22 versity shall partner with other universities and entities
23 who have established programs and the capability of ad-
24 vancing innovative building efficiency technologies.

25 (c) AUTHORIZATION OF APPROPRIATIONS.—There
26 are authorized to be appropriated to the Secretary of En-

1 ergy to carry out this section \$18,000,000 for fiscal year
2 2002, to remain available until expended, of which
3 \$6,000,000 shall be provided to the lead university de-
4 scribed in subsection (b), and the remainder shall be pro-
5 vided equally to each of the other participants referred to
6 in subsection (b).

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

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

11 “(h) USE OF INTERVAL DATA IN FEDERAL BUILD-
12 INGS.—Not later than January 1, 2003, each agency shall
13 utilize, to the maximum extent practicable, for the pur-
14 poses of efficient use of energy and reduction in the cost
15 of electricity consumed in its Federal buildings, interval
16 consumption data that measure on a real time or daily
17 basis consumption of electricity in its Federal buildings.
18 To meet the requirements of this subsection each agency
19 shall prepare and submit at the earliest opportunity pur-
20 suant to section 548(a) to the Secretary, a plan describing
21 how the agency intends to meet such requirements, includ-
22 ing how it will designate personnel primarily responsible
23 for achieving such requirements, and otherwise implement
24 this subsection.”.

1 **SEC. 127. REVIEW OF ENERGY SAVINGS PERFORMANCE**
2 **CONTRACT PROGRAM.**

3 Within 180 days after the date of the enactment of
4 this Act, the Secretary of Energy shall complete a review
5 of the Energy Savings Performance Contract program to
6 identify statutory, regulatory, and administrative obstacles
7 that prevent Federal agencies from fully utilizing the pro-
8 gram. In addition, this review shall identify all areas for
9 increasing program flexibility and effectiveness, including
10 audit and measurement verification requirements, ac-
11 counting for energy use in determining savings, con-
12 tracting requirements, and energy efficiency services cov-
13 ered. The Secretary shall report these findings to the
14 Committee on Energy and Commerce of the House of
15 Representatives and the Committee on Energy and Nat-
16 ural Resources of the Senate, and shall implement identi-
17 fied administrative and regulatory changes to increase
18 program flexibility and effectiveness to the extent that
19 such changes are consistent with statutory authority.

20 **SEC. 128. CAPITOL COMPLEX.**

21 (a) **ENERGY INFRASTRUCTURE.**—The Architect of
22 the Capitol, building on the Master Plan Study completed
23 in July 2000, shall commission a study to evaluate the
24 energy infrastructure of the Capital Complex to determine
25 how the infrastructure could be augmented to become
26 more energy efficient, using unconventional and renewable

1 energy resources, in a way that would enable the Complex
2 to have reliable utility service in the event of power fluc-
3 tuations, shortages, or outages.

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

8 **Subtitle C—State Programs**

9 **SEC. 131. AMENDMENTS TO STATE ENERGY PROGRAMS.**

10 (a) STATE ENERGY CONSERVATION PLANS.—Section
11 362 of the Energy Policy and Conservation Act (42 U.S.C.
12 6322) is amended by inserting at the end the following
13 new subsection:

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

22 (b) STATE ENERGY EFFICIENCY GOALS.—Section
23 364 of the Energy Policy and Conservation Act (42 U.S.C.
24 6324) is amended by inserting “Each State energy con-
25 servation plan with respect to which assistance is made

1 available under this part on or after the date of the enact-
2 ment of Energy Advancement and Conservation Act of
3 2001, shall contain a goal, consisting of an improvement
4 of 25 percent or more in the efficiency of use of energy
5 in the State concerned in the calendar year 2010 as com-
6 pared to the calendar year 1990, and may contain interim
7 goals.” after “contain interim goals.”.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
9 365(f) of the Energy Policy and Conservation Act (42
10 U.S.C. 6325(f)) is amended by striking “for fiscal years
11 1999 through 2003 such sums as may be necessary” and
12 inserting “\$75,000,000 for fiscal year 2002,
13 \$100,000,000 for fiscal years 2003 and 2004,
14 \$125,000,000 for fiscal year 2005”.

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

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

20 **SEC. 133. AMENDMENTS TO WEATHERIZATION ASSISTANCE**
21 **PROGRAM.**

22 Section 422 of the Energy Conservation and Produc-
23 tion Act (42 U.S.C. 6872) is amended by striking “for
24 fiscal years 1999 through 2003 such sums as may be nec-
25 essary” and inserting “\$273,000,000 for fiscal year 2002,

1 \$325,000,000 for fiscal year 2003, \$400,000,000 for fis-
2 cal year 2004, and \$500,000,000 for fiscal year 2005”.

3 **SEC. 134. LIHEAP.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
5 2602(b) of the Low-Income Home Energy Assistance Act
6 of 1981 (42 U.S.C. 8621(b)) is amended by striking the
7 first sentence and inserting the following: “There are au-
8 thorized to be appropriated to carry out the provisions of
9 this title (other than section 2607A), \$3,400,000,000 for
10 each of fiscal years 2001 through 2005.”.

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

13 (1) the extent to which Low-Income Home En-
14 ergy Assistance (LIHEAP) and other government
15 energy subsidies paid to consumers discourage en-
16 ergy conservation and energy efficiency investments;
17 and

18 (2) the extent to which the goals of conserva-
19 tion and assistance for low income households could
20 be simultaneously achieved through cash income
21 supplements that do not specifically target energy,
22 thereby maintaining incentives for wise use of expen-
23 sive forms of energy, or through other means.

1 **SEC. 135. HIGH PERFORMANCE PUBLIC BUILDINGS.**

2 (a) PROGRAM ESTABLISHMENT AND ADMINISTRA-
3 TION.—

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

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

10 (A) to assist units of local government in
11 the production, through construction or renova-
12 tion of buildings and facilities they own and op-
13 erate, of high performance public buildings and
14 facilities that are healthful, productive, energy
15 efficient, and environmentally sound;

16 (B) to State energy offices to administer
17 the program of assistance to units of local gov-
18 ernment pursuant to this section; and

19 (C) to State energy offices to promote par-
20 ticipation by units of local government in the
21 Program.

22 (3) GRANTS TO ASSIST UNITS OF LOCAL GOV-
23 ERNMENT.—Grants under paragraph (2)(A) for new
24 public buildings shall be used to achieve energy effi-
25 ciency performance that reduces energy use at least
26 30 percent below that of a public building con-

1 structured in compliance with standards prescribed in
2 Chapter 8 of the 2000 International Energy Con-
3 servation Code, or a similar State code intended to
4 achieve substantially equivalent results. Grants
5 under paragraph (2)(A) for existing public buildings
6 shall be used to achieve energy efficiency perform-
7 ance that reduces energy use below the public build-
8 ing baseline consumption, assuming a 3-year, weath-
9 er-normalized average for calculating such baseline.
10 Grants under paragraph (2)(A) shall be made to
11 units of local government that have—

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

16 (B) made a commitment to use the grant
17 funds to develop high performance public build-
18 ings in accordance with a plan developed and
19 approved pursuant to paragraph (5)(A).

20 (4) OTHER GRANTS.—

21 (A) GRANTS FOR ADMINISTRATION.—

22 Grants under paragraph (2)(B) shall be used to
23 evaluate compliance by units of local govern-
24 ment with the requirements of this section, and
25 in addition may be used for—

1 (i) distributing information and mate-
2 rials to clearly define and promote the de-
3 velopment of high performance public
4 buildings for both new and existing facili-
5 ties;

6 (ii) organizing and conducting pro-
7 grams for local government personnel, ar-
8 chitects, engineers, and others to advance
9 the concepts of high performance public
10 buildings;

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

14 (iv) collecting and monitoring data
15 and information pertaining to the high per-
16 formance public building projects.

17 (B) GRANTS TO PROMOTE PARTICIPA-
18 TION.—Grants under paragraph (2)(C) may be
19 used for promotional and marketing activities,
20 including facilitating private and public financ-
21 ing, promoting the use of energy service compa-
22 nies, working with public building users, and
23 communities, and coordinating public benefit
24 programs.

25 (5) IMPLEMENTATION.—

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

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

13 (b) ALLOCATION OF FUNDS.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (3), funds appropriated to carry out this sec-
16 tion shall be provided to State energy offices.

17 (2) PURPOSES.—Except as provided in para-
18 graph (3), funds appropriated to carry out this sec-
19 tion shall be allocated as follows:

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

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

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

1 (3) OTHER FUNDS.—The Secretary of Energy
2 may retain not to exceed \$300,000 per year from
3 amounts appropriated under subsection (c) to assist
4 State energy offices in coordinating and imple-
5 menting the Program. Such funds may be used to
6 develop reference materials to further define the
7 principles and criteria to achieve high performance
8 public buildings.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to the Secretary of En-
11 ergy to carry out this section such sums as may be nec-
12 essary for each of the fiscal years 2002 through 2010.

13 (d) REPORT TO CONGRESS.—The Secretary of En-
14 ergy shall conduct a biennial review of State actions imple-
15 menting this section, and the Secretary shall report to
16 Congress on the results of such reviews. In conducting
17 such reviews, the Secretary shall assess the effectiveness
18 of the calculation procedures used by the States in estab-
19 lishing eligibility of units of local government for funding
20 under this section, and may assess other aspects of the
21 State program to determine whether they have been effec-
22 tively implemented.

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

24 (1) HIGH PERFORMANCE PUBLIC BUILDING.—

25 The term “high performance public building” means

1 a public building which, in its design, construction,
2 operation, and maintenance, maximizes use of un-
3 conventional and renewable energy resources and en-
4 ergy efficiency practices, is cost-effective on a life
5 cycle basis, uses affordable, environmentally pref-
6 erable, durable materials, enhances indoor environ-
7 mental quality, protects and conserves water, and
8 optimizes site potential.

9 (2) RENEWABLE ENERGY.—The term “renew-
10 able energy” means energy produced by solar, wind,
11 geothermal, hydroelectric, or biomass power.

12 (3) UNCONVENTIONAL AND RENEWABLE EN-
13 ERGY RESOURCES.—The term “unconventional and
14 renewable energy resources” means renewable en-
15 ergy, hydrogen, fuel cells, cogeneration, combined
16 heat and power, heat recovery (including by use of
17 a Stirling heat engine), and distributed generation.

18 **Subtitle D—Energy Efficiency for** 19 **Consumer Products**

20 **SEC. 141. ENERGY STAR PROGRAM.**

21 (a) AMENDMENT.—The Energy Policy and Conserva-
22 tion Act (42 U.S.C. 6201 and following) is amended by
23 inserting the following after section 324:

1 **“SEC. 324A. ENERGY STAR PROGRAM.**

2 “(a) IN GENERAL.—There is established at the De-
3 partment of Energy and the Environmental Protection
4 Agency a program to identify and promote energy-efficient
5 products and buildings in order to reduce energy consump-
6 tion, improve energy security, and reduce pollution
7 through labeling of products and buildings that meet the
8 highest energy efficiency standards. Responsibilities under
9 the program shall be divided between the Department of
10 Energy and the Environmental Protection Agency con-
11 sistent with the terms of agreements between the two
12 agencies. The Administrator and the Secretary shall—

13 “(1) promote Energy Star compliant tech-
14 nologies as the preferred technologies in the market-
15 place for achieving energy efficiency and to reduce
16 pollution;

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

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

21 For the purposes of carrying out this section, there is au-
22 thorized to be appropriated for fiscal years 2002 through
23 2006 such sums as may be necessary, to remain available
24 until expended.

25 “(b) STUDY OF CERTAIN PRODUCTS AND BUILD-
26 INGS.—Within 180 days after the date of enactment of

1 this section, the Secretary and the Administrator, con-
2 sistent with the terms of agreements between the two
3 agencies (including existing agreements with respect to
4 which agency shall handle a particular product or build-
5 ing), shall determine whether the Energy Star label should
6 be extended to additional products and buildings, includ-
7 ing the following:

8 “(1) Air cleaners.

9 “(2) Ceiling fans.

10 “(3) Light commercial heating and cooling
11 products.

12 “(4) Reach-in refrigerators and freezers.

13 “(5) Telephony.

14 “(6) Vending machines.

15 “(7) Residential water heaters.

16 “(8) Refrigerated beverage merchandisers.

17 “(9) Commercial ice makers.

18 “(10) School buildings.

19 “(11) Retail buildings.

20 “(12) Health care facilities.

21 “(13) Homes.

22 “(14) Hotels and other commercial lodging fa-
23 cilities.

24 “(15) Restaurants and other food service facili-
25 ties.

1 “(16) Solar water heaters.

2 “(17) Building-integrated photovoltaic systems.

3 “(18) Reflective pigment coatings.

4 “(19) Windows.

5 “(20) Boilers.

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

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

13 (b) TABLE OF CONTENTS AMENDMENT.—The table
14 of contents of the Energy Policy and Conservation Act is
15 amended by inserting after the item relating to section
16 324 the following new item:

 “Sec. 324A. Energy Star program.”.

17 **SEC. 142. LABELING OF ENERGY EFFICIENT APPLIANCES.**

18 (a) STUDY.—Section 324(e) of the Energy Policy and
19 Conservation Act (42 U.S.C. 6294(e)) is amended as fol-
20 lows:

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

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

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

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

10 (b) NONCOVERED PRODUCTS.—Section 324(a)(2) of
11 the Energy Policy and Conservation Act (42 U.S.C.
12 6294(a)(2)) is amended by adding the following at the
13 end:

14 “(F) Not later than one year after the date of enact-
15 ment of this subparagraph, the Commission shall initiate
16 a rulemaking to prescribe labeling rules under this section
17 applicable to consumer products that are not covered prod-
18 ucts if it determines that labeling of such products is likely
19 to assist consumers in making purchasing decisions and
20 is technologically and economically feasible.

21 “(G) Not later than three months after the date of
22 enactment of this subparagraph, the Commission shall ini-
23 tiate a rulemaking to consider the effectiveness of the cur-
24 rent consumer products labeling program in assisting con-
25 sumers in making purchasing decisions and improving en-

1 ergy efficiency and to consider changes to the label that
2 would improve the effectiveness of the label. Such rule-
3 making shall be completed within 15 months of the date
4 of enactment of this subparagraph.”.

5 **SEC. 143. APPLIANCE STANDARDS.**

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

10 “(u) STANDBY MODE ELECTRIC ENERGY CONSUMP-
11 TION BY HOUSEHOLD APPLIANCES.—(1) In this sub-
12 section:

13 “(A) The term ‘household appliance’ means any
14 device that uses household electric current, operates
15 in a standby mode, and is identified by the Secretary
16 as a major consumer of electricity in standby mode,
17 except digital televisions, digital set top boxes, dig-
18 ital video recorders, any product recognized under
19 the Energy Star program, any product that was on
20 the date of enactment of this Act subject to an en-
21 ergy conservation standard under this section, and
22 any product regarding which the Secretary finds
23 that the expected additional cost to the consumer of
24 purchasing such product as a result of complying
25 with a standard established under this section is not

1 economically justified within the meaning of sub-
2 section (o).

3 “(B) The term ‘standby mode’ means a mode
4 in which a household appliance consumes the least
5 amount of electric energy that the household appli-
6 ance is capable of consuming without being com-
7 pletely switched off (provided that, the amount of
8 electric energy consumed in such mode is substan-
9 tially less than the amount the household appliance
10 would consume in its normal operational mode).

11 “(C) The term ‘major consumer of electricity in
12 standby mode’ means a product for which a stand-
13 ard prescribed under this section would result in
14 substantial energy savings as compared to energy
15 savings achieved or expected to be achieved by
16 standards established by the Secretary under sub-
17 sections (o) and (p) of this section for products that
18 were, at the time of enactment of this subsection,
19 covered products under this section.

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

1 “(B) In the case of analog televisions, the Secretary
2 shall prescribe, on or after the date that is 2 years after
3 the date of enactment of this subsection, in accordance
4 with subsections (o) and (p) of section 325, an energy con-
5 servation standard that is technologically feasible and eco-
6 nomically justified under section 325(o)(2)(A) (in lieu of
7 the 1 watt standard under subparagraph (A)).

8 “(3)(A) A manufacturer or importer of a household
9 appliance may submit to the Secretary an application for
10 an exemption of the household appliance from the stand-
11 ard under paragraph (2).

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

16 “(i) it is not technically feasible to modify the
17 household appliance to enable the household appli-
18 ance to meet the standard;

19 “(ii) the standard is incompatible with an en-
20 ergy efficiency standard applicable to the household
21 appliance under another subsection; or

22 “(iii) the cost of electricity that a typical con-
23 sumer would save in operating the household appli-
24 ance meeting the standard would not equal the in-
25 crease in the price of the household appliance that

1 would be attributable to the modifications that
2 would be necessary to enable the household appli-
3 ance to meet the standard by the earlier of—

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

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

8 “(C) If the Secretary determines that it is not tech-
9 nically feasible to modify a household appliance to meet
10 the standard under paragraph (2), the Secretary shall es-
11 tablish a different standard for the household appliance
12 in accordance with the criteria under subsection (l).

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

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

20 “(i) international test procedures under devel-
21 opment;

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

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

1 “(5) FURTHER REDUCTION OF STANDBY POWER
2 CONSUMPTION.—The Secretary shall provide technical as-
3 sistance to manufacturers in achieving further reductions
4 in standby mode electric energy consumption by household
5 appliances.

6 “(v) STANDBY MODE ELECTRIC ENERGY CONSUMP-
7 TION BY DIGITAL TELEVISIONS, DIGITAL SET TOP
8 BOXES, AND DIGITAL VIDEO RECORDERS.—The Sec-
9 retary shall initiate on January 1, 2007 a rulemaking to
10 prescribe, in accordance with subsections (o) and (p), an
11 energy conservation standard of standby mode electric en-
12 ergy consumption by digital television sets, digital set top
13 boxes, and digital video recorders. The Secretary shall
14 issue a final rule prescribing such standards not later than
15 18 months thereafter. In determining whether a standard
16 under this section is technologically feasible and economi-
17 cally justified under section 325(o)(2)(A), the Secretary
18 shall consider the potential effects on market penetration
19 by digital products covered under this section, and shall
20 consider any recommendations by the FCC regarding such
21 effects.”.

22 (2) Section 325(o)(3) of the Energy Policy and
23 Conservation Act (42 U.S.C. 6295(n)(1)) is amend-
24 ed by inserting at the end of the paragraph the fol-
25 lowing: “Notwithstanding any provision of this part,

1 the Secretary shall not amend a standard estab-
2 lished under subsection (u) or (v) of this section.”.

3 (b) STANDARDS FOR NONCOVERED PRODUCTS.—

4 Section 325(m) of the Energy Policy and Conservation
5 Act (42 U.S.C. 6295(m)) is amended as follows:

6 (1) Inserting “(1)” before “After”.

7 (2) Inserting the following at the end:

8 (2) “Not later than one year after the date of enact-
9 ment of the Energy Advancement and Conservation Act
10 of 2001, the Secretary shall conduct a rulemaking to de-
11 termine whether consumer products not classified as a
12 covered product under section 322(a)(1) through (18)
13 meet the criteria of section 322(b)(1) and is a major con-
14 sumer of electricity. If the Secretary finds that a consumer
15 product not classified as a covered product meets the cri-
16 teria of section 322(b)(1), he shall prescribe, in accordance
17 with subsections (o) and (p), an energy conservation
18 standard for such consumer product, if such standard is
19 reasonably probable to be technologically feasible and eco-
20 nomically justified within the meaning of subsection
21 (o)(2)(A). As used in this paragraph, the term ‘major con-
22 sumer of electricity’ means a product for which a standard
23 prescribed under this section would result in substantial
24 aggregate energy savings as compared to energy savings
25 achieved or expected to be achieved by standards estab-

1 lished by the Secretary under paragraphs (o) and (p) of
2 this section for products that were, at the time of enact-
3 ment of this paragraph, covered products under this sec-
4 tion.”.

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

11 “(c) HVAC MAINTENANCE.—For the purpose of en-
12 suring that installed air conditioning and heating systems
13 operate at their maximum rated efficiency levels, the Sec-
14 retary shall, within 180 days of the date of enactment of
15 this subsection, develop and implement a public education
16 campaign to educate homeowners and small business own-
17 ers concerning the energy savings resulting from regularly
18 scheduled maintenance of air conditioning, heating, and
19 ventilating systems. In developing and implementing this
20 campaign, the Secretary shall consider support by the De-
21 partment of public education programs sponsored by trade
22 and professional and energy efficiency organizations. The
23 public service information shall provide sufficient informa-
24 tion to allow consumers to make informed choices from
25 among professional, licensed (where State or local licens-

1 ing is required) contractors. There are authorized to be
2 appropriated to carry out this subsection \$5,000,000 for
3 fiscal years 2002 and 2003 in addition to amounts other-
4 wise appropriated in this part.”.

5 (d) EFFICIENCY STANDARDS FOR FURNACE FANS,
6 CEILING FANS, AND COLD DRINK VENDING MA-
7 CHINES.—

8 (1) DEFINITIONS.—Section 321 of the Energy
9 Policy and Conservation Act (42 U.S.C. 6291) is
10 amended by adding the following at the end thereof:

11 “(32) The term ‘residential furnace fan’ means
12 an electric fan installed as part of a furnace for pur-
13 poses of circulating air through the system air fil-
14 ters, the heat exchangers or heating elements of the
15 furnace, and the duct work.

16 “(33) The terms ‘residential central air condi-
17 tioner fan’ and ‘heat pump circulation fan’ mean an
18 electric fan installed as part of a central air condi-
19 tioner or heat pump for purposes of circulating air
20 through the system air filters, the heat exchangers
21 of the air conditioner or heat pump, and the duct
22 work.

23 “(34) The term ‘suspended ceiling fan’ means
24 a fan intended to be mounted to a ceiling outlet box,
25 ceiling building structure, or to a vertical rod sus-

1 pended from the ceiling, and which as blades which
2 rotate below the ceiling and consists of an electric
3 motor, fan blades (which rotate in a direction par-
4 allel to the floor), an optional lighting kit, and one
5 or more electrical controls (integral or remote) gov-
6 erning fan speed and lighting operation.

7 “(35) The term ‘refrigerated bottled or canned
8 beverage vending machine’ means a machine that
9 cools bottled or canned beverages and dispenses
10 them upon payment.”.

11 (2) TESTING REQUIREMENTS.—Section 323 of
12 the Energy Policy and Conservation Act (42 U.S.C.
13 6293) is amended by adding the following at the end
14 thereof:

15 “(f) ADDITIONAL CONSUMER PRODUCTS.—The Sec-
16 retary shall within 18 months after the date of enactment
17 of this subsection prescribe testing requirements for resi-
18 dential furnace fans, residential central air conditioner
19 fans, heat pump circulation fans, suspended ceiling fans,
20 and refrigerated bottled or canned beverage vending ma-
21 chines. Such testing requirements shall be based on exist-
22 ing test procedures used in industry to the extent practical
23 and reasonable. In the case of residential furnace fans,
24 residential central air conditioner fans, heat pump circula-
25 tion fans, and suspended ceiling fans, such test procedures

1 shall include efficiency at both maximum output and at
2 an output no more than 50 percent of the maximum out-
3 put.”.

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

8 “(w) RESIDENTIAL FURNACE FANS, CENTRAL AIR
9 AND HEAT PUMP CIRCULATION FANS, SUSPENDED CEIL-
10 ING FANS, AND VENDING MACHINES.—(1) The Secretary
11 shall, within 18 months after the date of enactment of this
12 subsection, assess the current and projected future market
13 for residential furnace fans, residential central air condi-
14 tioner and heat pump circulation fans, suspended ceiling
15 fans, and refrigerated bottled or canned beverage vending
16 machines. This assessment shall include an examination
17 of the types of products sold, the number of products in
18 use, annual sales of these products, energy used by these
19 products sold, the number of products in use, annual sales
20 of these products, energy used by these products, esti-
21 mates of the potential energy savings from specific tech-
22 nical improvements to these products, and an examination
23 of the cost-effectiveness of these improvements. Prior to
24 the end of this time period, the Secretary shall hold an
25 initial scoping workshop to discuss and receive input to

1 plans for developing minimum efficiency standards for
2 these products.

3 “(2) The Secretary shall within 24 months after the
4 date on which testing requirements are prescribed by the
5 Secretary pursuant to section 323(f), prescribe, by rule,
6 energy conservation standards for residential furnace fans,
7 residential central air conditioner and heat pump circula-
8 tion fans, suspended ceiling fans, and refrigerated bottled
9 or canned beverage vending machines. In establishing
10 these standards, the Secretary shall use the criteria and
11 procedures contained in subsections (l) and (m). Any
12 standard prescribed under this section shall apply to prod-
13 ucts manufactured 36 months after the date such rule is
14 published.”.

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

18 “(5) The Secretary shall within 6 months after the
19 date on which energy conservation standards are pre-
20 scribed by the Secretary for covered products referred to
21 in section 325(w), prescribe, by rule, labeling requirements
22 for such products. These requirements shall take effect on
23 the same date as the standards prescribed pursuant to sec-
24 tion 325(w).”.

1 (5) COVERED PRODUCTS.—Section 322(a) of
 2 the Energy Policy and Conservation Act (42 U.S.C.
 3 6292(a)) is amended by redesignating paragraph
 4 (19) as paragraph (20) and by inserting after para-
 5 graph (18) the following:

6 “(19) Beginning on the effective date for stand-
 7 ards established pursuant to subsection (v) of sec-
 8 tion 325, each product referred to in such subsection
 9 (v).”.

10 **Subtitle E—Energy Efficient** 11 **Vehicles**

12 **SEC. 151. HIGH OCCUPANCY VEHICLE EXCEPTION.**

13 (a) IN GENERAL.—Notwithstanding section
 14 102(a)(1) of title 23, United States Code, a State may,
 15 for the purpose of promoting energy conservation, permit
 16 a vehicle with fewer than 2 occupants to operate in high
 17 occupancy vehicle lanes if such vehicle is a hybrid vehicle
 18 or is fueled by an alternative fuel.

19 (b) HYBRID VEHICLE DEFINED.—In this section, the
 20 term “hybrid vehicle” means a motor vehicle—

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

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

25 (B) a rechargeable energy storage system;

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

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

11 (B) for 2004 and later model vehicles, has
12 received a certificate that such vehicle meets
13 the Tier II emission level established in regula-
14 tions prescribed by the Administrator of the
15 Environmental Protection Agency under section
16 202(i) of the Clean Air Act (42 U.S.C. 7521(i))
17 for that make and model year vehicle; and

18 (3) which is made by a manufacturer.

19 (c) ALTERNATIVE FUEL DEFINED.—In this section,
20 the term “alternative fuel” has the meaning such term has
21 under section 301(2) of the Energy Policy Act of 1992
22 (42 U.S.C. 13211(2)).

23 **SEC. 152. RAILROAD EFFICIENCY.**

24 (a) LOCOMOTIVE TECHNOLOGY DEMONSTRATION.—

25 The Secretary of Energy shall establish a public-private

1 research partnership with railroad carriers, locomotive
2 manufacturers, and a world-class research and test center
3 dedicated to the advancement of railroad technology, effi-
4 ciency, and safety that is owned by the Federal Railroad
5 Administration and operated in the private sector, for the
6 development and demonstration of locomotive technologies
7 that increase fuel economy and reduce emissions.

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

13 **SEC. 153. BIODIESEL FUEL USE CREDITS.**

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

16 (1) by striking “NOT” in the subsection head-
17 ing; and

18 (2) by striking “not”.

19 **SEC. 154. MOBILE TO STATIONARY SOURCE TRADING.**

20 Within 90 days after the enactment of this section,
21 the Administrator of the Environmental Protection Agen-
22 cy is directed to commence a review of the Agency’s poli-
23 cies regarding the use of mobile to stationary source trad-
24 ing of emission credits under the Clean Air Act to deter-
25 mine whether such trading can provide both nonattain-

1 ment and attainment areas with additional flexibility in
2 achieving and maintaining healthy air quality and increas-
3 ing use of alternative fuel and advanced technology vehi-
4 cles, thereby reducing United States dependence on for-
5 eign oil.

6 **Subtitle F—Other Provisions**

7 **SEC. 161. REVIEW OF REGULATIONS TO ELIMINATE BAR-** 8 **RIERS TO EMERGING ENERGY TECHNOLOGY.**

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

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

21 (c) PERIODIC REVIEW.—Each agency shall subse-
22 quently review its regulations and standards in the man-
23 ner specified in this section no less frequently than every
24 5 years, and report their findings to Congress and the
25 President. Such reviews shall include a detailed analysis

1 of all agency actions taken to remove existing barriers to
2 emerging energy technologies.

3 **SEC. 162. ADVANCED IDLE ELIMINATION SYSTEMS.**

4 (a) DEFINITIONS.—

5 (1) ADVANCED IDLE ELIMINATION SYSTEM.—

6 The term “advanced idle elimination system” means
7 a device or system of devices that is installed at a
8 truck stop or other location (for example, a loading,
9 unloading, or transfer facility) where vehicles (such
10 as trucks, trains, buses, boats, automobiles, and rec-
11 reational vehicles) are parked and that is designed
12 to provide to the vehicle the services (such as heat,
13 air conditioning, and electricity) that would other-
14 wise require the operation of the auxiliary or drive
15 train engine or both while the vehicle is stationary
16 and parked.

17 (2) EXTENDED IDLING.—The term “extended
18 idling” means the idling of a motor vehicle for a pe-
19 riod greater than 60 minutes.

20 (b) RECOGNITION OF BENEFITS OF ADVANCED IDLE
21 ELIMINATION SYSTEMS.—Within 90 days after the date
22 of enactment of this subsection, the Administrator of the
23 Environmental Protection Agency is directed to commence
24 a review of the Agency’s mobile source air emissions mod-
25 els used under the Clean Air Act to determine whether

1 such models accurately reflect the emissions resulting
2 from extended idling of heavy-duty trucks and other vehi-
3 cles and engines, and shall update those models as the
4 Administrator deems appropriate. Additionally, within 90-
5 days after the date of enactment of this subsection, the
6 Administrator shall commence a review as to the appro-
7 priate emissions reductions credit that should be allotted
8 under the Clean Air Act for the use of advanced idle elimi-
9 nation systems, and whether such credits should be sub-
10 ject to an emissions trading system, and shall revise Agen-
11 cy regulations and guidance as the Administrator deems
12 appropriate.

13 **SEC. 163. STUDY OF BENEFITS AND FEASIBILITY OF OIL BY-**
14 **PASS FILTRATION TECHNOLOGY.**

15 (a) STUDY.—The Secretary of Energy and the Ad-
16 ministrator of the Environmental Protection Agency shall
17 jointly conduct a study of oil bypass filtration technology
18 in motor vehicle engines. The study shall analyze and
19 quantify the potential benefits of such technology in terms
20 of reduced demand for oil and the potential environmental
21 benefits of the technology in terms of reduced waste and
22 air pollution. The Secretary and the Administrator shall
23 also examine the feasibility of using such technology in
24 the Federal motor vehicle fleet.

1 (b) REPORT.—Not later than 6 months after the en-
2 actment of this Act, the Secretary of Energy and the Ad-
3 ministrator of the Environmental Protection Agency shall
4 jointly submit a report containing the results of the study
5 conducted under subsection (a) to the Committee on En-
6 ergy and Commerce of the United States House of Rep-
7 resentatives and to the Committee on Energy and Natural
8 Resources of the United States Senate.

9 **SEC. 164. GAS FLARE STUDY.**

10 (a) STUDY.—The Secretary of Energy shall conduct
11 a study of the economic feasibility of installing small co-
12 generation facilities utilizing excess gas flares at petro-
13 chemical facilities to provide reduced electricity costs to
14 customers living within 3 miles of the petrochemical facili-
15 ties. The Secretary shall solicit public comment to assist
16 in preparing the report required under subsection (b).

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

21 **SEC. 165. TELECOMMUTING STUDY.**

22 (a) STUDY REQUIRED.—The Secretary, in consulta-
23 tion with Commission, and the NTIA, shall conduct a
24 study of the energy conservation implications of the wide-
25 spread adoption of telecommuting in the United States.

1 (b) REQUIRED SUBJECTS OF STUDY.—The study re-
2 quired by subsection (a) shall analyze the following sub-
3 jects in relation to the energy saving potential of telecom-
4 muting:

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

8 (2) Other energy reductions accomplished by
9 telecommuting.

10 (3) Existing regulatory barriers that hamper
11 telecommuting, including barriers to broadband tele-
12 communications services deployment.

13 (4) Collateral benefits to the environment, fam-
14 ily life, and other values.

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

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

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

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

1 (3) NTIA.—The term “NTIA” means the Na-
2 tional Telecommunications and Information Admin-
3 istration of the Department of Commerce.

4 (4) TELECOMMUTING.—The term “telecom-
5 muting” means the performance of work functions
6 using communications technologies, thereby elimi-
7 nating or substantially reducing the need to com-
8 mute to and from traditional worksites.

9 **TITLE II—AUTOMOBILE FUEL** 10 **ECONOMY**

11 **SEC. 201. AVERAGE FUEL ECONOMY STANDARDS FOR NON-** 12 **PASSENGER AUTOMOBILES.**

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

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

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

18 “(2) The Secretary shall prescribe under paragraph
19 (1) average fuel economy standards for automobiles (ex-
20 cept passenger automobiles) manufactured in model years
21 2004 through 2010 that are calculated to ensure that the
22 aggregate amount of gasoline projected to be used in those
23 model years by automobiles to which the standards apply
24 is at least 5 billion gallons less than the aggregate amount
25 of gasoline that would be used in those model years by

1 such automobiles if they achieved only the fuel economy
2 required under the average fuel economy standard that ap-
3 plies under this subsection to automobiles (except pas-
4 senger automobiles) manufactured in model year 2002.”.

5 **SEC. 202. CONSIDERATION OF PRESCRIBING DIFFERENT**
6 **AVERAGE FUEL ECONOMY STANDARDS FOR**
7 **NONPASSENGER AUTOMOBILES.**

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

13 (1) establishing a weight-based system for auto-
14 mobiles, that is based on the inertia weight, curb
15 weight, gross vehicle weight rating, or another ap-
16 propriate measure of such automobiles; and

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

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

22 (1) shall consider any recommendations made
23 in the National Academy of Sciences study com-
24 pleted pursuant to the Department of Transpor-
25 tation and Related Agencies Appropriations Act,

1 2000 (Public Law 106–346; 114 Stat. 2763 et seq.);
2 and

3 (2) shall evaluate the merits of any weight-
4 based system in terms of motor vehicle safety, en-
5 ergy conservation, and competitiveness of and em-
6 ployment in the United States automotive sector,
7 and if a weight-based system is established by the
8 Secretary a manufacturer may trade credits between
9 or among the automobiles (except passenger auto-
10 mobiles) manufactured by the manufacturer.

11 **SEC. 203. DUAL FUELED AUTOMOBILES.**

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

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

17 (2) to similarly extend the limitation on the
18 maximum average fuel economy increase for such
19 automobiles, as set forth in subsection (a)(1) of sec-
20 tion 32906 of title 49, United States Code.

21 (b) AMENDMENTS.—

22 (1) MANUFACTURING INCENTIVES.—Section
23 32905 of title 49, United States Code, is amended
24 as follows:

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

4 (B) Subsection (f) is amended by striking
5 “Not later than December 31, 2001, the Sec-
6 retary” and inserting “Not later than Decem-
7 ber 31, 2005, the Secretary”.

8 (C) Subsection (f)(1) is amended by strik-
9 ing “model year 2004” and inserting “model
10 year 2008”.

11 (D) Subsection (g) is amended by striking
12 “Not later than September 30, 2000” and in-
13 serting “Not later than September 30, 2004”.

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

17 (A) Subparagraph (A) is amended by
18 striking “the model years 1993–2004” and in-
19 serting “model years 1993–2008”.

20 (B) Subparagraph (B) is amended by
21 striking “the model years 2005–2008” and in-
22 serting “model years 2009–2012”.

1 **SEC. 204. FUEL ECONOMY OF THE FEDERAL FLEET OF**
2 **AUTOMOBILES.**

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

5 **“§ 32917. Standards for executive agency automobiles**

6 “(a) **BASELINE AVERAGE FUEL ECONOMY.**—The
7 head of each executive agency shall determine, for all auto-
8 mobiles in the agency’s fleet of automobiles that were
9 leased or bought as a new vehicle in fiscal year 1999, the
10 average fuel economy for such automobiles. For the pur-
11 poses of this section, the average fuel economy so deter-
12 mined shall be the baseline average fuel economy for the
13 agency’s fleet of automobiles.

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

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

23 “(2) not later than September 30, 2005, the av-
24 erage fuel economy of the new automobiles in the
25 agency’s fleet of automobiles is not less than 3 miles
26 per gallon higher than the baseline average fuel

1 economy determined under subsection (a) for that
2 fleet.

3 “(c) CALCULATION OF AVERAGE FUEL ECONOMY.—
4 Average fuel economy shall be calculated for the purposes
5 of this section in accordance with guidance which the Sec-
6 retary of Transportation shall prescribe for the implemen-
7 tation of this section.

8 “(d) DEFINITIONS.—In this section:

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

12 “(2) The term ‘executive agency’ has the mean-
13 ing given that term in section 105 of title 5.

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

19 **SEC. 205. HYBRID VEHICLES AND ALTERNATIVE VEHICLES.**

20 (a) IN GENERAL.—Section 303(b)(1) of the Energy
21 Policy Act of 1992 is amended by adding the following
22 at the end: “Of the total number of vehicles acquired by
23 a Federal fleet in fiscal years 2004 and 2005, at least
24 5 percent of the vehicles in addition to those covered by
25 the preceding sentence shall be alternative fueled vehicles

1 or hybrid vehicles and in fiscal year 2006 and thereafter
2 at least 10 percent of the vehicles in addition to those cov-
3 ered by the preceding sentence shall be alternative fueled
4 vehicles or hybrid vehicles.”.

5 (b) DEFINITION.—Section 301 of such Act is amend-
6 ed by striking “and” at the end of paragraph (13), by
7 striking the period at the end of paragraph (14) and in-
8 serting “; and” and by adding at the end the following:

9 “(15) The term ‘hybrid vehicle’ means a motor vehi-
10 cle which draws propulsion energy from onboard sources
11 of stored energy which are both—

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

14 “(B) a rechargeable energy storage system.”.

15 **SEC. 206. FEDERAL FLEET PETROLEUM-BASED NONALTER-**
16 **NATIVE FUELS.**

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

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

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

23 “(a) PURPOSES.—The purposes of this section are to
24 complement and supplement the requirements of section
25 303 of this Act that Federal fleets, as that term is defined

1 in section 303(b)(3), acquire in the aggregate a minimum
2 percentage of alternative fuel vehicles, to encourage the
3 manufacture and sale or lease of such vehicles nationwide,
4 and to achieve, in the aggregate, a reduction in the
5 amount of the petroleum-based fuels (other than the alter-
6 native fuels defined in this title) used by new light-duty
7 motor vehicles acquired by the Federal Government in
8 model years 2004 through 2010 and thereafter.

9 “(b) IMPLEMENTATION.—In furtherance of such pur-
10 poses, such Federal fleets in the aggregate shall reduce
11 the purchase of petroleum-based nonalternative fuels for
12 such fleets beginning October 1, 2003, through September
13 30, 2009, from the amount purchased for such fleets over
14 a comparable period since enactment of this Act, as deter-
15 mined by the Secretary, through the annual purchase, in
16 accordance with section 304, and the use of alternative
17 fuels for the light-duty motor vehicles of such Federal
18 fleets, so as to achieve levels which reflect total reliance
19 by such fleets on the consumptive use of alternative fuels
20 consistent with the provisions of section 303(b) of this
21 Act. The Secretary shall, within 120 days after the enact-
22 ment of this section, promulgate, in consultation with the
23 Administrator of the General Services Administration and
24 the Director of the Office of Management and Budget and
25 such other heads of entities referenced in section 303 with-

1 in the executive branch as such Director may designate,
2 standards for the full and prompt implementation of this
3 section by such entities. The Secretary shall monitor com-
4 pliance with this section and such standards by all such
5 fleets and shall report annually to the Congress, based on
6 reports by the heads of such fleets, on the extent to which
7 the requirements of this section and such standards are
8 being achieved. The report shall include information on
9 annual reductions achieved of petroleum-based fuels and
10 the problems, if any, encountered in acquiring alternative
11 fuels and in requiring their use.”.

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

14 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary or, as
16 appropriate, the head of each Federal fleet subject to the
17 provisions of this section and section 313 of this Act, such
18 sums as may be necessary to achieve the purposes of sec-
19 tion 313(a) and the provisions of this section. Such sums
20 shall remain available until expended.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of such Act is amended by adding at the
23 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.”.

1 **SEC. 207. STUDY OF FEASIBILITY AND EFFECTS OF REDUC-**
2 **ING USE OF FUEL FOR AUTOMOBILES.**

3 (a) IN GENERAL.—Not later than 30 days after the
4 date of the enactment of this Act, the Secretary of Trans-
5 portation shall enter into an arrangement with the Na-
6 tional Academy of Sciences under which the Academy
7 shall study the feasibility and effects of reducing by model
8 year 2010, by a significant percentage, the use of fuel for
9 automobiles.

10 (b) SUBJECTS OF STUDY.—The study under this sec-
11 tion shall include—

12 (1) examination of, and recommendation of al-
13 ternatives to, the policy under current Federal law
14 of establishing average fuel economy standards for
15 automobiles and requiring each automobile manufac-
16 turer to comply with average fuel economy standards
17 that apply to the automobiles it manufactures;

18 (2) examination of how automobile manufactur-
19 ers could contribute toward achieving the reduction
20 referred to in subsection (a);

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

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

3 (A) gasoline supplies;

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

7 (C) motor vehicle safety; and

8 (D) air quality.

9 (c) REPORT.—The Secretary shall require the Na-
10 tional Academy of Sciences to submit to the Secretary and
11 the Congress a report on the findings, conclusion, and rec-
12 ommendations of the study under this section by not later
13 than 1 year after the date of the enactment of this Act.

14 **TITLE III—NUCLEAR ENERGY**

15 **SEC. 301. BUDGET STATUS OF NUCLEAR WASTE FUND.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, the receipts and disbursements of the Nuclear
18 Waste Fund established under section 302 of the Nuclear
19 Waste Policy Act of 1982 (42 U.S.C. 10222) shall not
20 be counted as new budget authority, outlays, receipts, or
21 deficit or surplus for purposes of—

22 (1) the budget of the United States Govern-
23 ment as submitted by the President;

24 (2) the congressional budget; or

1 (3) the Balanced Budget and Emergency Def-
2 icit Control Act of 1985.

3 (b) EFFECT ON PAYGO SCORECARD.—Upon the en-
4 actment of this Act, the Director of the Office of Manage-
5 ment and Budget shall not make any estimates of changes
6 in direct spending outlays and receipts under section
7 252(d) of the Balanced Budget and Emergency Deficit
8 Control Act of 1985 resulting from the enactment of sub-
9 section (a) of this section.

10 **SEC. 302. LICENSE PERIOD.**

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

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

15 “c. LICENSE PERIOD.—

16 “(1) IN GENERAL.—Each such”; and

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

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

1 **SEC. 303. COST RECOVERY FROM GOVERNMENT AGENCIES.**

2 Section 161 w. of the Atomic Energy Act of 1954
3 (42 U.S.C. 2201(w)) is amended—

4 (1) by striking “for or is issued” and all that
5 follows through “1702” and inserting “to the Com-
6 mission for, or is issued by the Commission, a li-
7 cense or certificate”;

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

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

12 **SEC. 304. DEPLETED URANIUM HEXAFLUORIDE.**

13 Section 1(b) of Public Law 105–204 is amended by
14 striking “fiscal year 2002” and inserting “fiscal year
15 2005”.

16 **SEC. 305. NUCLEAR REGULATORY COMMISSION MEETINGS.**

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

1 **SEC. 306. COOPERATIVE RESEARCH AND DEVELOPMENT**
2 **AND SPECIAL DEMONSTRATION PROJECTS**
3 **FOR THE URANIUM MINING INDUSTRY.**

4 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
5 are authorized to be appropriated to the Secretary
6 \$10,000,000 for each of fiscal years 2002, 2003, and 2004
7 for—

8 (1) cooperative, cost-shared, agreements be-
9 tween the Department of Energy and domestic ura-
10 nium producers to identify, test, and develop im-
11 proved in situ leaching mining technologies, includ-
12 ing low-cost environmental restoration technologies
13 that may be applied to sites after completion of in
14 situ leaching operations; and

15 (2) funding for competitively selected dem-
16 onstration projects with domestic uranium producers
17 relating to—

18 (A) enhanced production with minimal en-
19 vironmental impacts;

20 (B) restoration of well fields; and

21 (C) decommissioning and decontamination
22 activities.

23 (b) **DOMESTIC URANIUM PRODUCER.**—For purposes
24 of this section, the term “domestic uranium producer” has
25 the meaning given that term in section 1018(4) of the En-
26 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except

1 that the term shall not include any producer that has not
2 produced uranium from domestic reserves on or after July
3 30, 1998.

4 **SEC. 307. MAINTENANCE OF A VIABLE DOMESTIC URANIUM**
5 **CONVERSION INDUSTRY.**

6 There are authorized to be appropriated to the Sec-
7 retary \$800,000 for contracting with the Nation's sole re-
8 maining uranium converter for the purpose of performing
9 research and development to improve the environmental
10 and economic performance of United States uranium con-
11 version operations.

12 **SEC. 308. PADUCAH DECONTAMINATION AND DECOMMIS-**
13 **SIONING PLAN.**

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

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

22 (2) the remediation of Department of Energy
23 Material Storage Areas at the Paducah Gaseous Dif-
24 fusion Plant.

1 Such plan shall inventory all surplus facilities and build-
2 ings, and identify and rank health and safety risks associ-
3 ated with such facilities and buildings. Such plan shall in-
4 ventory all Department of Energy Material Storage Areas,
5 and identify and rank health and safety risks associated
6 with such Department of Energy Material Storage Areas.
7 The Department of Energy shall incorporate these risk
8 factors in designing the sequence and schedule for the
9 plan. Such plan shall identify funding requirements that
10 are in addition to the expected outlays included in the De-
11 partment of Energy’s Environmental Management Plan
12 for the Paducah Gaseous Diffusion Plan.

13 **TITLE IV—HYDROELECTRIC**
14 **ENERGY**

15 **SEC. 401. ALTERNATIVE CONDITIONS AND FISHWAYS.**

16 (a) ALTERNATIVE MANDATORY CONDITIONS.—Sec-
17 tion 4 of the Federal Power Act (16 U.S.C. 797) is
18 amended by adding at the end the following:

19 “(h)(1) Whenever any person applies for a license for
20 any project works within any reservation of the United
21 States, and the Secretary of the department under whose
22 supervision such reservation falls deems a condition to
23 such license to be necessary under the first proviso of sub-
24 section (e), the license applicant or any other party to the
25 licensing proceeding may propose an alternative condition.

1 “(2) Notwithstanding the first proviso of subsection
2 (e), the Secretary of the department under whose super-
3 vision the reservation falls shall accept the proposed alter-
4 native condition referred to in paragraph (1), and the
5 Commission shall include in the license such alternative
6 condition, if the Secretary of the appropriate department
7 determines, based on substantial evidence provided by the
8 party proposing such alternative condition, that the alter-
9 native condition—

10 “(A) provides no less protection for the reserva-
11 tion than provided by the condition deemed nec-
12 essary by the Secretary; and

13 “(B) will either—

14 “(i) cost less to implement, or

15 “(ii) result in improved operation of the
16 project works for electricity production

17 as compared to the condition deemed necessary by
18 the Secretary.

19 “(3) Within one year after the enactment of this sub-
20 section, each Secretary concerned shall, by rule, establish
21 a process to expeditiously resolve conflicts arising under
22 this subsection.”.

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

1 (1) inserting “(a)” before the first sentence;

2 and

3 (2) adding at the end the following:

4 “(b)(1) Whenever the Commission shall require a li-
5 censee to construct, maintain, or operate a fishway pre-
6 scribed by the Secretary of the Interior or the Secretary
7 of Commerce under this section, the licensee or any other
8 party to the proceeding may propose an alternative to such
9 prescription to construct, maintain, or operate a fishway.

10 “(2) Notwithstanding subsection (a), the Secretary of
11 the Interior or the Secretary of Commerce, as appropriate,
12 shall accept and prescribe, and the Commission shall re-
13 quire, the proposed alternative referred to in paragraph
14 (1), if the Secretary of the appropriate department deter-
15 mines, based on substantial evidence provided by the party
16 proposing such alternative, that the alternative—

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

19 “(B) will either—

20 “(i) cost less to implement, or

21 “(ii) result in improved operation of the
22 project works for electricity production

23 as compared to the fishway initially prescribed by
24 the Secretary.

1 “(3) Within one year after the enactment of this sub-
2 section, the Secretary of the Interior and the Secretary
3 of Commerce shall each, by rule, establish a process to
4 expeditiously resolve conflicts arising under this sub-
5 section.”

6 **SEC. 402. FERC DATA ON HYDROELECTRIC LICENSING.**

7 (a) DATA COLLECTION PROCEDURES.—The Federal
8 Energy Regulatory Commission shall revise its procedures
9 regarding the collection of data in connection with the
10 Commission’s consideration of hydroelectric licenses under
11 the Federal Power Act. Such revised data collection proce-
12 dures shall be designed to provide the Commission with
13 complete and accurate information concerning the time
14 and costs to parties involved in the licensing process. Such
15 data shall be available for each significant stage in the
16 licensing process and shall be designed to identify projects
17 with similar characteristics so that analyses can be made
18 of the time and costs involved in licensing proceedings
19 based upon the different characteristics of those pro-
20 ceedings.

21 (b) REPORTS.—Within 6 months after the date of en-
22 actment of this Act, the Commission shall notify the Com-
23 mittee on Energy and Commerce of the United States
24 House of Representatives and the Committee on Energy
25 and Natural Resources of the United States Senate of the

1 progress made by the Commission under subsection (a),
2 and within one year after such date of enactment, the
3 Commission shall submit a report to such Committees
4 specifying the measures taken by the Commission pursu-
5 ant to subsection (a).

6 **TITLE V—FUELS**

7 **SEC. 601. TANK DRAINING DURING TRANSITION TO SUM-** 8 **MERTIME RFG.**

9 Not later than 60 days after the enactment of the
10 Act, the Administrator of the Environmental Protection
11 Agency shall commence a rulemaking to determine wheth-
12 er modifications to the regulations set forth in 40 C.F.R.
13 Section 80.78 and any associated regulations regarding
14 the transition to high ozone season reformulated gasoline
15 are necessary to ensure that the transition to high ozone
16 season reformulated gasoline is conducted in a manner
17 that minimizes disruptions to the general availability and
18 affordability of gasoline, and maximizes flexibility with re-
19 gard to the draining and inventory management of gaso-
20 line storage tanks located at refineries, terminals, whole-
21 sale and retail outlets, consistent with the goals of the
22 Clean Air Act. The Administrator shall propose and take
23 final action in such rulemaking to ensure that any modi-
24 fications are effective and implemented at least 60 days

1 prior to the beginning of the high ozone season for the
2 year 2002.

3 **SEC. 602. GASOLINE BLENDSTOCK REQUIREMENTS.**

4 Not later than 60 days after the enactment of this
5 Act, the Administrator of the Environmental Protection
6 Agency shall commence a rulemaking to determine wheth-
7 er modifications to product transfer documentation, ac-
8 counting, compliance calculation, and other requirements
9 contained in the regulations of the Administrator set forth
10 in section 80.102 of title 40 of the Code of Federal Regu-
11 lations relating to gasoline blendstocks are necessary to
12 facilitate the movement of gasoline and gasoline feedstocks
13 among different regions throughout the country and to im-
14 prove the ability of petroleum refiners and importers to
15 respond to regional gasoline shortages and prevent unrea-
16 sonable short-term price increases. The Administrator
17 shall take into consideration the extent to which such re-
18 quirements have been, or will be, rendered unnecessary or
19 inefficient by reason of subsequent environmental safe-
20 guards that were not in effect at the time the regulations
21 in section 80.102 of title 40 of the Code of Federal Regu-
22 lations were promulgated. The Administrator shall pro-
23 pose and take final action in such rulemaking to ensure
24 that any modifications are effective and implemented at

1 least 60 days prior to the beginning of the high ozone sea-
2 son for the year 2002.

3 **SEC. 603. BOUTIQUE FUELS.**

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

12 (1) the effect of the variety of such require-
13 ments on the price of motor vehicle fuels to the con-
14 sumer;

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

17 (3) the effect of Federal, State, and local regu-
18 lations, including multiple fuel requirements, on do-
19 mestic refineries and the fuel distribution system;

20 (4) the effect of such requirements on local, re-
21 gional, and national air quality requirements and
22 goals;

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

1 (6) the feasibility of developing national or re-
2 gional fuel specifications for the contiguous United
3 States that would—

4 (A) enhance flexibility in the fuel distribu-
5 tion infrastructure and improve fuel fungibility;

6 (B) reduce price volatility and costs to con-
7 sumers and producers;

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

10 (D) provide increased gasoline market li-
11 quidity; and

12 (7) the extent to which the Environmental Pro-
13 tection Agency's Tier II requirements for conven-
14 tional gasoline may achieve in future years the same
15 or similar air quality results as State reformulated
16 gasoline programs and State programs regarding
17 gasoline volatility (RVP).

18 (b) REPORT.—By December 31, 2001, the Adminis-
19 trator of the Environmental Protection Agency and the
20 Secretary of Energy shall submit a report to the Congress
21 containing the results of the study conducted under sub-
22 section (a). Such report shall contain recommendations for
23 legislative and administrative actions that may be taken
24 to simplify the national distribution system for motor vehi-
25 cle fuel, make such system more cost-effective, and reduce

1 the costs and increase the availability of motor vehicle fuel
2 to the end user while meeting the requirements of the
3 Clean Air Act. Such recommendations shall take into ac-
4 count the need to provide lead time for refinery and fuel
5 distribution system modifications necessary to assure ade-
6 quate fuel supply for all States.

7 **SEC. 604. FUNDING FOR MTBE CONTAMINATION.**

8 Notwithstanding any other provision of law, there is
9 authorized to be appropriated to the Administrator of the
10 Environmental Protection Agency from the Leaking Un-
11 derground Storage Trust Fund not more than
12 \$200,000,000 to be used for taking such action, limited
13 to assessment, corrective action, inspection of under-
14 ground storage tank systems, and groundwater monitoring
15 in connection with MTBE contamination, as the Adminis-
16 trator deems necessary to protect human health and the
17 environment from releases of methyl tertiary butyl ether
18 (MTBE) from underground storage tanks.

19 **TITLE VI—RENEWABLE ENERGY**

20 **SEC. 701. ASSESSMENT OF RENEWABLE ENERGY RE-**
21 **SOURCES.**

22 (a) RESOURCE ASSESSMENT.—Not later than one
23 year after the date of enactment of this Act, and each
24 year thereafter, the Secretary of Energy shall publish an

1 assessment by the National Laboratories of all renewable
2 energy resources available within the United States.

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

5 (1) A detailed inventory describing the available
6 amount and characteristics of solar, wind, biomass,
7 geothermal, hydroelectric and other renewable en-
8 ergy sources.

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

16 **SEC. 702. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

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

19 (1) In subsection (a) by striking “and which
20 satisfies” and all that follows through “Secretary
21 shall establish.” and inserting “. The Secretary shall
22 establish other procedures necessary for efficient ad-
23 ministration of the program. The Secretary shall not
24 establish any criteria or procedures that have the ef-
25 fect of assigning to proposals a higher or lower pri-

1 ority for eligibility or allocation of appropriated
2 funds on the basis of the energy source proposed.”.

3 (2) In subsection (b)—

4 (A) by striking “a State or any political”
5 and all that follows through “nonprofit elec-
6 trical cooperative” and inserting “an electricity-
7 generating cooperative exempt from taxation
8 under section 501(c)(12) or section
9 1381(a)(2)(C) of the Internal Revenue Code of
10 1986, a public utility described in section 115
11 of such Code, a State, Commonwealth, terri-
12 tory, or possession of the United States or the
13 District of Columbia, or a political subdivision
14 thereof, or an Indian tribal government or sub-
15 division thereof,”; and

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

18 (3) In subsection (c) by striking “during the
19 10-fiscal year period beginning with the first full fis-
20 cal year occurring after the enactment of this sec-
21 tion” and inserting “before October 1, 2013”.

22 (4) In subsection (d) by inserting “or in which
23 the Secretary finds that all necessary Federal and
24 State authorizations have been obtained to begin

1 construction of the facility” after “eligible for such
2 payments”.

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

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

8 (7) In subsection (g)—

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

11 (B) by inserting “Funds may be appro-
12 priated pursuant to this subsection to remain
13 available until expended.” after “purposes of
14 this section.”.

15 **TITLE VII—PIPELINES**

16 **SEC. 801. PROHIBITION ON CERTAIN PIPELINE ROUTE.**

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

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

1 (2) enters Canada at any point north of 68 de-
2 grees North latitude.

3 **SEC. 802. HISTORIC PIPELINES.**

4 Section 7 of the Natural Gas Act (15 U.S.C. 717f)
5 is amended by adding at the end the following new sub-
6 section:

7 “(i) Notwithstanding the National Historic Preserva-
8 tion Act, a transportation facility shall not be eligible for
9 inclusion on the National Register of Historic Places until
10 the Commission has permitted the abandonment of the
11 transportation facility pursuant to subsection (b) of this
12 section.”.

13 **TITLE VII—MISCELLANEOUS**
14 **PROVISIONS**

15 **SEC. 901. WASTE REDUCTION AND USE OF ALTERNATIVES.**

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

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

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

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

3 (b) QUALIFIED INSTITUTION.—For the purposes of
4 subsection (a), a qualified institution is a research-inten-
5 sive institution of higher learning with demonstrated ex-
6 pertise in the fields of fiber recycling and logistical mod-
7 eling of carpet waste collection and preparation.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary of En-
10 ergy for carrying out this section \$275,000 for fiscal year
11 2002, to remain available until expended.

12 **SEC. 902. ANNUAL REPORT ON UNITED STATES ENERGY**
13 **INDEPENDENCE.**

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

21 (b) ALTERNATIVES.—The information required
22 under this section to be included in the reports under sec-
23 tion 801(c) of the Department of Energy Organization Act
24 shall include a specification of what legislative or adminis-
25 trative actions must be implemented to meet this goal and

1 set forth a range of options and alternatives with a cost/
2 benefit analysis for each option or alternative together
3 with an estimate of the contribution each option or alter-
4 native could make to reduce foreign oil imports. The Sec-
5 retary shall solicit information from the public and request
6 information from the Energy Information Agency and
7 other agencies to develop the information required under
8 this section. The information shall indicate, in detail, op-
9 tions and alternatives to—

10 (1) increase the use of renewable domestic en-
11 ergy sources, including conventional and nonconven-
12 tional sources;

13 (2) conserve energy resources, including improv-
14 ing efficiencies and decreasing consumption; and

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

19 **SEC. 903. STUDY OF AIRCRAFT EMISSIONS.**

20 The Secretary of Transportation and the Adminis-
21 trator of the Environmental Protection Agency shall joint-
22 ly commence a study within 60 days after the enactment
23 of this Act to investigate the impact of aircraft emissions
24 on air quality in areas that are considered to be in non-
25 attainment for the national ambient air quality standard

1 for ozone. As part of this study, the Secretary and the
2 Administrator shall focus on the impact of emissions by
3 aircraft idling at airports and on the contribution of such
4 emissions as a percentage of total emissions in the non-
5 attainment area. Within 180 days of the commencement
6 of the study, the Secretary and the Administrator shall
7 submit a report to the Committees on Energy and Com-
8 merce and Transportation and Infrastructure of the
9 United States House of Representatives and to the Com-
10 mittees on Environment and Public Works and Commerce,
11 Science, and Transportation of the United States Senate
12 containing the results of the study and recommendations
13 with respect to a plan to maintain comprehensive data on
14 aircraft emissions and methods by which such emissions
15 may be reduced, without increasing individual aircraft
16 noise, in order to assist in the attainment of the national
17 ambient air quality standards.

DIVISION B

1

2 SEC. 2001. SHORT TITLE.

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

5 SEC. 2002. FINDINGS.

6 The Congress finds that—

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

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

15 (3) energy conservation and energy efficiency
16 help maximize the use of available energy resources,
17 reduce energy shortages, lower the Nation’s reliance
18 on energy imports, mitigate the impacts of high en-
19 ergy prices, and help protect the environment and
20 public health;

21 (4) development of a balanced portfolio of do-
22 mestic energy supplies will ensure that future gen-
23 erations of Americans will have access to the energy
24 they need;

1 (5) energy efficiency technologies, renewable
2 and alternative energy technologies, and advanced
3 energy systems technologies will help diversify the
4 Nation’s energy portfolio with few adverse environ-
5 mental impacts and are vital to delivering clean en-
6 ergy to fuel the Nation’s economic growth;

7 (6) development of reliable, affordable, and en-
8 vironmentally sound energy efficiency technologies,
9 renewable and alternative energy technologies, and
10 advanced energy systems technologies will require
11 maintenance of a vibrant fundamental scientific
12 knowledge base and continued scientific and techno-
13 logical innovations that can be accelerated by Fed-
14 eral funding, whereas commercial deployment of
15 such systems and technologies are the responsibility
16 of the private sector;

17 (7) Federal funding should focus on those pro-
18 grams, projects, and activities that are long-term,
19 high-risk, noncommercial, and well-managed, and
20 that provide the potential for scientific and techno-
21 logical advances; and

22 (8) public-private partnerships should be en-
23 couraged to leverage scarce taxpayer dollars.

24 **SEC. 2003. PURPOSES.**

25 The purposes of this division are to—

1 (1) protect and strengthen the Nation's econ-
2 omy, standard of living, and national security by re-
3 ducing dependence on imported energy;

4 (2) meet future needs for energy services at the
5 lowest total cost to the Nation, including environ-
6 mental costs, giving balanced and comprehensive
7 consideration to technologies that improve the effi-
8 ciency of energy end uses and that enhance energy
9 supply;

10 (3) reduce the air, water, and other environ-
11 mental impacts (including emissions of greenhouse
12 gases) of energy production, distribution, transpor-
13 tation, and use through the development of environ-
14 mentally sustainable energy systems;

15 (4) consider the comparative environmental im-
16 pacts of the energy saved or produced by specific
17 programs, projects, or activities;

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

22 (6) foster international cooperation by devel-
23 oping international markets for domestically pro-
24 duced sustainable energy technologies, and by trans-
25 ferring environmentally sound, advanced energy sys-

1 tems and technologies to developing countries to pro-
2 mote sustainable development;

3 (7) provide sufficient funding of programs,
4 projects, and activities that are performance-based
5 and modeled as public-private partnerships, as ap-
6 propriate; and

7 (8) enhance the contribution of a given pro-
8 gram, project, or activity to fundamental scientific
9 knowledge.

10 **SEC. 2004. GOALS.**

11 (a) IN GENERAL.—Subject to subsection (b), in order
12 to achieve the purposes of this division under section
13 2003, the Secretary should conduct a balanced energy re-
14 search, development, demonstration, and commercial ap-
15 plication portfolio of programs guided by the following
16 goals to meet the purposes of this division under section
17 2003.

18 (1) ENERGY CONSERVATION AND ENERGY EFFI-
19 CIENCY.—

20 (A) For the Building Technology, State
21 and Community Sector, the program should de-
22 velop technologies, housing components, de-
23 signs, and production methods that will, by
24 2010—

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

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

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

13 (B) For the Industry Sector, the program
14 should, in cooperation with the affected indus-
15 tries, improve the energy intensity of the major
16 energy-consuming industries by at least 25 per-
17 cent by 2010, compared to the energy intensity
18 as of the date of the enactment of this Act.

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

22 (i) develop a microturbine (40 to 300
23 kilowatt) that is more than 40 percent
24 more efficient by 2006, and more than 50
25 percent more efficient by 2010, compared

1 to the efficiency as of the date of the en-
2 actment of this Act; and

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

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

12 (i) develop a production prototype
13 passenger automobile that has fuel econ-
14 omy equivalent to 80 miles per gallon of
15 gasoline by 2004;

16 (ii) develop class 7 and 8 heavy duty
17 trucks and buses with ultra low emissions
18 and the ability to use an alternative fuel
19 that has an average fuel economy equiva-
20 lent to—

21 (I) 10 miles per gallon of gaso-
22 line by 2007; and

23 (II) 13 miles per gallon of gaso-
24 line by 2010;

1 (iii) develop a production prototype of
2 a passenger automobile with zero equiva-
3 lent emissions that has an average fuel
4 economy of 100 miles per gallon of gaso-
5 line by 2010; and

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

8 (I) in classes 1 and 2 by 300 per-
9 cent; and

10 (II) in classes 3 through 6 by
11 200 percent,

12 compared to the fuel economy as of the
13 date of the enactment of this Act.

14 (2) RENEWABLE ENERGY.—

15 (A) For Hydrogen Research, to carry out
16 the Spark M. Matsunaga Hydrogen Research,
17 Development, and Demonstration Act of 1990,
18 as amended by subtitle A of title II of this divi-
19 sion.

20 (B) For bioenergy:

21 (i) The program should reduce the
22 cost of bioenergy relative to other energy
23 sources to enable the United States to tri-
24 ple bioenergy use by 2010.

1 (ii) For biopower systems, the pro-
2 gram should reduce the cost of such sys-
3 tems to enable commercialization of inte-
4 grated power-generating technologies that
5 employ gas turbines and fuel cells inte-
6 grated with bioenergy gasifiers within five
7 years after the date of the enactment of
8 this Act.

9 (iii) For biofuels, the program should
10 accelerate research, development, and dem-
11 onstration on advanced enzymatic hydroly-
12 sis technology for making ethanol from
13 cellulosic feedstock, with the goal that be-
14 tween 2010 and 2015 ethanol produced
15 from energy crops would be fully competi-
16 tive in terms of price with gasoline as a
17 neat fuel, in either internal combustion en-
18 gines or fuel cell vehicles.

19 (C) For Geothermal Technology Develop-
20 ment, the program should focus on advanced
21 concepts for the long term. The first priority
22 should be high-grade enhanced geothermal sys-
23 tems; the second priority should be lower grade,
24 hot dry rock, and geopressured systems; and
25 the third priority should be support of field

1 demonstrations of enhanced geothermal systems
2 technology, including sites in lower grade areas
3 to demonstrate the benefits of reservoir con-
4 cepts to different conditions.

5 (D) For Hydropower, the program should
6 provide a new generation of turbine tech-
7 nologies that will increase generating capacity
8 and will be less damaging to fish and aquatic
9 ecosystems.

10 (E) For Concentrating Solar Power, the
11 program should strengthen ongoing research,
12 development, and demonstration combining
13 high-efficiency and high-temperature receivers
14 with advanced thermal storage and power cy-
15 cles, with the goal of making solar-only power
16 (including baseload solar power) widely com-
17 petitive with fossil fuel power by 2015. The pro-
18 gram should limit or halt its research and de-
19 velopment on power-tower and power-trough
20 technologies because further refinements to
21 these concepts will not further their deploy-
22 ment, and should assess the market prospects
23 for solar dish/engine technologies to determine
24 whether continued research and development is
25 warranted.

1 (F) For Photovoltaic Energy Systems, the
2 program should pursue research, development,
3 and demonstration that will, by 2005, increase
4 the efficiency of thin film modules from the cur-
5 rent 7 percent to 11 percent in multi-million
6 watt production; reduce the direct manufac-
7 turing cost of photovoltaic modules by 30 per-
8 cent from the current \$2.50 per watt to \$1.75
9 per watt by 2005; and establish greater than a
10 20-year lifetime of photovoltaic systems by im-
11 proving the reliability and lifetime of balance-
12 of-system components and reducing recurring
13 cost by 40 percent. The program's top priority
14 should be the development of sound manufac-
15 turing technologies for thin-film modules, and
16 the program should make a concerted effort to
17 integrate fundamental research and basic engi-
18 neering research.

19 (G) For Solar Building Technology Re-
20 search, the program should complete research
21 and development on new polymers and manu-
22 facturing processes to reduce the cost of solar
23 water heating by 50 percent by 2004, compared
24 to the cost as of the date of enactment of this
25 Act.

1 (H) For Wind Energy Systems, the pro-
2 gram should reduce the cost of wind energy to
3 three cents per kilowatt-hour at Class 6 (15
4 miles-per-hour annual average) wind sites by
5 2004, and 4 cents per kilowatt-hour in Class 4
6 (13 miles-per-hour annual average) wind sites
7 by 2015, and further if required so that wind
8 power can be widely competitive with fossil-fuel-
9 based electricity in a restructured electric in-
10 dustry. Program research on advanced wind
11 turbine technology should focus on turbulent
12 flow studies, durable materials to extend tur-
13 bine life, blade efficiency, and higher efficiency
14 operation in low quality wind regimes.

15 (I) For Electric Energy Systems and Stor-
16 age, including High Temperature Super-
17 conducting Research and Development, Energy
18 Storage Systems, and Transmission Reliability,
19 the program should develop high capacity
20 superconducting transmission lines and genera-
21 tors, highly reliable energy storage systems, and
22 distributed generating systems to accommodate
23 multiple types of energy sources under common
24 interconnect standards.

1 (J) For the International Renewable En-
2 energy and Renewable Energy Production Incen-
3 tive programs, and Renewable Program Sup-
4 port, the program should encourage the com-
5 mercial application of renewable energy tech-
6 nologies by developed and developing countries,
7 State and local governmental entities and non-
8 profit electric cooperatives, and by the competi-
9 tive domestic market.

10 (3) NUCLEAR ENERGY.—

11 (A) For university nuclear science and en-
12 gineering, the program should carry out the
13 provisions of subtitle A of title III of this divi-
14 sion.

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

19 (C) For the Nuclear Energy Research Ini-
20 tiative, the program should accomplish the ob-
21 jectives of section 2341(b) of this Act.

22 (D) For the Nuclear Energy Plant Optimi-
23 zation Program, the program should accomplish
24 the objectives of section 2342(b) of this Act.

1 (E) For Nuclear Energy Technologies, the
2 program should carry out the provisions of sec-
3 tion 2343 of this Act.

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

8 (4) FOSSIL ENERGY.—

9 (A) For core fossil energy research and de-
10 velopment, the program should achieve the
11 goals outlined by the Department's Vision 21
12 Program. This research should address fuel-
13 flexible gasification and turbines, fuel cells, ad-
14 vanced-combustion systems, advanced fuels and
15 chemicals, advanced modeling and systems
16 analysis, materials and heat exchangers, envi-
17 ronmental control technologies, gas-stream pu-
18 rification, gas-separation technology, and se-
19 questration research and development focused
20 on cost-effective novel concepts for capturing,
21 reusing or storing, or otherwise mitigating car-
22 bon and other greenhouse gas emissions.

23 (B) For offshore oil and natural gas re-
24 sources, the program should investigate and de-
25 velop technologies to—

1 (i) extract methane hydrates in coast-
2 al waters of the United States, in accord-
3 ance with the provisions of the Methane
4 Hydrate Research and Development Act of
5 2000; and

6 (ii) develop natural gas and oil re-
7 serves in the ultra-deepwater of the Cen-
8 tral and Western Gulf of Mexico. Research
9 and development on ultra-deepwater re-
10 source recovery shall focus on improving
11 the safety and efficiency of such recovery
12 and of sub-sea production technology used
13 for such recovery, while lowering costs.

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

21 (5) SCIENCE.—The Secretary, through the Of-
22 fice of Science, should—

23 (A) develop and maintain a robust port-
24 folio of fundamental scientific and energy re-
25 search, including High Energy and Nuclear

1 Physics, Biological and Environmental Re-
2 search, Basic Energy Sciences (including Mate-
3 rials Sciences, Chemical Sciences, Engineering
4 and Geosciences, and Energy Biosciences), Ad-
5 vanced Scientific Computing, Energy Research
6 and Analysis, Multiprogram Energy Labora-
7 tories-Facilities Support, Fusion Energy
8 Sciences, and Facilities and Infrastructure;

9 (B) maintain, upgrade, and expand, as ap-
10 propriate, and in accordance with the provisions
11 of this division, the scientific user facilities
12 maintained by the Office of Science, and ensure
13 that they are an integral part of the Depart-
14 ment's mission for exploring the frontiers of
15 fundamental energy sciences; and

16 (C) ensure that its fundamental energy
17 sciences programs, where appropriate, help in-
18 form the applied research and development pro-
19 grams of the Department.

20 (b) REVIEW AND ASSESSMENT.—The Secretary shall
21 perform an assessment that establishes measurable cost
22 and performance-based goals, or that modifies the goals
23 under subsection (a), as appropriate, for 2005, 2010,
24 2015, and 2020 for each of the programs authorized by
25 this division that would enable each such program to meet

1 the purposes of this division under section 2003. Such as-
2 sessment shall be based on the latest scientific and tech-
3 nical knowledge, and shall also take into consideration, as
4 appropriate, the comparative environmental impacts (in-
5 cluding emissions of greenhouse gases) of the energy saved
6 or produced by specific programs.

7 (c) CONSULTATION.—In establishing the measurable
8 cost and performance-based goals under subsection (b),
9 the Secretary shall consult with the private sector, institu-
10 tions of higher learning, national laboratories, environ-
11 mental organizations, professional and technical societies,
12 and any other persons as the Secretary considers appro-
13 priate.

14 (d) SCHEDULE.—The Secretary shall—

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

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

23 (B) in the case of a program not estab-
24 lished before the date of the enactment of this

1 Act, not later than 120 days after the date of
2 establishment of the program;

3 (2) not later than 60 days after the date of
4 publication under paragraph (1), after taking into
5 consideration any public comments received, trans-
6 mit to the Congress and publish in the Federal Reg-
7 ister the final measurable cost and performance-
8 based goals; and

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

11 **SEC. 2005. DEFINITIONS.**

12 For purposes of this division, except as otherwise
13 provided—

14 (1) the term “Administrator” means the Ad-
15 ministrator of the Environmental Protection Agency;

16 (2) the term “appropriate congressional com-
17 mittees” means—

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

21 (B) the Committee on Energy and Natural
22 Resources and the Committee on Appropria-
23 tions of the Senate;

24 (3) the term “Department” means the Depart-
25 ment of Energy; and

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

3 **SEC. 2006. AUTHORIZATIONS.**

4 Authorizations of appropriations under this division
5 are for environmental research and development, scientific
6 and energy research, development, and demonstration,
7 and commercial application of energy technology pro-
8 grams, projects, and activities.

9 **SEC. 2007. BALANCE OF FUNDING PRIORITIES.**

10 (a) SENSE OF CONGRESS.—It is the sense of the Con-
11 gress that the funding of the various programs authorized
12 by titles I through IV of this division should remain in
13 the same proportion to each other as provided in this divi-
14 sion, regardless of the total amount of funding made avail-
15 able for those programs.

16 (b) REPORT TO CONGRESS.—If for fiscal year 2002,
17 2003, or 2004 the amounts appropriated in general appro-
18 priations Acts for the programs authorized in titles I
19 through IV of this division are not in the same proportion
20 to one another as are the authorizations for such pro-
21 grams in this division, the Secretary and the Adminis-
22 trator shall, within 60 days after the date of the enact-
23 ment of the last general appropriations Act appropriating
24 amounts for such programs, transmit to the appropriate
25 congressional committees a report describing the pro-

1 grams, projects, and activities that would have been fund-
2 ed if the proportions provided for in this division had been
3 maintained in the appropriations. The amount appro-
4 priated for the program receiving the highest percentage
5 of its authorized funding for a fiscal year shall be used
6 as the baseline for calculating the proportional deficiencies
7 of appropriations for other programs in that fiscal year.

8 **TITLE I—ENERGY CONSERVA-**
9 **TION AND ENERGY EFFI-**
10 **CIENCY**

11 **Subtitle A—Alternative Fuel**
12 **Vehicles**

13 **SEC. 2101. SHORT TITLE.**

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

16 **SEC. 2102. DEFINITIONS.**

17 For the purposes of this subtitle, the following defini-
18 tions apply:

19 (1) ALTERNATIVE FUEL VEHICLE.—

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

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

- 1 (ii) by liquefied natural gas;
- 2 (iii) by compressed natural gas;
- 3 (iv) by liquefied petroleum gas;
- 4 (v) by hydrogen;
- 5 (vi) by methanol or ethanol at no less
- 6 than 85 percent by volume; or
- 7 (vii) by propane.

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

- 10 (i) any vehicle designed to operate
- 11 solely on gasoline or diesel derived from
- 12 fossil fuels, regardless of whether it can
- 13 also be operated on an alternative fuel; or
- 14 (ii) any vehicle that the Secretary de-
- 15 termines, by rule, does not yield substan-
- 16 tial environmental benefits over a vehicle
- 17 operating solely on gasoline or diesel de-
- 18 rived from fossil fuels.

19 (2) PILOT PROGRAM.—The term “pilot pro-

20 gram” means the competitive grant program estab-

21 lished under section 2103.

22 (3) ULTRA-LOW SULFUR DIESEL VEHICLE.—

23 The term “ultra-low sulfur diesel vehicle” means a

24 vehicle powered by a heavy-duty diesel engine that—

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

4 (B) emits not more than the lesser of—

5 (i) for vehicles manufactured in—

6 (I) model years 2001 through
7 2003, 3.0 grams per brake horse-
8 power-hour of nonmethane hydro-
9 carbons and oxides of nitrogen and
10 .01 grams per brake horsepower-hour
11 of particulate matter; and

12 (II) model years 2004 through
13 2006, 2.5 grams per brake horse-
14 power-hour of nonmethane hydro-
15 carbons and oxides of nitrogen and
16 .01 grams per brake horsepower-hour
17 of particulate matter; or

18 (ii) the emissions of nonmethane hy-
19 drocarbons, oxides of nitrogen, and partic-
20 ulate matter of the best performing tech-
21 nology of ultra-low sulfur diesel vehicles of
22 the same type that are commercially avail-
23 able.

1 **SEC. 2103. PILOT PROGRAM.**

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

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

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

12 (A) passenger vehicles;

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

15 (C) delivery vehicles for goods or services;

16 (D) ground support vehicles at public air-
17 ports, including vehicles to carry baggage or
18 push airplanes away from terminal gates; and

19 (E) motorized two-wheel bicycles, scooters,
20 or other vehicles for use by law enforcement
21 personnel or other State or local government or
22 metropolitan transportation authority employ-
23 ees.

24 (2) The acquisition of ultra-low sulfur diesel ve-
25 hicles.

1 (3) Infrastructure necessary to directly support
2 an alternative fuel vehicle project funded by the
3 grant, including fueling and other support equip-
4 ment.

5 (4) Operation and maintenance of vehicles, in-
6 frastructure, and equipment acquired as part of a
7 project funded by the grant.

8 (c) APPLICATIONS.—

9 (1) REQUIREMENTS.—The Secretary shall issue
10 requirements for applying for grants under the pilot
11 program. At a minimum, the Secretary shall require
12 that applications be submitted by the head of a
13 State or local government or a metropolitan trans-
14 portation authority, or any combination thereof, and
15 shall include—

16 (A) at least one project to enable pas-
17 sengers or goods to be transferred directly from
18 one alternative fuel vehicle or ultra-low sulfur
19 diesel vehicle to another in a linked transpor-
20 tation system;

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

1 (C) an estimate of the ridership or degree
2 of use of the projects proposed in the applica-
3 tion;

4 (D) an estimate of the air pollution emis-
5 sions reduced and fossil fuel displaced as a re-
6 sult of the projects proposed in the application,
7 and a plan to collect and disseminate environ-
8 mental data, related to the projects to be fund-
9 ed under the grant, over the life of the projects;

10 (E) a description of how the projects pro-
11 posed in the application will be sustainable
12 without Federal assistance after the completion
13 of the term of the grant;

14 (F) a complete description of the costs of
15 each project proposed in the application, includ-
16 ing acquisition, construction, operation, and
17 maintenance costs over the expected life of the
18 project;

19 (G) a description of which costs of the
20 projects proposed in the application will be sup-
21 ported by Federal assistance under this subtitle;
22 and

23 (H) documentation to the satisfaction of
24 the Secretary that diesel fuel containing sulfur
25 at not more than 15 parts per million is avail-

1 able for carrying out the projects, and a com-
2 mitment by the applicant to use such fuel in
3 carrying out the projects.

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

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

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

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

19 (3) exceed the minimum requirements of sub-
20 section (c)(1)(A).

21 (e) PILOT PROJECT REQUIREMENTS.—

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

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

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

8 (4) DEPLOYMENT AND DISTRIBUTION.—The
9 Secretary shall seek to the maximum extent prac-
10 ticable to achieve nationwide deployment of alter-
11 native fuel vehicles through the pilot program, and
12 shall ensure a broad geographic distribution of
13 project sites.

14 (5) TRANSFER OF INFORMATION AND KNOWL-
15 EDGE.—The Secretary shall establish mechanisms to
16 ensure that the information and knowledge gained
17 by participants in the pilot program are transferred
18 among the pilot program participants and to other
19 interested parties, including other applicants that
20 submitted applications.

21 (f) SCHEDULE.—

22 (1) PUBLICATION.—Not later than 3 months
23 after the date of enactment of this Act, the Sec-
24 retary shall publish in the Federal Register, Com-
25 merce Business Daily, and elsewhere as appropriate,

1 a request for applications to undertake projects
2 under the pilot program. Applications shall be due
3 within 6 months of the publication of the notice.

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

9 (g) LIMIT ON FUNDING.—The Secretary shall pro-
10 vide not less than 20 percent and not more than 25 per-
11 cent of the grant funding made available under this sec-
12 tion for the acquisition of ultra-low sulfur diesel vehicles.

13 **SEC. 2104. REPORTS TO CONGRESS.**

14 (a) INITIAL REPORT.—Not later than 2 months after
15 the date grants are awarded under this subtitle, the Sec-
16 retary shall transmit to the appropriate congressional
17 committees a report containing—

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

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

22 (3) a description of the mechanisms used by the
23 Secretary to ensure that the information and knowl-
24 edge gained by participants in the pilot program are
25 transferred among the pilot program participants

1 and to other interested parties, including other ap-
2 plicants that submitted applications.

3 (b) EVALUATION.—Not later than 3 years after the
4 date of enactment of this Act, and annually thereafter
5 until the pilot program ends, the Secretary shall transmit
6 to the appropriate congressional committees a report con-
7 taining an evaluation of the effectiveness of the pilot pro-
8 gram, including an assessment of the benefits to the envi-
9 ronment derived from the projects included in the pilot
10 program as well as an estimate of the potential benefits
11 to the environment to be derived from widespread applica-
12 tion of alternative fuel vehicles and ultra-low sulfur diesel
13 vehicles.

14 **SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to the Sec-
16 retary \$200,000,000 to carry out this subtitle, to remain
17 available until expended.

18 **Subtitle B—Distributed Power**
19 **Hybrid Energy Systems**

20 **SEC. 2121. FINDINGS.**

21 The Congress makes the following findings:

22 (1) Our ability to take advantage of our renew-
23 able, indigenous resources in a cost-effective manner
24 can be greatly advanced through systems that com-

1 pensate for the intermittent nature of these re-
2 sources through distributed power hybrid systems.

3 (2) Distributed power hybrid systems can—

4 (A) shelter consumers from temporary en-
5 ergy price volatility created by supply and de-
6 mand mismatches;

7 (B) increase the reliability of energy sup-
8 ply; and

9 (C) address significant local differences in
10 power and economic development needs and re-
11 source availability that exist throughout the
12 United States.

13 (3) Realizing these benefits will require a con-
14 certed and integrated effort to remove market bar-
15 riers to adopting distributed power hybrid systems
16 by—

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

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

22 (4) While many of the individual distributed
23 power hybrid systems components are either avail-
24 able or under development in existing private and
25 public sector programs, the capabilities to integrate

1 these components into workable distributed power
2 hybrid systems that maximize benefits to consumers
3 in a safe manner often are not coherently being ad-
4 dressed.

5 **SEC. 2122. DEFINITIONS.**

6 For purposes of this subtitle—

7 (1) the term “distributed power hybrid system”
8 means a system using 2 or more distributed power
9 sources, operated together with associated sup-
10 porting equipment, including storage equipment, and
11 software necessary to provide electric power onsite
12 and to an electric distribution system; and

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

17 (A) reciprocating engines;

18 (B) turbines;

19 (C) microturbines;

20 (D) fuel cells;

21 (E) solar electric systems;

22 (F) wind energy systems;

23 (G) biopower systems;

24 (H) geothermal power systems; or

25 (I) combined heat and power systems.

1 **SEC. 2123. STRATEGY.**

2 (a) **REQUIREMENT.**—Not later than 1 year after the
3 date of the enactment of this Act, the Secretary shall de-
4 velop and transmit to the Congress a distributed power
5 hybrid systems strategy showing—

6 (1) needs best met with distributed power hy-
7 brid systems configurations, especially systems in-
8 cluding one or more solar or renewable power
9 sources; and

10 (2) technology gaps and barriers (including bar-
11 riers to efficient connection with the power grid)
12 that hamper the use of distributed power hybrid sys-
13 tems.

14 (b) **ELEMENTS.**—The strategy shall provide for de-
15 velopment of—

16 (1) system integration tools (including data-
17 bases, computer models, software, sensors, and con-
18 trols) needed to plan, design, build, and operate dis-
19 tributed power hybrid systems for maximum bene-
20 fits;

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

24 (3) design tools to characterize the benefits of
25 distributed power hybrid systems for consumers, to
26 reduce testing needs, to speed commercialization,

1 and to generate data characterizing grid operations,
2 including interconnection requirements;

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

6 (5) a comprehensive research, development,
7 demonstration, and commercial application program
8 to ensure the reliability, efficiency, and environ-
9 mental integrity of distributed energy resources, fo-
10 cused on filling gaps in distributed power hybrid sys-
11 tems technologies identified under subsection (a)(2),
12 which may include—

13 (A) integration of a wide variety of ad-
14 vanced technologies into distributed power hy-
15 brid systems;

16 (B) energy storage devices;

17 (C) environmental control technologies;

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

20 (E) ancillary equipment for dispatch and
21 control.

22 (c) IMPLEMENTATION AND INTEGRATION.—The Sec-
23 retary shall implement the strategy transmitted under
24 subsection (a) and the research program under subsection
25 (b)(5). Activities pursuant to the strategy shall be inte-

1 grated with other activities of the Department's Office of
2 Power Technologies.

3 **SEC. 2124. HIGH POWER DENSITY INDUSTRY PROGRAM.**

4 (a) IN GENERAL.—The Secretary shall develop and
5 implement a comprehensive research, development, dem-
6 onstration, and commercial application program to im-
7 prove energy efficiency, reliability, and environmental re-
8 sponsibility in high power density industries, such as data
9 centers, server farms, telecommunications facilities, and
10 heavy industry.

11 (b) AREAS.—In carrying out this section, the Sec-
12 retary shall consider technologies that provide—

13 (1) significant improvement in efficiency of high
14 power density facilities, and in data and tele-
15 communications centers, using advanced thermal
16 control technologies;

17 (2) significant improvements in air-conditioning
18 efficiency in facilities such as data centers and tele-
19 communications facilities;

20 (3) significant advances in peak load reduction;
21 and

22 (4) advanced real time metering and load man-
23 agement and control devices.

24 (c) IMPLEMENTATION AND INTEGRATION.—Activities
25 pursuant to this program shall be integrated with other

1 activities of the Department's Office of Power Tech-
2 nologies.

3 **SEC. 2125. MICRO-COGENERATION ENERGY TECHNOLOGY.**

4 The Secretary shall make competitive, merit-based
5 grants to consortia of private sector entities for the devel-
6 opment of micro-cogeneration energy technology. The con-
7 sortia shall explore the creation of small-scale combined
8 heat and power through the use of residential heating ap-
9 pliances. There are authorized to be appropriated to the
10 Secretary \$20,000,000 to carry out this section, to remain
11 available until expended.

12 **SEC. 2126. PROGRAM PLAN.**

13 Within 4 months after the date of enactment of this
14 Act, the Secretary, in consultation with other appropriate
15 Federal agencies, shall prepare and transmit to the Con-
16 gress a 5-year program plan to guide activities under this
17 subtitle. In preparing the program plan, the Secretary
18 shall consult with appropriate representatives of the dis-
19 tributed energy resources, power transmission, and high
20 power density industries to prioritize appropriate program
21 areas. The Secretary shall also seek the advice of utilities,
22 energy services providers, manufacturers, institutions of
23 higher learning, other appropriate State and local agen-
24 cies, environmental organizations, professional and tech-

1 nical societies, and any other persons the Secretary con-
2 siders appropriate.

3 **SEC. 2127. REPORT.**

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

9 **SEC. 2128. VOLUNTARY CONSENSUS STANDARDS.**

10 Not later than 2 years after the date of enactment
11 of this Act, the Secretary, in consultation with the Na-
12 tional Institute of Standards and Technology, shall work
13 with the Institute of Electrical and Electronic Engineers
14 and other standards development organizations toward the
15 development of voluntary consensus standards for distrib-
16 uted energy systems for use in manufacturing and using
17 equipment and systems for connection with electric dis-
18 tribution systems, for obtaining electricity from, or pro-
19 viding electricity to, such systems.

20 **Subtitle C—Secondary Electric**
21 **Vehicle Battery Use**

22 **SEC. 2131. DEFINITIONS.**

23 For purposes of this subtitle, the term—

24 (1) “battery” means an energy storage device
25 that previously has been used to provide motive

1 power in a vehicle powered in whole or in part by
2 electricity; and

3 (2) “associated equipment” means equipment
4 located at the location where the batteries will be
5 used that is necessary to enable the use of the en-
6 ergy stored in the batteries.

7 **SEC. 2132. ESTABLISHMENT OF SECONDARY ELECTRIC VE-**
8 **HICLE BATTERY USE PROGRAM.**

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

14 (1) designed to demonstrate the use of batteries
15 in secondary application, including utility and com-
16 mercial power storage and power quality;

17 (2) structured to evaluate the performance, in-
18 cluding longevity of useful service life and costs, of
19 such batteries in field operations, and evaluate the
20 necessary supporting infrastructure, including dis-
21 posal and reuse of batteries; and

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

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

9 (2)(A) Proposals submitted in response to a sollicita-
10 tion under this section shall include—

11 (i) a description of the project, including the
12 batteries to be used in the project, the proposed lo-
13 cations and applications for the batteries, the num-
14 ber of batteries to be demonstrated, and the type,
15 characteristics, and estimated life-cycle costs of the
16 batteries compared to other energy storage devices
17 currently used;

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

21 (iii) the type of associated equipment to be
22 demonstrated and the type of supporting infrastruc-
23 ture to be demonstrated; and

24 (iv) any other information the Secretary con-
25 siders appropriate.

1 (B) If the proposal includes a lease arrangement, the
2 proposal shall indicate the terms of such lease arrange-
3 ment for the batteries and associated equipment.

4 (c) SELECTION OF PROPOSALS.—(1)(A) The Sec-
5 retary shall, not later than 3 months after the closing date
6 established by the Secretary for receipt of proposals under
7 subsection (b), select at least 5 proposals to receive finan-
8 cial assistance under this section.

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

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

15 (A) the ability of the proposer to acquire the
16 batteries and associated equipment and to success-
17 fully manage and conduct the demonstration project,
18 including the reporting requirements set forth in
19 paragraph (3)(B);

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

22 (C) the long-term technical and competitive via-
23 bility of the batteries to be used in the project and
24 of the original manufacturer of such batteries;

1 (D) the suitability of the batteries for their in-
2 tended uses;

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

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

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

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

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

17 (H) such other criteria as the Secretary con-
18 siders appropriate.

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

20 (A) as a part of a demonstration project, the
21 users of the batteries provide to the proposer infor-
22 mation regarding the operation, maintenance, per-
23 formance, and use of the batteries, and the proposer
24 provide such information to the battery manufac-

1 turer, for 3 years after the beginning of the dem-
2 onstration project;

3 (B) the proposer provide to the Secretary such
4 information regarding the operation, maintenance,
5 performance, and use of the batteries as the Sec-
6 retary may request during the period of the dem-
7 onstration project; and

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

10 **SEC. 2133. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the Sec-
12 retary, from amounts authorized under section 2161(a),
13 for purposes of this subtitle—

14 (1) \$1,000,000 for fiscal year 2002;

15 (2) \$7,000,000 for fiscal year 2003; and

16 (3) \$7,000,000 for fiscal year 2004.

17 Such appropriations may remain available until expended.

18 **Subtitle D—Green School Buses**

19 **SEC. 2141. SHORT TITLE.**

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

22 **SEC. 2142. ESTABLISHMENT OF PILOT PROGRAM.**

23 (a) ESTABLISHMENT.—The Secretary shall establish
24 a pilot program for awarding grants on a competitive basis
25 to eligible entities for the demonstration and commercial

1 application of alternative fuel school buses and ultra-low
2 sulfur diesel school buses.

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

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

13 (d) ELIGIBLE RECIPIENTS.—A grant shall be award-
14 ed under this section only—

15 (1) to a local governmental entity responsible
16 for providing school bus service for one or more pub-
17 lic school systems; or

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

21 (e) TYPES OF GRANTS.—

22 (1) IN GENERAL.—Grants under this section
23 shall be for the demonstration and commercial appli-
24 cation of technologies to facilitate the use of alter-
25 native fuel school buses and ultra-low sulfur diesel

1 school buses in lieu of buses manufactured before
2 model year 1977 and diesel-powered buses manufac-
3 tured before model year 1991.

4 (2) NO ECONOMIC BENEFIT.—Other than the
5 receipt of the grant, a recipient of a grant under this
6 section may not receive any economic benefit in con-
7 nection with the receipt of the grant.

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

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

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

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

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

1 (B) to provide—

2 (i) up to 10 percent of the price of the
3 alternative fuel buses acquired, for nec-
4 essary alternative fuel infrastructure if the
5 infrastructure will only be available to the
6 grant recipient; and

7 (ii) up to 15 percent of the price of
8 the alternative fuel buses acquired, for nec-
9 essary alternative fuel infrastructure if the
10 infrastructure will be available to the grant
11 recipient and to other bus fleets.

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

15 (4) In the case of a grant recipient receiving a
16 grant to demonstrate ultra-low sulfur diesel school
17 buses, the grant recipient shall be required to pro-
18 vide documentation to the satisfaction of the Sec-
19 retary that diesel fuel containing sulfur at not more
20 than 15 parts per million is available for carrying
21 out the purposes of the grant, and a commitment by
22 the applicant to use such fuel in carrying out the
23 purposes of the grant.

24 (g) BUSES.—Funding under a grant made under this
25 section may be used to demonstrate the use only of new

1 alternative fuel school buses or ultra-low sulfur diesel
2 school buses—

3 (1) with a gross vehicle weight of greater than
4 14,000 pounds;

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

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

8 (A) for buses manufactured in model years
9 2001 and 2002, 2.5 grams per brake horse-
10 power-hour of nonmethane hydrocarbons and
11 oxides of nitrogen and .01 grams per brake
12 horsepower-hour of particulate matter; and

13 (B) for buses manufactured in model years
14 2003 through 2006, 1.8 grams per brake horse-
15 power-hour of nonmethane hydrocarbons and
16 oxides of nitrogen and .01 grams per brake
17 horsepower-hour of particulate matter; and

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

20 (A) for buses manufactured in model years
21 2001 through 2003, 3.0 grams per brake horse-
22 power-hour of nonmethane hydrocarbons and
23 oxides of nitrogen and .01 grams per brake
24 horsepower-hour of particulate matter; and

1 (B) for buses manufactured in model years
2 2004 through 2006, 2.5 grams per brake horse-
3 power-hour of nonmethane hydrocarbons and
4 oxides of nitrogen and .01 grams per brake
5 horsepower-hour of particulate matter,
6 except that under no circumstances shall buses be
7 acquired under this section that emit nonmethane
8 hydrocarbons, oxides of nitrogen, or particulate mat-
9 ter at a rate greater than the best performing tech-
10 nology of ultra-low sulfur diesel school buses com-
11 mercially available at the time the grant is made.

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

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

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

1 (1) the term “alternative fuel school bus”
2 means a bus powered substantially by electricity (in-
3 cluding electricity supplied by a fuel cell), or by liq-
4 uefied natural gas, compressed natural gas, liquefied
5 petroleum gas, hydrogen, propane, or methanol or
6 ethanol at no less than 85 percent by volume; and

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

11 **SEC. 2143. FUEL CELL BUS DEVELOPMENT AND DEM-**
12 **ONSTRATION PROGRAM.**

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

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

24 (1) 20 percent for fuel infrastructure develop-
25 ment activities; and

1 (2) 50 percent for demonstration activities and
2 for development activities not described in paragraph
3 (1).

4 (c) FUNDING.—No more than \$25,000,000 of the
5 amounts authorized under section 2144 may be used for
6 carrying out this section for the period encompassing fis-
7 cal years 2002 through 2006.

8 (d) REPORTS TO CONGRESS.—Not later than 3 years
9 after the date of the enactment of this Act, and not later
10 than October 1, 2006, the Secretary shall transmit to the
11 appropriate congressional committees a report that—

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

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

17 **SEC. 2144. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated to the Sec-
19 retary for carrying out this subtitle, to remain available
20 until expended—

21 (1) \$40,000,000 for fiscal year 2002;

22 (2) \$50,000,000 for fiscal year 2003;

23 (3) \$60,000,000 for fiscal year 2004;

24 (4) \$70,000,000 for fiscal year 2005; and

25 (5) \$80,000,000 for fiscal year 2006.

1 **Subtitle E—Next Generation**
2 **Lighting Initiative**

3 **SEC. 2151. SHORT TITLE.**

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

6 **SEC. 2152. DEFINITION.**

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

10 **SEC. 2153. NEXT GENERATION LIGHTING INITIATIVE.**

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

16 (b) **RESEARCH OBJECTIVES.**—The research objec-
17 tives of the Lighting Initiative shall be to develop, by
18 2011, advanced lighting technologies that, compared to in-
19 candescent and fluorescent lighting technologies as of the
20 date of the enactment of this Act, are—

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

1 **SEC. 2154. STUDY.**

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

11 (b) REQUIREMENTS.—The study shall—

12 (1) develop a comprehensive strategy to imple-
13 ment the Lighting Initiative; and

14 (2) identify the research and development, man-
15 ufacturing, deployment, and marketing barriers that
16 must be overcome to achieve a goal of a 25 percent
17 market penetration by advanced lighting tech-
18 nologies into the incandescent and fluorescent light-
19 ing market by the year 2012.

20 (c) IMPLEMENTATION.—As soon as practicable after
21 the review of the study under subsection (a) is transmitted
22 to the Secretary by the National Academies of Sciences
23 and Engineering, the Secretary shall adapt the implemen-
24 tation of the Lighting Initiative taking into consideration
25 the recommendations of the National Academies of
26 Sciences and Engineering.

1 **SEC. 2155. GRANT PROGRAM.**

2 (a) IN GENERAL.—Subject to section 2603 of this
3 Act, the Secretary may make merit-based competitive
4 grants to firms and research organizations that conduct
5 research, development, and demonstration projects related
6 to advanced lighting technologies.

7 (b) ANNUAL REVIEW.—

8 (1) IN GENERAL.—An annual independent re-
9 view of the grant-related activities of firms and re-
10 search organizations receiving a grant under this
11 section shall be conducted by a committee appointed
12 by the Secretary under the Federal Advisory Com-
13 mittee Act (5 U.S.C. App.), or, at the request of the
14 Secretary, a committee appointed by the National
15 Academies of Sciences and Engineering.

16 (2) REQUIREMENTS.—Using clearly defined
17 standards established by the Secretary, the review
18 shall assess technology advances and progress to-
19 ward commercialization of the grant-related activi-
20 ties of firms or research organizations during each
21 fiscal year of the grant program.

22 (c) TECHNICAL AND FINANCIAL ASSISTANCE.—The
23 national laboratories and other Federal agencies, as ap-
24 propriate, shall cooperate with and provide technical and
25 financial assistance to firms and research organizations

1 conducting research, development, and demonstration
2 projects carried out under this subtitle.

3 **Subtitle F—Department of Energy**
4 **Authorization of Appropriations**

5 **SEC. 2161. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) OPERATION AND MAINTENANCE.—In addition to
7 amounts authorized to be appropriated under section
8 2105, section 2125, and section 2144, there are author-
9 ized to be appropriated to the Secretary for subtitle B,
10 subtitle C, subtitle E, and for Energy Conservation oper-
11 ation and maintenance (including Building Technology,
12 State and Community Sector (Nongrants), Industry Sec-
13 tor, Transportation Sector, Power Technologies, and Pol-
14 icy and Management) \$625,000,000 for fiscal year 2002,
15 \$700,000,000 for fiscal year 2003, and \$800,000,000 for
16 fiscal year 2004, to remain available until expended.

17 (b) LIMITS ON USE OF FUNDS.—None of the funds
18 authorized to be appropriated in subsection (a) may be
19 used for—

20 (1) Building Technology, State and Community
21 Sector—

22 (A) Residential Building Energy Codes;

23 (B) Commercial Building Energy Codes;

24 (C) Lighting and Appliance Standards;

1 (D) Weatherization Assistance Program;

2 or

3 (E) State Energy Program; or

4 (2) Federal Energy Management Program.

5 **Subtitle G—Environmental Protec-**
 6 **tion Agency Office of Air and**
 7 **Radiation Authorization of Ap-**
 8 **propriations**

9 **SEC. 2171. SHORT TITLE.**

10 This subtitle may be cited as the “Environmental
 11 Protection Agency Office of Air and Radiation Authoriza-
 12 tion Act of 2001”.

13 **SEC. 2172. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to the Ad-
 15 ministrator for Office of Air and Radiation Climate
 16 Change Protection Programs \$121,942,000 for fiscal year
 17 2002, \$126,800,000 for fiscal year 2003, and
 18 \$131,800,000 for fiscal year 2004 to remain available
 19 until expended, of which—

20 (1) \$52,731,000 for fiscal year 2002,
 21 \$54,800,000 for fiscal year 2003, and \$57,000,000
 22 for fiscal year 2004 shall be for Buildings;

23 (2) \$32,441,000 for fiscal year 2002,
 24 \$33,700,000 for fiscal year 2003, and \$35,000,000
 25 for fiscal year 2004 shall be for Transportation;

1 (3) \$27,295,000 for fiscal year 2002,
2 \$28,400,000 for fiscal year 2003, and \$29,500,000
3 for fiscal year 2004 shall be for Industry;

4 (4) \$1,700,000 for fiscal year 2002, \$1,800,000
5 for fiscal year 2003, and \$1,900,000 for fiscal year
6 2004 shall be for Carbon Removal;

7 (5) \$2,500,000 for fiscal year 2002, \$2,600,000
8 for fiscal year 2003, and \$2,700,000 for fiscal year
9 2004 shall be for State and Local Climate; and

10 (6) \$5,275,000 for fiscal year 2002, \$5,500,000
11 for fiscal year 2003, and \$5,700,000 for fiscal year
12 2004 shall be for International Capacity Building.

13 **SEC. 2173. LIMITS ON USE OF FUNDS.**

14 (a) **PRODUCTION OR PROVISION OF ARTICLES OR**
15 **SERVICES.**—None of the funds authorized to be appro-
16 priated by this subtitle may be used to produce or provide
17 articles or services for the purpose of selling the articles
18 or services to a person outside the Federal Government,
19 unless the Administrator determines that comparable arti-
20 cles or services are not available from a commercial source
21 in the United States.

22 (b) **REQUESTS FOR PROPOSALS.**—None of the funds
23 authorized to be appropriated by this subtitle may be used
24 by the Environmental Protection Agency to prepare or ini-

1 tiate Requests for Proposals for a program if the program
2 has not been authorized by Congress.

3 **SEC. 2174. COST SHARING.**

4 (a) RESEARCH AND DEVELOPMENT.—Except as oth-
5 erwise provided in this subtitle, for research and develop-
6 ment programs carried out under this subtitle, the Admin-
7 istrator shall require a commitment from non-Federal
8 sources of at least 20 percent of the cost of the project.
9 The Administrator may reduce or eliminate the non-Fed-
10 eral requirement under this subsection if the Adminis-
11 trator determines that the research and development is of
12 a basic or fundamental nature.

13 (b) DEMONSTRATION AND COMMERCIAL APPLICA-
14 TION.—Except as otherwise provided in this subtitle, the
15 Administrator shall require at least 50 percent of the costs
16 directly and specifically related to any demonstration or
17 commercial application project under this subtitle to be
18 provided from non-Federal sources. The Administrator
19 may reduce the non-Federal requirement under this sub-
20 section if the Administrator determines that the reduction
21 is necessary and appropriate considering the technological
22 risks involved in the project and is necessary to meet the
23 objectives of this subtitle.

24 (c) CALCULATION OF AMOUNT.—In calculating the
25 amount of the non-Federal commitment under subsection

1 (a) or (b), the Administrator may include personnel, serv-
2 ices, equipment, and other resources.

3 **SEC. 2175. LIMITATION ON DEMONSTRATION AND COMMER-**
4 **CIAL APPLICATIONS OF ENERGY TECH-**
5 **NOLOGY.**

6 The Administrator shall provide funding for scientific
7 or energy demonstration or commercial application of en-
8 ergy technology programs, projects, or activities of the Of-
9 fice of Air and Radiation only for technologies or processes
10 that can be reasonably expected to yield new, measurable
11 benefits to the cost, efficiency, or performance of the tech-
12 nology or process.

13 **SEC. 2176. REPROGRAMMING.**

14 (a) **AUTHORITY.**—The Administrator may use
15 amounts appropriated under this subtitle for a program,
16 project, or activity other than the program, project, or ac-
17 tivity for which such amounts were appropriated only if—

18 (1) the Administrator has transmitted to the
19 appropriate congressional committees a report de-
20 scribed in subsection (b) and a period of 30 days has
21 elapsed after such committees receive the report;

22 (2) amounts used for the program, project, or
23 activity do not exceed—

24 (A) 105 percent of the amount authorized
25 for the program, project, or activity; or

1 (B) \$250,000 more than the amount au-
2 thorized for the program, project, or activity,
3 whichever is less; and

4 (3) the program, project, or activity has been
5 presented to, or requested of, the Congress by the
6 Administrator.

7 (b) REPORT.—(1) The report referred to in sub-
8 section (a) is a report containing a full and complete state-
9 ment of the action proposed to be taken and the facts and
10 circumstances relied upon in support of the proposed ac-
11 tion.

12 (2) In the computation of the 30-day period under
13 subsection (a), there shall be excluded any day on which
14 either House of Congress is not in session because of an
15 adjournment of more than 3 days to a day certain.

16 (c) LIMITATIONS.—(1) In no event may the total
17 amount of funds obligated pursuant to this subtitle exceed
18 the total amount authorized to be appropriated by this
19 subtitle.

20 (2) Funds appropriated pursuant to this subtitle may
21 not be used for an item for which Congress has declined
22 to authorize funds.

23 **SEC. 2177. BUDGET REQUEST FORMAT.**

24 The Administrator shall provide to the appropriate
25 congressional committees, to be transmitted at the same

1 time as the Environmental Protection Agency's annual
2 budget request submission, a detailed justification for
3 budget authorization for the programs, projects, and ac-
4 tivities for which funds are authorized by this subtitle.
5 Each such document shall include, for the fiscal year for
6 which funding is being requested and for the 2 previous
7 fiscal years—

8 (1) a description of, and funding requested or
9 allocated for, each such program, project, or activity;

10 (2) an identification of all recipients of funds to
11 conduct such programs, projects, and activities; and

12 (3) an estimate of the amounts to be expended
13 by each recipient of funds identified under para-
14 graph (2).

15 **SEC. 2178. OTHER PROVISIONS.**

16 (a) ANNUAL OPERATING PLAN AND REPORTS.—The
17 Administrator shall provide simultaneously to the Com-
18 mittee on Science of the House of Representatives—

19 (1) any annual operating plan or other oper-
20 ational funding document, including any additions or
21 amendments thereto; and

22 (2) any report relating to the environmental re-
23 search or development, scientific or energy research,
24 development, or demonstration, or commercial appli-

1 cation of energy technology programs, projects, or
2 activities of the Environmental Protection Agency,
3 provided to any committee of Congress.

4 (b) NOTICE OF REORGANIZATION.—The Adminis-
5 trator shall provide notice to the appropriate congressional
6 committees not later than 15 days before any reorganiza-
7 tion of any environmental research or development, sci-
8 entific or energy research, development, or demonstration,
9 or commercial application of energy technology program,
10 project, or activity of the Office of Air and Radiation.

11 **Subtitle H—National Building** 12 **Performance Initiative**

13 **SEC. 2181. NATIONAL BUILDING PERFORMANCE INITIA-** 14 **TIVE.**

15 (a) INTERAGENCY GROUP.—Not later than 3 months
16 after the date of the enactment of this Act, the Director
17 of the Office of Science and Technology Policy shall estab-
18 lish an Interagency Group responsible for the development
19 and implementation of a National Building Performance
20 Initiative to address energy conservation and research and
21 development and related issues. The National Institute of
22 Standards and Technology shall provide necessary admin-
23 istrative support for the Interagency Group.

24 (b) PLAN.—Not later than 9 months after the date
25 of the enactment of this Act, the Interagency Group shall

1 transmit to the Congress a multiyear implementation plan
2 describing the Federal role in reducing the costs, including
3 energy costs, of using, owning, and operating commercial,
4 institutional, residential, and industrial buildings by 30
5 percent by 2020. The plan shall include—

6 (1) research, development, and demonstration
7 of systems and materials for new construction and
8 retrofit, on the building envelope and components;
9 and

10 (2) the collection and dissemination in a usable
11 form of research results and other pertinent infor-
12 mation to the design and construction industry, gov-
13 ernment officials, and the general public.

14 (c) NATIONAL BUILDING PERFORMANCE ADVISORY
15 COMMITTEE.—A National Building Performance Advisory
16 Committee shall be established to advise on creation of
17 the plan, review progress made under the plan, advise on
18 any improvements that should be made to the plan, and
19 report to the Congress on actions that have been taken
20 to advance the Nation’s capability in furtherance of the
21 plan. The members shall include representatives of a
22 broad cross-section of interests such as the research, tech-
23 nology transfer, architectural, engineering, and financial
24 communities; materials and systems suppliers; State,
25 county, and local governments; the residential, multi-

1 family, and commercial sectors of the construction indus-
2 try; and the insurance industry.

3 (d) REPORT.—The Interagency Group shall, within
4 90 days after the end of each fiscal year, transmit a report
5 to the Congress describing progress achieved during the
6 preceding fiscal year by government at all levels and by
7 the private sector, toward implementing the plan devel-
8 oped under subsection (b), and including any amendments
9 to the plan.

10 **TITLE II—RENEWABLE ENERGY**

11 **Subtitle A—Hydrogen**

12 **SEC. 2201. SHORT TITLE.**

13 This subtitle may be cited as the “Robert S. Walker
14 and George E. Brown, Jr. Hydrogen Energy Act of
15 2001”.

16 **SEC. 2202. PURPOSES.**

17 Section 102(b) of the Spark M. Matsunaga Hydrogen
18 Research, Development, and Demonstration Act of 1990
19 is amended to read as follows:

20 “(b) PURPOSES.—The purposes of this Act are—

21 “(1) to direct the Secretary to conduct re-
22 search, development, and demonstration activities
23 leading to the production, storage, transportation,
24 and use of hydrogen for industrial, commercial, resi-
25 dential, transportation, and utility applications;

1 “(2) to direct the Secretary to develop a pro-
2 gram of technology assessment, information dissemi-
3 nation, and education in which Federal, State, and
4 local agencies, members of the energy, transpor-
5 tation, and other industries, and other entities may
6 participate; and

7 “(3) to develop methods of hydrogen production
8 that minimize adverse environmental impacts, with
9 emphasis on efficient and cost-effective production
10 from renewable energy resources.”.

11 **SEC. 2203. DEFINITIONS.**

12 Section 102(c) of the Spark M. Matsunaga Hydrogen
13 Research, Development, and Demonstration Act of 1990
14 is amended—

15 (1) by redesignating paragraphs (1) through
16 (3) as paragraphs (2) through (4), respectively; and

17 (2) by inserting before paragraph (2), as so re-
18 designated by paragraph (1) of this section, the fol-
19 lowing new paragraph:

20 “(1) ‘advisory committee’ means the advisory
21 committee established under section 108;”.

22 **SEC. 2204. REPORTS TO CONGRESS.**

23 Section 103 of the Spark M. Matsunaga Hydrogen
24 Research, Development, and Demonstration Act of 1990
25 is amended to read as follows:

1 **“SEC. 103. REPORTS TO CONGRESS.**

2 “(a) REQUIREMENT.—Not later than 1 year after the
3 date of the enactment of the Robert S. Walker and George
4 E. Brown, Jr. Hydrogen Energy Act of 2001, and bienni-
5 ally thereafter, the Secretary shall transmit to Congress
6 a detailed report on the status and progress of the pro-
7 grams and activities authorized under this Act.

8 “(b) CONTENTS.—A report under subsection (a) shall
9 include, in addition to any views and recommendations of
10 the Secretary—

11 “(1) an assessment of the extent to which the
12 program is meeting the purposes specified in section
13 102(b);

14 “(2) a determination of the effectiveness of the
15 technology assessment, information dissemination,
16 and education program established under section
17 106;

18 “(3) an analysis of Federal, State, local, and
19 private sector hydrogen-related research, develop-
20 ment, and demonstration activities to identify pro-
21 ductive areas for increased intergovernmental and
22 private-public sector collaboration; and

23 “(4) recommendations of the advisory com-
24 mittee for any improvements needed in the programs
25 and activities authorized by this Act.”.

1 **SEC. 2205. HYDROGEN RESEARCH AND DEVELOPMENT.**

2 Section 104 of the Spark M. Matsunaga Hydrogen
3 Research, Development, and Demonstration Act of 1990
4 is amended to read as follows:

5 **“SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.**

6 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
7 shall conduct a hydrogen research and development pro-
8 gram relating to production, storage, transportation, and
9 use of hydrogen, with the goal of enabling the private sec-
10 tor to demonstrate the technical feasibility of using hydro-
11 gen for industrial, commercial, residential, transportation,
12 and utility applications.

13 “(b) ELEMENTS.—In conducting the program au-
14 thorized by this section, the Secretary shall—

15 “(1) give particular attention to developing an
16 understanding and resolution of critical technical
17 issues preventing the introduction of hydrogen as an
18 energy carrier into the marketplace;

19 “(2) initiate or accelerate existing research and
20 development in critical technical issues that will con-
21 tribute to the development of more economical hy-
22 drogen production, storage, transportation, and use,
23 including critical technical issues with respect to
24 production (giving priority to those production tech-
25 niques that use renewable energy resources as their
26 primary source of energy for hydrogen production),

1 liquefaction, transmission, distribution, storage, and
2 use (including use of hydrogen in surface transpor-
3 tation); and

4 “(3) survey private sector and public sector hy-
5 drogen research and development activities world-
6 wide, and take steps to ensure that research and de-
7 velopment activities under this section do not—

8 “(A) duplicate any available research and
9 development results; or

10 “(B) displace or compete with the privately
11 funded hydrogen research and development ac-
12 tivities of United States industry.

13 “(c) EVALUATION OF TECHNOLOGIES.—The Sec-
14 retary shall evaluate, for the purpose of determining
15 whether to undertake or fund research and development
16 activities under this section, any reasonable new or im-
17 proved technology that could lead or contribute to the de-
18 velopment of economical hydrogen production, storage,
19 transportation, and use.

20 “(d) RESEARCH AND DEVELOPMENT SUPPORT.—
21 The Secretary is authorized to arrange for tests and dem-
22 onstrations and to disseminate to researchers and devel-
23 opers information, data, and other materials necessary to
24 support the research and development activities authorized

1 under this section and other efforts authorized under this
2 Act, consistent with section 106 of this Act.

3 “(e) COMPETITIVE PEER REVIEW.—The Secretary
4 shall carry out or fund research and development activities
5 under this section only on a competitive basis using peer
6 review.

7 “(f) COST SHARING.—For research and development
8 programs carried out under this section, the Secretary
9 shall require a commitment from non-Federal sources of
10 at least 20 percent of the cost of the project. The Sec-
11 retary may reduce or eliminate the non-Federal require-
12 ment under this subsection if the Secretary determines
13 that the research and development is of a basic or funda-
14 mental nature.”.

15 **SEC. 2206. DEMONSTRATIONS.**

16 Section 105 of the Spark M. Matsunaga Hydrogen
17 Research, Development, and Demonstration Act of 1990
18 is amended—

19 (1) in subsection (a), by striking “, preferably
20 in self-contained locations,”;

21 (2) in subsection (b), by striking “at self-con-
22 tained sites” and inserting “, which shall include a
23 fuel cell bus demonstration program to address hy-
24 drogen production, storage, and use in transit bus
25 applications”; and

1 (3) in subsection (c), by inserting “NON-FED-
2 ERAL FUNDING REQUIREMENT.—” after “(c)”.

3 **SEC. 2207. TECHNOLOGY TRANSFER.**

4 Section 106 of the Spark M. Matsunaga Hydrogen
5 Research, Development, and Demonstration Act of 1990
6 is amended to read as follows:

7 **“SEC. 106. TECHNOLOGY ASSESSMENT, INFORMATION DIS-**
8 **SEMINATION, AND EDUCATION PROGRAM.**

9 “(a) PROGRAM.—The Secretary shall, in consultation
10 with the advisory committee, conduct a program designed
11 to accelerate wider application of hydrogen production,
12 storage, transportation, and use technologies, including
13 application in foreign countries to increase the global mar-
14 ket for the technologies and foster global economic devel-
15 opment without harmful environmental effects.

16 “(b) INFORMATION.—The Secretary, in carrying out
17 the program authorized by subsection (a), shall—

18 “(1) undertake an update of the inventory and
19 assessment, required under section 106(b)(1) of this
20 Act as in effect before the date of the enactment of
21 the Robert S. Walker and George E. Brown, Jr. Hy-
22 drogen Energy Act of 2001, of hydrogen tech-
23 nologies and their commercial capability to economi-
24 cally produce, store, transport, or use hydrogen in

1 industrial, commercial, residential, transportation,
2 and utility sector; and

3 “(2) develop, with other Federal agencies as ap-
4 propriate and industry, an information exchange
5 program to improve technology transfer for hydro-
6 gen production, storage, transportation, and use,
7 which may consist of workshops, publications, con-
8 ferences, and a database for the use by the public
9 and private sectors.”.

10 **SEC. 2208. COORDINATION AND CONSULTATION.**

11 Section 107 of the Spark M. Matsunaga Hydrogen
12 Research, Development, and Demonstration Act of 1990
13 is amended—

14 (1) by amending paragraph (1) of subsection
15 (a) to read as follows:

16 “(1) shall establish a central point for the co-
17 ordination of all hydrogen research, development,
18 and demonstration activities of the Department;
19 and”; and

20 (2) by amending subsection (c) to read as fol-
21 lows:

22 “(c) CONSULTATION.—The Secretary shall consult
23 with other Federal agencies as appropriate, and the advi-
24 sory committee, in carrying out the Secretary’s authorities
25 pursuant to this Act.”.

1 **SEC. 2209. ADVISORY COMMITTEE.**

2 Section 108 of the Spark M. Matsunaga Hydrogen
3 Research, Development, and Demonstration Act of 1990
4 is amended to read as follows:

5 **“SEC. 108. ADVISORY COMMITTEE.**

6 “(a) ESTABLISHMENT.—The Secretary shall enter
7 into appropriate arrangements with the National Acad-
8 emies of Sciences and Engineering to establish an advisory
9 committee consisting of experts drawn from domestic in-
10 dustry, academia, Governmental laboratories, and finan-
11 cial, environmental, and other organizations, as appro-
12 priate, to review and advise on the progress made through
13 the programs and activities authorized under this Act.

14 “(b) COOPERATION.—The heads of Federal agencies
15 shall cooperate with the advisory committee in carrying
16 out this section and shall furnish to the advisory com-
17 mittee such information as the advisory committee reason-
18 ably deems necessary to carry out this section.

19 “(c) REVIEW.—The advisory committee shall review
20 and make any necessary recommendations to the Sec-
21 retary on—

22 “(1) the implementation and conduct of pro-
23 grams and activities authorized under this Act; and

24 “(2) the economic, technological, and environ-
25 mental consequences of the deployment of hydrogen
26 production, storage, transportation, and use systems.

1 “(d) RESPONSIBILITIES OF THE SECRETARY.—The
2 Secretary shall consider, but need not adopt, any rec-
3 ommendations of the advisory committee under subsection
4 (c). The Secretary shall provide an explanation of the rea-
5 sons that any such recommendations will not be imple-
6 mented and include such explanation in the report to Con-
7 gress under section 103(a) of this Act.”.

8 **SEC. 2210. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 109 of the Spark M. Matsunaga Hydrogen
10 Research, Development, and Demonstration Act of 1990
11 is amended to read as follows:

12 **“SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) RESEARCH AND DEVELOPMENT; ADVISORY
14 COMMITTEE.—There are authorized to be appropriated to
15 the Secretary to carry out sections 104 and 108—

16 “(1) \$40,000,000 for fiscal year 2002;

17 “(2) \$45,000,000 for fiscal year 2003;

18 “(3) \$50,000,000 for fiscal year 2004;

19 “(4) \$55,000,000 for fiscal year 2005; and

20 “(5) \$60,000,000 for fiscal year 2006.

21 “(b) DEMONSTRATION.—There are authorized to be
22 appropriated to the Secretary to carry out section 105—

23 “(1) \$20,000,000 for fiscal year 2002;

24 “(2) \$25,000,000 for fiscal year 2003;

25 “(3) \$30,000,000 for fiscal year 2004;

1 “(4) \$35,000,000 for fiscal year 2005; and

2 “(5) \$40,000,000 for fiscal year 2006.”.

3 **SEC. 2211. REPEAL.**

4 (a) REPEAL.—Title II of the Hydrogen Future Act
5 of 1996 is repealed.

6 (b) CONFORMING AMENDMENT.—Section 2 of the
7 Hydrogen Future Act of 1996 is amended by striking “ti-
8 tles II and III” and inserting “title III”.

9 **Subtitle B—Bioenergy**

10 **SEC. 2221. SHORT TITLE.**

11 This subtitle may be cited as the “Bioenergy Act of
12 2001”.

13 **SEC. 2222. FINDINGS.**

14 Congress finds that bioenergy has potential to help—

15 (1) meet the Nation’s energy needs;

16 (2) reduce reliance on imported fuels;

17 (3) promote rural economic development;

18 (4) provide for productive utilization of agricul-
19 tural residues and waste materials, and forestry resi-
20 dues and byproducts; and

21 (5) protect the environment.

22 **SEC. 2223. DEFINITIONS.**

23 For purposes of this subtitle—

24 (1) the term “bioenergy” means energy derived
25 from any organic matter that is available on a re-

1 newable or recurring basis, including agricultural
2 crops and trees, wood and wood wastes and residues,
3 plants (including aquatic plants), grasses, residues,
4 fibers, and animal and other organic wastes;

5 (2) the term “biofuels” includes liquid or gas-
6 eous fuels, industrial chemicals, or both;

7 (3) the term “biopower” includes the generation
8 of electricity or process steam or both; and

9 (4) the term “integrated bioenergy research and
10 development” includes biopower and biofuels applica-
11 tions.

12 **SEC. 2224. AUTHORIZATION.**

13 The Secretary is authorized to conduct environmental
14 research and development, scientific and energy research,
15 development, and demonstration, and commercial applica-
16 tion of energy technology programs, projects, and activi-
17 ties related to bioenergy, including biopower energy sys-
18 tems, biofuels energy systems, and integrated bioenergy
19 research and development.

20 **SEC. 2225. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) **BIOWATER ENERGY SYSTEMS.**—There are au-
22 thorized to be appropriated to the Secretary for Biopower
23 Energy Systems programs, projects, and activities—

24 (1) \$45,700,000 for fiscal year 2002;

25 (2) \$52,500,000 for fiscal year 2003;

1 (3) \$60,300,000 for fiscal year 2004;

2 (4) \$69,300,000 for fiscal year 2005; and

3 (5) \$79,600,000 for fiscal year 2006.

4 (b) BIOFUELS ENERGY SYSTEMS.—There are au-
5 thorized to be appropriated to the Secretary for biofuels
6 energy systems programs, projects, and activities—

7 (1) \$53,500,000 for fiscal year 2002;

8 (2) \$61,400,000 for fiscal year 2003;

9 (3) \$70,600,000 for fiscal year 2004;

10 (4) \$81,100,000 for fiscal year 2005; and

11 (5) \$93,200,000 for fiscal year 2006.

12 (c) INTEGRATED BIOENERGY RESEARCH AND DE-
13 VELOPMENT.—There are authorized to be appropriated to
14 the Secretary for integrated bioenergy research and devel-
15 opment programs, projects, and activities, \$49,000,000
16 for each of the fiscal years 2002 through 2006. Activities
17 funded under this subsection shall be coordinated with on-
18 going related programs of other Federal agencies, includ-
19 ing the Plant Genome Program of the National Science
20 Foundation.

21 (d) INTEGRATED APPLICATIONS.—Amounts author-
22 ized to be appropriated under this subtitle may be used
23 to assist in the planning, design, and implementation of
24 projects to convert rice straw and barley grain into
25 biopower or biofuels.

1 **Subtitle C—Transmission**
2 **Infrastructure Systems**

3 **SEC. 2241. TRANSMISSION INFRASTRUCTURE SYSTEMS RE-**
4 **SEARCH, DEVELOPMENT, DEMONSTRATION,**
5 **AND COMMERCIAL APPLICATION.**

6 (a) **IN GENERAL.**—The Secretary shall develop and
7 implement a comprehensive research, development, dem-
8 onstration, and commercial application program to ensure
9 the reliability, efficiency, and environmental integrity of
10 electrical transmission systems. Such program shall in-
11 clude advanced energy technologies and systems, high ca-
12 pacity superconducting transmission lines and generators,
13 advanced grid reliability and efficiency technologies devel-
14 opment, technologies contributing to significant load re-
15 ductions, advanced metering, load management and con-
16 trol technologies, and technology transfer and education.

17 (b) **TECHNOLOGY.**—In carrying out this subtitle, the
18 Secretary may include research, development, and dem-
19 onstration on and commercial application of improved
20 transmission technologies including the integration of the
21 following technologies into improved transmission systems:

- 22 (1) High temperature superconductivity.
23 (2) Advanced transmission materials.

1 (3) Self-adjusting equipment, processes, or soft-
2 ware for survivability, security, and failure contain-
3 ment.

4 (4) Enhancements of energy transfer over exist-
5 ing lines.

6 (5) Any other infrastructure technologies, as
7 appropriate.

8 **SEC. 2242. PROGRAM PLAN.**

9 Within 4 months after the date of the enactment of
10 this Act, the Secretary, in consultation with other appro-
11 priate Federal agencies, shall prepare and transmit to
12 Congress a 5-year program plan to guide activities under
13 this subtitle. In preparing the program plan, the Secretary
14 shall consult with appropriate representatives of the trans-
15 mission infrastructure systems industry to select and
16 prioritize appropriate program areas. The Secretary shall
17 also seek the advice of utilities, energy services providers,
18 manufacturers, institutions of higher learning, other ap-
19 propriate State and local agencies, environmental organi-
20 zations, professional and technical societies, and any other
21 persons as the Secretary considers appropriate.

22 **SEC. 2243. REPORT.**

23 Two years after the date of the enactment of this Act,
24 and at two year intervals thereafter, the Secretary, in con-
25 sultation with other appropriate Federal agencies, shall

1 transmit a report to Congress describing the progress
2 made to achieve the purposes of this subtitle and identi-
3 fying any additional resources needed to continue the de-
4 velopment and commercial application of transmission in-
5 frastructure technologies.

6 **Subtitle D—Department of Energy**
7 **Authorization of Appropriations**

8 **SEC. 2261. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) OPERATION AND MAINTENANCE.—There are au-
10 thorized to be appropriated to the Secretary for Renewable
11 Energy operation and maintenance, including activities
12 under subtitle C, Geothermal Technology Development,
13 Hydropower, Concentrating Solar Power, Photovoltaic
14 Energy Systems, Solar Building Technology Research,
15 Wind Energy Systems, High Temperature Super-
16 conducting Research and Development, Energy Storage
17 Systems, Transmission Reliability, International Renew-
18 able Energy Program, Renewable Energy Production In-
19 centive Program, Renewable Program Support, National
20 Renewable Energy Laboratory, and Program Direction,
21 and including amounts authorized under the amendment
22 made by section 2210 and amounts authorized under sec-
23 tion 2225, \$535,000,000 for fiscal year 2002,
24 \$639,000,000 for fiscal year 2003, and \$683,000,000 for
25 fiscal year 2004, to remain available until expended.

1 (b) WAVE POWERED ELECTRIC GENERATION.—

2 Within the amounts authorized to be appropriated to the
3 Secretary under subsection (a), the Secretary shall carry
4 out a research program, in conjunction with other appro-
5 priate Federal agencies, on wave powered electric genera-
6 tion.

7 (c) ASSESSMENT OF RENEWABLE ENERGY RE-
8 SOURCES.—

9 (1) IN GENERAL.—Using funds authorized in
10 subsection (a), of this section, the Secretary shall
11 transmit to the Congress, within one year after the
12 date of the enactment of this Act, an assessment of
13 all renewable energy resources available within the
14 United States.

15 (2) RESOURCE ASSESSMENT.—Such report
16 shall include a detailed inventory describing the
17 available amount and characteristics of solar, wind,
18 biomass, geothermal, hydroelectric, and other renew-
19 able energy sources, and an estimate of the costs
20 needed to develop each resource. The report shall
21 also include such other information as the Secretary
22 believes would be useful in siting renewable energy
23 generation, such as appropriate terrain, population
24 and load centers, nearby energy infrastructure, and
25 location of energy resources.

1 (3) AVAILABILITY.—The information and cost
2 estimates in this report shall be updated annually
3 and made available to the public, along with the
4 data used to create the report.

5 (4) SUNSET.—This subsection shall expire at
6 the end of fiscal year 2004.

7 (d) LIMITS ON USE OF FUNDS.—None of the funds
8 authorized to be appropriated in subsection (a) may be
9 used for—

10 (1) Departmental Energy Management Pro-
11 gram; or

12 (2) Renewable Indian Energy Resources.

13 **TITLE III—NUCLEAR ENERGY**
14 **Subtitle A—University Nuclear**
15 **Science and Engineering**

16 **SEC. 2301. SHORT TITLE.**

17 This subtitle may be cited as “Department of Energy
18 University Nuclear Science and Engineering Act”.

19 **SEC. 2302. FINDINGS.**

20 The Congress finds the following:

21 (1) United States university nuclear science and
22 engineering programs are in a state of serious de-
23 cline, with nuclear engineering enrollment at a 35-
24 year low. Since 1980, the number of nuclear engi-
25 neering university programs has declined nearly 40

1 percent, and over two-thirds of the faculty in these
2 programs are 45 years of age or older. Also, since
3 1980, the number of university research and train-
4 ing reactors in the United States has declined by
5 over 50 percent. Most of these reactors were built in
6 the late 1950s and 1960s with 30-year to 40-year
7 operating licenses, and many will require relicensing
8 in the next several years.

9 (2) A decline in a competent nuclear workforce,
10 and the lack of adequately trained nuclear scientists
11 and engineers, will affect the ability of the United
12 States to solve future nuclear waste storage issues,
13 operate existing and design future fission reactors in
14 the United States, respond to future nuclear events
15 worldwide, help stem the proliferation of nuclear
16 weapons, and design and operate naval nuclear reac-
17 tors.

18 (3) The Department of Energy's Office of Nu-
19 clear Energy, Science and Technology, a principal
20 Federal agency for civilian research in nuclear
21 science and engineering, is well suited to help main-
22 tain tomorrow's human resource and training invest-
23 ment in the nuclear sciences and engineering.

1 **SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.**

2 (a) ESTABLISHMENT.—The Secretary, through the
3 Office of Nuclear Energy, Science and Technology, shall
4 support a program to maintain the Nation’s human re-
5 source investment and infrastructure in the nuclear
6 sciences and engineering consistent with the Department’s
7 statutory authorities related to civilian nuclear research,
8 development, and demonstration and commercial applica-
9 tion of energy technology.

10 (b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY,
11 SCIENCE AND TECHNOLOGY.—In carrying out the pro-
12 gram under this subtitle, the Director of the Office of Nu-
13 clear Energy, Science and Technology shall—

14 (1) develop a robust graduate and under-
15 graduate fellowship program to attract new and tal-
16 ented students;

17 (2) assist universities in recruiting and retain-
18 ing new faculty in the nuclear sciences and engineer-
19 ing through a Junior Faculty Research Initiation
20 Grant Program;

21 (3) maintain a robust investment in the funda-
22 mental nuclear sciences and engineering through the
23 Nuclear Engineering Education Research Program;

24 (4) encourage collaborative nuclear research
25 among industry, national laboratories, and univer-

1 sities through the Nuclear Energy Research Initia-
2 tive;

3 (5) assist universities in maintaining reactor in-
4 frastructure; and

5 (6) support communication and outreach re-
6 lated to nuclear science and engineering.

7 (c) MAINTAINING UNIVERSITY RESEARCH AND
8 TRAINING REACTORS AND ASSOCIATED INFRASTRUC-
9 TURE.—The Secretary, through the Office of Nuclear En-
10 ergy, Science and Technology, shall provide for the fol-
11 lowing university research and training reactor infrastruc-
12 ture maintenance and research activities:

13 (1) Refueling of university research reactors
14 with low enriched fuels, upgrade of operational in-
15 strumentation, and sharing of reactors among uni-
16 versities.

17 (2) In collaboration with the United States nu-
18 clear industry, assistance, where necessary, in reli-
19 censing and upgrading university training reactors
20 as part of a student training program.

21 (3) A university reactor research and training
22 award program that provides for reactor improve-
23 ments as part of a focused effort that emphasizes re-
24 search, training, and education.

1 (d) UNIVERSITY-DOE LABORATORY INTER-
2 ACTIONS.—The Secretary, through the Office of Nuclear
3 Energy, Science and Technology, shall develop—

4 (1) a sabbatical fellowship program for univer-
5 sity faculty to spend extended periods of time at De-
6 partment of Energy laboratories in the areas of nu-
7 clear science and technology; and

8 (2) a visiting scientist program in which labora-
9 tory staff can spend time in academic nuclear
10 science and engineering departments.

11 The Secretary may under subsection (b)(1) provide for fel-
12 lowships for students to spend time at Department of En-
13 ergy laboratories in the areas of nuclear science and tech-
14 nology under the mentorship of laboratory staff.

15 (e) OPERATIONS AND MAINTENANCE.—To the extent
16 that the use of a university research reactor is funded
17 under this subtitle, funds authorized under this subtitle
18 may be used to supplement operation of the research reac-
19 tor during the investigator's proposed effort. The host in-
20 stitution shall provide at least 50 percent of the cost of
21 the reactor's operation.

22 (f) MERIT REVIEW REQUIRED.—All grants, con-
23 tracts, cooperative agreements, or other financial assist-
24 ance awards under this subtitle shall be made only after
25 independent merit review.

1 (g) REPORT.—Not later than 6 months after the date
2 of the enactment of this Act, the Secretary shall prepare
3 and transmit to the appropriate congressional committees
4 a 5-year plan on how the programs authorized in this sub-
5 title will be implemented. The plan shall include a review
6 of the projected personnel needs in the fields of nuclear
7 science and engineering and of the scope of nuclear science
8 and engineering education programs at the Department
9 and other Federal agencies.

10 **SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) TOTAL AUTHORIZATION.—The following sums
12 are authorized to be appropriated to the Secretary, to re-
13 main available until expended, for the purposes of carrying
14 out this subtitle:

15 (1) \$30,200,000 for fiscal year 2002.

16 (2) \$41,000,000 for fiscal year 2003.

17 (3) \$47,900,000 for fiscal year 2004.

18 (4) \$55,600,000 for fiscal year 2005.

19 (5) \$64,100,000 for fiscal year 2006.

20 (b) GRADUATE AND UNDERGRADUATE FELLOW-
21 SHIPS.—Of the funds authorized by subsection (a), the fol-
22 lowing sums are authorized to be appropriated to carry
23 out section 2303(b)(1):

24 (1) \$3,000,000 for fiscal year 2002.

25 (2) \$3,100,000 for fiscal year 2003.

1 (3) \$3,200,000 for fiscal year 2004.

2 (4) \$3,200,000 for fiscal year 2005.

3 (5) \$3,200,000 for fiscal year 2006.

4 (c) JUNIOR FACULTY RESEARCH INITIATION GRANT
5 PROGRAM.—Of the funds authorized by subsection (a),
6 the following sums are authorized to be appropriated to
7 carry out section 2303(b)(2):

8 (1) \$5,000,000 for fiscal year 2002.

9 (2) \$7,000,000 for fiscal year 2003.

10 (3) \$8,000,000 for fiscal year 2004.

11 (4) \$9,000,000 for fiscal year 2005.

12 (5) \$10,000,000 for fiscal year 2006.

13 (d) NUCLEAR ENGINEERING EDUCATION RESEARCH
14 PROGRAM.—Of the funds authorized by subsection (a),
15 the following sums are authorized to be appropriated to
16 carry out section 2303(b)(3):

17 (1) \$8,000,000 for fiscal year 2002.

18 (2) \$12,000,000 for fiscal year 2003.

19 (3) \$13,000,000 for fiscal year 2004.

20 (4) \$15,000,000 for fiscal year 2005.

21 (5) \$20,000,000 for fiscal year 2006.

22 (e) COMMUNICATION AND OUTREACH RELATED TO
23 NUCLEAR SCIENCE AND ENGINEERING.—Of the funds
24 authorized by subsection (a), the following sums are au-

1 thorized to be appropriated to carry out section
2 2303(b)(5):

3 (1) \$200,000 for fiscal year 2002.

4 (2) \$200,000 for fiscal year 2003.

5 (3) \$300,000 for fiscal year 2004.

6 (4) \$300,000 for fiscal year 2005.

7 (5) \$300,000 for fiscal year 2006.

8 (f) REFUELING OF UNIVERSITY RESEARCH REAC-
9 TORS AND INSTRUMENTATION UPGRADES.—Of the funds
10 authorized by subsection (a), the following sums are au-
11 thorized to be appropriated to carry out section
12 2303(c)(1):

13 (1) \$6,000,000 for fiscal year 2002.

14 (2) \$6,500,000 for fiscal year 2003.

15 (3) \$7,000,000 for fiscal year 2004.

16 (4) \$7,500,000 for fiscal year 2005.

17 (5) \$8,000,000 for fiscal year 2006.

18 (g) RELICENSING ASSISTANCE.—Of the funds au-
19 thorized by subsection (a), the following sums are author-
20 ized to be appropriated to carry out section 2303(c)(2):

21 (1) \$1,000,000 for fiscal year 2002.

22 (2) \$1,100,000 for fiscal year 2003.

23 (3) \$1,200,000 for fiscal year 2004.

24 (4) \$1,300,000 for fiscal year 2005.

25 (5) \$1,300,000 for fiscal year 2006.

1 (h) REACTOR RESEARCH AND TRAINING AWARD
2 PROGRAM.—Of the funds authorized by subsection (a),
3 the following sums are authorized to be appropriated to
4 carry out section 2303(c)(3):

- 5 (1) \$6,000,000 for fiscal year 2002.
- 6 (2) \$10,000,000 for fiscal year 2003.
- 7 (3) \$14,000,000 for fiscal year 2004.
- 8 (4) \$18,000,000 for fiscal year 2005.
- 9 (5) \$20,000,000 for fiscal year 2006.

10 (i) UNIVERSITY-DOE LABORATORY INTER-
11 ACTIONS.—Of the funds authorized by subsection (a), the
12 following sums are authorized to be appropriated to carry
13 out section 2303(d):

- 14 (1) \$1,000,000 for fiscal year 2002.
- 15 (2) \$1,100,000 for fiscal year 2003.
- 16 (3) \$1,200,000 for fiscal year 2004.
- 17 (4) \$1,300,000 for fiscal year 2005.
- 18 (5) \$1,300,000 for fiscal year 2006.

19 **Subtitle B—Advanced Fuel Recy-**
20 **cling Technology Research and**
21 **Development Program**

22 **SEC. 2321. PROGRAM.**

23 (a) IN GENERAL.—The Secretary, through the Direc-
24 tor of the Office of Nuclear Energy, Science and Tech-
25 nology, shall conduct an advanced fuel recycling tech-

1 nology research and development program to further the
2 availability of proliferation-resistant fuel recycling tech-
3 nologies as an alternative to aqueous reprocessing in sup-
4 port of evaluation of alternative national strategies for
5 spent nuclear fuel and the Generation IV advanced reactor
6 concepts, subject to annual review by the Secretary's Nu-
7 clear Energy Research Advisory Committee or other inde-
8 pendent entity, as appropriate.

9 (b) REPORTS.—The Secretary shall report on the ac-
10 tivities of the advanced fuel recycling technology research
11 and development program, as part of the Department's
12 annual budget submission.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary to carry
15 out this section—

16 (1) \$10,000,000 for fiscal year 2002; and

17 (2) such sums as are necessary for fiscal year
18 2003 and fiscal year 2004.

19 **Subtitle C—Department of Energy** 20 **Authorization of Appropriations**

21 **SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.**

22 (a) PROGRAM.—The Secretary, through the Office of
23 Nuclear Energy, Science and Technology, shall conduct a
24 Nuclear Energy Research Initiative for grants to be com-

1 petitively awarded and subject to peer review for research
2 relating to nuclear energy.

3 (b) OBJECTIVES.—The program shall be directed to-
4 ward accomplishing the objectives of—

5 (1) developing advanced concepts and scientific
6 breakthroughs in nuclear fission and reactor tech-
7 nology to address and overcome the principal tech-
8 nical and scientific obstacles to the expanded use of
9 nuclear energy in the United States;

10 (2) advancing the state of nuclear technology to
11 maintain a competitive position in foreign markets
12 and a future domestic market;

13 (3) promoting and maintaining a United States
14 nuclear science and engineering infrastructure to
15 meet future technical challenges;

16 (4) providing an effective means to collaborate
17 on a cost-shared basis with international agencies
18 and research organizations to address and influence
19 nuclear technology development worldwide; and

20 (5) promoting United States leadership and
21 partnerships in bilateral and multilateral nuclear en-
22 ergy research.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary to carry
25 out this section—

1 (1) \$60,000,000 for fiscal year 2002; and

2 (2) such sums as are necessary for fiscal year
3 2003 and fiscal year 2004.

4 **SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PRO-**
5 **GRAM.**

6 (a) PROGRAM.—The Secretary, through the Office of
7 Nuclear Energy, Science and Technology, shall conduct a
8 Nuclear Energy Plant Optimization research and develop-
9 ment program jointly with industry and cost-shared by in-
10 dustry by at least 50 percent and subject to annual review
11 by the Secretary’s Nuclear Energy Research Advisory
12 Committee or other independent entity, as appropriate.

13 (b) OBJECTIVES.—The program shall be directed to-
14 ward accomplishing the objectives of—

15 (1) managing long-term effects of component
16 aging; and

17 (2) improving the efficiency and productivity of
18 existing nuclear power stations.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary to carry
21 out this section—

22 (1) \$15,000,000 for fiscal year 2002; and

23 (2) such sums as are necessary for fiscal years
24 2003 and 2004.

1 **SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.**

2 (a) IN GENERAL.—The Secretary, through the Office
3 of Nuclear Energy, Science and Technology, shall conduct
4 a study of Generation IV nuclear energy systems, includ-
5 ing development of a technology roadmap and perform-
6 ance of research and development necessary to make an
7 informed technical decision regarding the most promising
8 candidates for commercial application.

9 (b) REACTOR CHARACTERISTICS.—To the extent
10 practicable, in conducting the study under subsection (a),
11 the Secretary shall study nuclear energy systems that offer
12 the highest probability of achieving the goals for Genera-
13 tion IV nuclear energy systems, including—

14 (1) economics competitive with any other gen-
15 erators;

16 (2) enhanced safety features, including passive
17 safety features;

18 (3) substantially reduced production of high-
19 level waste, as compared with the quantity of waste
20 produced by reactors in operation on the date of en-
21 actment of this Act;

22 (4) highly proliferation-resistant fuel and waste;

23 (5) sustainable energy generation including op-
24 timized fuel utilization; and

1 (6) substantially improved thermal efficiency, as
2 compared with the thermal efficiency of reactors in
3 operation on the date of enactment of this Act.

4 (c) CONSULTATION.—In conducting the study under
5 subsection (a), the Secretary shall consult with appro-
6 priate representatives of industry, institutions of higher
7 education, Federal agencies, and international, profes-
8 sional, and technical organizations.

9 (d) REPORT.—

10 (1) IN GENERAL.—Not later than December 31,
11 2002, the Secretary shall transmit to the appro-
12 priate congressional committees a report describing
13 the activities of the Secretary under this section, and
14 plans for research and development leading to a
15 public/private cooperative demonstration of one or
16 more Generation IV nuclear energy systems.

17 (2) CONTENTS.—The report shall contain—

18 (A) an assessment of all available tech-
19 nologies;

20 (B) a summary of actions needed for the
21 most promising candidates to be considered as
22 viable commercial options within the five to ten
23 years after the date of the report, with consid-
24 eration of regulatory, economic, and technical
25 issues;

1 (C) a recommendation of not more than
2 three promising Generation IV nuclear energy
3 system concepts for further development;

4 (D) an evaluation of opportunities for pub-
5 lic/private partnerships;

6 (E) a recommendation for structure of a
7 public/private partnership to share in develop-
8 ment and construction costs;

9 (F) a plan leading to the selection and con-
10 ceptual design, by September 30, 2004, of at
11 least one Generation IV nuclear energy system
12 concept recommended under subparagraph (C)
13 for demonstration through a public/private
14 partnership;

15 (G) an evaluation of opportunities for
16 siting demonstration facilities on Department of
17 Energy land; and

18 (H) a recommendation for appropriate in-
19 volvement of other Federal agencies.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Secretary to carry
22 out this section and to carry out the recommendations in
23 the report transmitted under subsection (d)—

24 (1) \$20,000,000 for fiscal year 2002; and

1 (2) such sums as are necessary for fiscal year
2 2003 and fiscal year 2004.

3 **SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) OPERATION AND MAINTENANCE.—There are au-
5 thorized to be appropriated to the Secretary to carry out
6 activities authorized under this title for nuclear energy op-
7 eration and maintenance, including amounts authorized
8 under sections 2304(a), 2321(c), 2341(c), 2342(c), and
9 2343(e), and including Advanced Radioisotope Power Sys-
10 tems, Test Reactor Landlord, and Program Direction,
11 \$191,200,000 for fiscal year 2002, \$199,000,000 for fis-
12 cal year 2003, and \$207,000,000 for fiscal year 2004, to
13 remain available until expended.

14 (b) CONSTRUCTION.—There are authorized to be ap-
15 propriated to the Secretary—

16 (1) \$950,000 for fiscal year 2002, \$2,200,000
17 for fiscal year 2003, \$1,246,000 for fiscal year
18 2004, and \$1,699,000 for fiscal year 2005 for com-
19 pletion of construction of Project 99-E-200, Test
20 Reactor Area Electric Utility Upgrade, Idaho Na-
21 tional Engineering and Environmental Laboratory;
22 and

23 (2) \$500,000 for fiscal year 2002, \$500,000 for
24 fiscal year 2003, \$500,000 for fiscal year 2004, and
25 \$500,000 for fiscal year 2005, for completion of con-

1 construction of Project 95-E-201, Test Reactor Area
2 Fire and Life Safety Improvements, Idaho National
3 Engineering and Environmental Laboratory.

4 (c) LIMITS ON USE OF FUNDS.—None of the funds
5 authorized to be appropriated in subsection (a) may be
6 used for—

7 (1) Nuclear Energy Isotope Support and Pro-
8 duction;

9 (2) Argonne National Laboratory-West Oper-
10 ations;

11 (3) Fast Flux Test Facility; or

12 (4) Nuclear Facilities Management.

13 **TITLE IV—FOSSIL ENERGY**

14 **Subtitle A—Coal**

15 **SEC. 2401. COAL AND RELATED TECHNOLOGIES PRO-** 16 **GRAMS.**

17 (a) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary
19 \$172,000,000 for fiscal year 2002, \$179,000,000 for fis-
20 cal year 2003, and \$186,000,000 for fiscal year 2004, to
21 remain available until expended, for other coal and related
22 technologies research and development programs, which
23 shall include—

24 (1) Innovations for Existing Plants;

25 (2) Integrated Gasification Combined Cycle;

- 1 (3) advanced combustion systems;
- 2 (4) Turbines;
- 3 (5) Sequestration Research and Development;
- 4 (6) innovative technologies for demonstration;
- 5 (7) Transportation Fuels and Chemicals;
- 6 (8) Solid Fuels and Feedstocks;
- 7 (9) Advanced Fuels Research; and
- 8 (10) Advanced Research.

9 (b) LIMIT ON USE OF FUNDS.—Notwithstanding sub-
10 section (a), no funds may be used to carry out the activi-
11 ties authorized by this section after September 30, 2002,
12 unless the Secretary has transmitted to the Congress the
13 report required by this subsection and 1 month has
14 elapsed since that transmission. The report shall include
15 a plan containing—

16 (1) a detailed description of how proposals will
17 be solicited and evaluated, including a list of all ac-
18 tivities expected to be undertaken;

19 (2) a detailed list of technical milestones for
20 each coal and related technology that will be pur-
21 sued;

22 (3) a description of how the programs author-
23 ized in this subsection will be carried out so as to
24 complement and not duplicate activities authorized
25 under division E.

1 **Subtitle B—Oil and Gas**

2 **SEC. 2421. PETROLEUM-OIL TECHNOLOGY.**

3 The Secretary shall conduct a program of research,
4 development, demonstration, and commercial application
5 on petroleum-oil technology. The program shall address—

6 (1) Exploration and Production Supporting Re-
7 search;

8 (2) Oil Technology Reservoir Management/Ex-
9 tension; and

10 (3) Effective Environmental Protection.

11 **SEC. 2422. GAS.**

12 The Secretary shall conduct a program of research,
13 development, demonstration, and commercial application
14 on natural gas technologies. The program shall address—

15 (1) Exploration and Production;

16 (2) Infrastructure; and

17 (3) Effective Environmental Protection.

18 **Subtitle C—Ultra-Deepwater and**
19 **Unconventional Drilling**

20 **SEC. 2441. SHORT TITLE.**

21 This subtitle may be cited as the “Natural Gas and
22 Other Petroleum Research, Development, and Demonstra-
23 tion Act of 2001”.

24 **SEC. 2442. DEFINITIONS.**

25 For purposes of this subtitle—

1 (1) the term “deepwater” means water depths
2 greater than 200 meters but less than 1,500 meters;

3 (2) the term “Fund” means the Ultra-Deep-
4 water and Unconventional Gas Research Fund es-
5 tablished under section 2450;

6 (3) the term “institution of higher education”
7 has the meaning given that term in section 101 of
8 the Higher Education Act of 1965 (20 U.S.C.
9 1001);

10 (4) the term “Research Organization” means
11 the Research Organization created pursuant to sec-
12 tion 2446(a);

13 (5) the term “ultra-deepwater” means water
14 depths greater than 1,500 meters; and

15 (6) the term “unconventional” means located in
16 heretofore inaccessible or uneconomic formations on
17 land.

18 **SEC. 2443. ULTRA-DEEPWATER PROGRAM.**

19 The Secretary shall establish a program of research,
20 development, and demonstration of ultra-deepwater nat-
21 ural gas and other petroleum exploration and production
22 technologies, in areas currently available for Outer Conti-
23 nental Shelf leasing. The program shall be carried out by
24 the Research Organization as provided in this subtitle.

1 **SEC. 2444. NATIONAL ENERGY TECHNOLOGY LABORATORY.**

2 The National Energy Technology Laboratory and the
3 United States Geological Survey, when appropriate, shall
4 carry out programs of long-term research into new natural
5 gas and other petroleum exploration and production tech-
6 nologies and environmental mitigation technologies for
7 production from unconventional and ultra-deepwater re-
8 sources, including methane hydrates. Such Laboratory
9 shall also conduct a program of research, development,
10 and demonstration of new technologies for the reduction
11 of greenhouse gas emissions from unconventional and
12 ultra-deepwater natural gas or other petroleum explo-
13 ration and production activities, including sub-sea floor
14 carbon sequestration technologies.

15 **SEC. 2445. ADVISORY COMMITTEE.**

16 (a) ESTABLISHMENT.—The Secretary shall, within 3
17 months after the date of the enactment of this Act, estab-
18 lish an Advisory Committee consisting of 7 members, each
19 having extensive operational knowledge of and experience
20 in the natural gas and other petroleum exploration and
21 production industry who are not Federal Government em-
22 ployees or contractors. A minimum of 4 members shall
23 have extensive knowledge of ultra-deepwater natural gas
24 or other petroleum exploration and production tech-
25 nologies, a minimum of 2 members shall have extensive
26 knowledge of unconventional natural gas or other petro-

1 leum exploration and production technologies, and at least
2 1 member shall have extensive knowledge of greenhouse
3 gas emission reduction technologies, including carbon se-
4 questration.

5 (b) FUNCTION.—The Advisory Committee shall ad-
6 vise the Secretary on the selection of an organization to
7 create the Research Organization and on the implementa-
8 tion of this subtitle.

9 (c) COMPENSATION.—Members of the Advisory Com-
10 mittee shall serve without compensation but shall receive
11 travel expenses, including per diem in lieu of subsistence,
12 in accordance with applicable provisions under subchapter
13 I of chapter 57 of title 5, United States Code.

14 (d) ADMINISTRATIVE COSTS.—The costs of activities
15 carried out by the Secretary and the Advisory Committee
16 under this subtitle shall be paid or reimbursed from the
17 Fund.

18 (e) DURATION OF ADVISORY COMMITTEE.—Section
19 14 of the Federal Advisory Committee Act shall not apply
20 to the Advisory Committee.

21 **SEC. 2446. RESEARCH ORGANIZATION.**

22 (a) SELECTION OF RESEARCH ORGANIZATION.—The
23 Secretary, within 6 months after the date of the enactment
24 of this Act, shall solicit proposals from eligible entities for
25 the creation of the Research Organization, and within 3

1 months after such solicitation, shall select an entity to cre-
2 ate the Research Organization.

3 (b) ELIGIBLE ENTITIES.—Entities eligible to create
4 the Research Organization shall—

5 (1) have been in existence as of the date of the
6 enactment of this Act;

7 (2) be entities exempt from tax under section
8 501(c)(3) of the Internal Revenue Code of 1986;
9 and

10 (3) be experienced in planning and managing
11 programs in natural gas or other petroleum explo-
12 ration and production research, development, and
13 demonstration.

14 (c) PROPOSALS.—A proposal from an entity seeking
15 to create the Research Organization shall include a de-
16 tailed description of the proposed membership and struc-
17 ture of the Research Organization.

18 (d) FUNCTIONS.—The Research Organization shall—

19 (1) award grants on a competitive basis to
20 qualified—

21 (A) research institutions;

22 (B) institutions of higher education;

23 (C) companies; and

24 (D) consortia formed among institutions
25 and companies described in subparagraphs (A)

1 through (C) for the purpose of conducting re-
2 search, development, and demonstration of un-
3 conventional and ultra-deepwater natural gas or
4 other petroleum exploration and production
5 technologies; and

6 (2) review activities under those grants to en-
7 sure that they comply with the requirements of this
8 subtitle and serve the purposes for which the grant
9 was made.

10 **SEC. 2447. GRANTS.**

11 (a) TYPES OF GRANTS.—

12 (1) UNCONVENTIONAL.—The Research Organi-
13 zation shall award grants for research, development,
14 and demonstration of technologies to maximize the
15 value of the Government's natural gas and other pe-
16 troleum resources in unconventional reservoirs, and
17 to develop technologies to increase the supply of nat-
18 ural gas and other petroleum resources by lowering
19 the cost and improving the efficiency of exploration
20 and production of unconventional reservoirs, while
21 improving safety and minimizing environmental im-
22 pacts.

23 (2) ULTRA-DEEPWATER.—The Research Orga-
24 nization shall award grants for research, develop-
25 ment, and demonstration of natural gas or other pe-

1 troleum exploration and production technologies
2 to—

3 (A) maximize the value of the Federal
4 Government's natural gas and other petroleum
5 resources in the ultra-deepwater areas;

6 (B) increase the supply of natural gas and
7 other petroleum resources by lowering the cost
8 and improving the efficiency of exploration and
9 production of ultra-deepwater reservoirs; and

10 (C) improve safety and minimize the envi-
11 ronmental impacts of ultra-deepwater develop-
12 ments.

13 (3) ULTRA-DEEPWATER ARCHITECTURE.—The
14 Research Organization shall award a grant to one or
15 more consortia described in section 2446(d)(1)(D)
16 for the purpose of developing and demonstrating the
17 next generation architecture for ultra-deepwater pro-
18 duction of natural gas and other petroleum in fur-
19 therance of the purposes stated in paragraph (2)(A)
20 through (C).

21 (b) CONDITIONS FOR GRANTS.—Grants provided
22 under this section shall contain the following conditions:

23 (1) If the grant recipient consists of more than
24 one entity, the recipient shall provide a signed con-
25 tract agreed to by all participating members clearly

1 defining all rights to intellectual property for exist-
2 ing technology and for future inventions conceived
3 and developed using funds provided under the grant,
4 in a manner that is consistent with applicable laws.

5 (2) There shall be a repayment schedule for
6 Federal dollars provided for demonstration projects
7 under the grant in the event of a successful commer-
8 cialization of the demonstrated technology. Such re-
9 payment schedule shall provide that the payments
10 are made to the Secretary with the express intent
11 that these payments not impede the adoption of the
12 demonstrated technology in the marketplace. In the
13 event that such impedance occurs due to market
14 forces or other factors, the Research Organization
15 shall renegotiate the grant agreement so that the ac-
16 ceptance of the technology in the marketplace is en-
17 abled.

18 (3) Applications for grants for demonstration
19 projects shall clearly state the intended commercial
20 applications of the technology demonstrated.

21 (4) The total amount of funds made available
22 under a grant provided under subsection (a)(3) shall
23 not exceed 50 percent of the total cost of the activi-
24 ties for which the grant is provided.

1 (5) The total amount of funds made available
2 under a grant provided under subsection (a)(1) or
3 (2) shall not exceed 50 percent of the total cost of
4 the activities covered by the grant, except that the
5 Research Organization may elect to provide grants
6 covering a higher percentage, not to exceed 90 per-
7 cent, of total project costs in the case of grants
8 made solely to independent producers.

9 (6) An appropriate amount of funds provided
10 under a grant shall be used for the broad dissemina-
11 tion of technologies developed under the grant to in-
12 terested institutions of higher education, industry,
13 and appropriate Federal and State technology enti-
14 ties to ensure the greatest possible benefits for the
15 public and use of government resources.

16 (7) Demonstrations of ultra-deepwater tech-
17 nologies for which funds are provided under a grant
18 may be conducted in ultra-deepwater or deepwater
19 locations.

20 (c) ALLOCATION OF FUNDS.—Funds available for
21 grants under this subtitle shall be allocated as follows:

22 (1) 15 percent shall be for grants under sub-
23 section (a)(1).

24 (2) 15 percent shall be for grants under sub-
25 section (a)(2).

1 (3) 60 percent shall be for grants under sub-
2 section (a)(3).

3 (4) 10 percent shall be for carrying out section
4 2444.

5 **SEC. 2448. PLAN AND FUNDING.**

6 (a) TRANSMITTAL TO SECRETARY.—The Research
7 Organization shall transmit to the Secretary an annual
8 plan proposing projects and funding of activities under
9 each paragraph of section 2447(a).

10 (b) REVIEW.—The Secretary shall have 1 month to
11 review the annual plan, and shall approve the plan, if it
12 is consistent with this subtitle. If the Secretary approves
13 the plan, the Secretary shall provide funding as proposed
14 in the plan.

15 (c) DISAPPROVAL.—If the Secretary does not approve
16 the plan, the Secretary shall notify the Research Organi-
17 zation of the reasons for disapproval and shall withhold
18 funding until a new plan is submitted which the Secretary
19 approves. Within 1 month after notifying the Research Or-
20 ganization of a disapproval, the Secretary shall notify the
21 appropriate congressional committees of the disapproval.

22 **SEC. 2449. AUDIT.**

23 The Secretary shall retain an independent, commer-
24 cial auditor to determine the extent to which the funds
25 authorized by this subtitle have been expended in a man-

1 ner consistent with the purposes of this subtitle. The audi-
2 tor shall transmit a report annually to the Secretary, who
3 shall transmit the report to the appropriate congressional
4 committees, along with a plan to remedy any deficiencies
5 cited in the report.

6 **SEC. 2450. FUND.**

7 (a) ESTABLISHMENT.—There is established in the
8 Treasury of the United States a fund to be known as the
9 “Ultra-Deepwater and Unconventional Gas Research
10 Fund” which shall be available for obligation to the extent
11 provided in advance in appropriations Acts for allocation
12 under section 2447(c).

13 (b) FUNDING SOURCES.—

14 (1) LOANS FROM TREASURY.—There are au-
15 thorized to be appropriated to the Secretary
16 \$900,000,000 for the period encompassing fiscal
17 years 2002 through 2009. Such amounts shall be
18 deposited by the Secretary in the Fund, and shall be
19 considered loans from the Treasury. Income received
20 by the United States in connection with any ultra-
21 deepwater oil and gas leases shall be deposited in
22 the Treasury and considered as repayment for the
23 loans under this paragraph.

24 (2) ADDITIONAL APPROPRIATIONS.—There are
25 authorized to be appropriated to the Secretary such

1 sums as may be necessary for the fiscal years 2002
2 through 2009, to be deposited in the Fund.

3 (3) OIL AND GAS LEASE INCOME.—To the ex-
4 tent provided in advance in appropriations Acts, not
5 more than 7.5 percent of the income of the United
6 States from Federal oil and gas leases may be de-
7 posited in the Fund for fiscal years 2002 through
8 2009.

9 **SEC. 2451. SUNSET.**

10 No funds are authorized to be appropriated for car-
11 rying out this subtitle after fiscal year 2009. The Research
12 Organization shall be terminated when it has expended all
13 funds made available pursuant to this subtitle.

14 **Subtitle D—Fuel Cells**

15 **SEC. 2461. FUEL CELLS.**

16 (a) IN GENERAL.—The Secretary shall conduct a
17 program of research, development, demonstration, and
18 commercial application on fuel cells. The program shall
19 address—

- 20 (1) Advanced Research;
21 (2) Systems Development;
22 (3) Vision 21-Hybrids; and
23 (4) Innovative Concepts.

24 (b) MANUFACTURING PRODUCTION AND PROC-
25 ESSES.—In addition to the program under subsection (a),

1 the Secretary, in consultation other Federal agencies, as
2 appropriate, shall establish a program for the demonstra-
3 tion of fuel cell technologies, including fuel cell proton ex-
4 change membrane technology, for commercial, residential,
5 and transportation applications. The program shall spe-
6 cifically focus on promoting the application of and im-
7 proved manufacturing production and processes for fuel
8 cell technologies.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—Within
10 the amounts authorized to be appropriated under section
11 2481(a), there are authorized to be appropriated to the
12 Secretary for the purpose of carrying out subsection (b),
13 \$28,000,000 for each of fiscal years 2002 through 2004.

14 **Subtitle E—Department of Energy**
15 **Authorization of Appropriations**

16 **SEC. 2481. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) OPERATION AND MAINTENANCE.—There are au-
18 thorized to be appropriated to the Secretary for operation
19 and maintenance for subtitle B and subtitle D, and for
20 Fossil Energy Research and Development Headquarters
21 Program Direction, Field Program Direction, Plant and
22 Capital Equipment, Cooperative Research and Develop-
23 ment, Import/Export Authorization, and Advanced Met-
24 allurgical Processes \$282,000,000 for fiscal year 2002,

1 \$293,000,000 for fiscal year 2003, and \$305,000,000 for
2 fiscal year 2004, to remain available until expended.

3 (b) LIMITS ON USE OF FUNDS.—None of the funds
4 authorized to be appropriated in subsection (a) may be
5 used for—

6 (1) Gas Hydrates.

7 (2) Fossil Energy Environmental Restoration;

8 or

9 (3) research, development, demonstration, and
10 commercial application on coal and related tech-
11 nologies, including activities under subtitle A.

12 **TITLE V—SCIENCE**

13 **Subtitle A—Fusion Energy**

14 **Sciences**

15 **SEC. 2501. SHORT TITLE.**

16 This subtitle may be cited as the “Fusion Energy
17 Sciences Act of 2001”.

18 **SEC. 2502. FINDINGS.**

19 The Congress finds that—

20 (1) economic prosperity is closely linked to an
21 affordable and ample energy supply;

22 (2) environmental quality is closely linked to en-
23 ergy production and use;

24 (3) population, worldwide economic develop-
25 ment, energy consumption, and stress on the envi-

1 ronment are all expected to increase substantially in
2 the coming decades;

3 (4) the few energy options with the potential to
4 meet economic and environmental needs for the
5 long-term future should be pursued as part of a bal-
6 anced national energy plan;

7 (5) fusion energy is an attractive long-term en-
8 ergy source because of the virtually inexhaustible
9 supply of fuel, and the promise of minimal adverse
10 environmental impact and inherent safety;

11 (6) the National Research Council, the Presi-
12 dent's Committee of Advisers on Science and Tech-
13 nology, and the Secretary of Energy Advisory Board
14 have each recently reviewed the Fusion Energy
15 Sciences Program and each strongly supports the
16 fundamental science and creative innovation of the
17 program, and has confirmed that progress toward
18 the goal of producing practical fusion energy has
19 been excellent, although much scientific and engi-
20 neering work remains to be done;

21 (7) each of these reviews stressed the need for
22 a magnetic fusion burning plasma experiment to ad-
23 dress key scientific issues and as a necessary step in
24 the development of fusion energy;

1 (8) the National Research Council has also
2 called for a broadening of the Fusion Energy
3 Sciences Program research base as a means to more
4 fully integrate the fusion science community into the
5 broader scientific community; and

6 (9) the Fusion Energy Sciences Program budg-
7 et is inadequate to support the necessary science and
8 innovation for the present generation of experiments,
9 and cannot accommodate the cost of a burning plas-
10 ma experiment constructed by the United States, or
11 even the cost of key participation by the United
12 States in an international effort.

13 **SEC. 2503. PLAN FOR FUSION EXPERIMENT.**

14 (a) **PLAN FOR UNITED STATES FUSION EXPERI-**
15 **MENT.**—The Secretary, on the basis of full consultation
16 with the Fusion Energy Sciences Advisory Committee and
17 the Secretary of Energy Advisory Board, as appropriate,
18 shall develop a plan for United States construction of a
19 magnetic fusion burning plasma experiment for the pur-
20 pose of accelerating scientific understanding of fusion
21 plasmas. The Secretary shall request a review of the plan
22 by the National Academy of Sciences, and shall transmit
23 the plan and the review to the Congress by July 1, 2004.

24 (b) **REQUIREMENTS OF PLAN.**—The plan described
25 in subsection (a) shall—

1 (1) address key burning plasma physics issues;
2 and

3 (2) include specific information on the scientific
4 capabilities of the proposed experiment, the rel-
5 evance of these capabilities to the goal of practical
6 fusion energy, and the overall design of the experi-
7 ment including its estimated cost and potential con-
8 struction sites.

9 (c) UNITED STATES PARTICIPATION IN AN INTER-
10 NATIONAL EXPERIMENT.—In addition to the plan de-
11 scribed in subsection (a), the Secretary, on the basis of
12 full consultation with the Fusion Energy Sciences Advi-
13 sory Committee and the Secretary of Energy Advisory
14 Board, as appropriate, may also develop a plan for United
15 States participation in an international burning plasma
16 experiment for the same purpose, whose construction is
17 found by the Secretary to be highly likely and where
18 United States participation is cost effective relative to the
19 cost and scientific benefits of a domestic experiment de-
20 scribed in subsection (a). If the Secretary elects to develop
21 a plan under this subsection, he shall include the informa-
22 tion described in subsection (b), and an estimate of the
23 cost of United States participation in such an inter-
24 national experiment. The Secretary shall request a review
25 by the National Academies of Sciences and Engineering

1 of a plan developed under this subsection, and shall trans-
2 mit the plan and the review to the Congress not later than
3 July 1, 2004.

4 (d) AUTHORIZATION OF RESEARCH AND DEVELOP-
5 MENT.—The Secretary, through the Fusion Energy
6 Sciences Program, may conduct any research and develop-
7 ment necessary to fully develop the plans described in this
8 section.

9 **SEC. 2504. PLAN FOR FUSION ENERGY SCIENCES PRO-**
10 **GRAM.**

11 Not later than 6 months after the date of the enact-
12 ment of this Act, the Secretary, in full consultation with
13 FESAC, shall develop and transmit to the Congress a plan
14 for the purpose of ensuring a strong scientific base for
15 the Fusion Energy Sciences Program and to enable the
16 experiments described in section 2503. Such plan shall in-
17 clude as its objectives—

18 (1) to ensure that existing fusion research fa-
19 cilities and equipment are more fully utilized with
20 appropriate measurements and control tools;

21 (2) to ensure a strengthened fusion science the-
22 ory and computational base;

23 (3) to ensure that the selection of and funding
24 for new magnetic and inertial fusion research facili-

1 ties is based on scientific innovation and cost effective-
2 tiveness;

3 (4) to improve the communication of scientific
4 results and methods between the fusion science com-
5 munity and the wider scientific community;

6 (5) to ensure that adequate support is provided
7 to optimize the design of the magnetic fusion burn-
8 ing plasma experiments referred to in section 2503;

9 (6) to ensure that inertial confinement fusion
10 facilities are utilized to the extent practicable for the
11 purpose of inertial fusion energy research and devel-
12 opment;

13 (7) to develop a roadmap for a fusion-based en-
14 ergy source that shows the important scientific ques-
15 tions, the evolution of confinement configurations,
16 the relation between these two features, and their re-
17 lation to the fusion energy goal;

18 (8) to establish several new centers of excel-
19 lence, selected through a competitive peer-review
20 process and devoted to exploring the frontiers of fu-
21 sion science;

22 (9) to ensure that the National Science Foun-
23 dation, and other agencies, as appropriate, play a
24 role in extending the reach of fusion science and in
25 sponsoring general plasma science; and

1 (10) to ensure that there be continuing broad
2 assessments of the outlook for fusion energy and
3 periodic external reviews of fusion energy sciences.

4 **SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated to the Sec-
6 retary for the development and review, but not for imple-
7 mentation, of the plans described in this subtitle and for
8 activities of the Fusion Energy Sciences Program
9 \$320,000,000 for fiscal year 2002 and \$335,000,000 for
10 fiscal year 2003, of which up to \$15,000,000 for each of
11 fiscal year 2002 and fiscal year 2003 may be used to es-
12 tablish several new centers of excellence, selected through
13 a competitive peer-review process and devoted to exploring
14 the frontiers of fusion science.

15 **Subtitle B—Spallation Neutron**
16 **Source**

17 **SEC. 2521. DEFINITION.**

18 For the purposes of this subtitle, the term “Spall-
19 ation Neutron Source” means Department Project 99–E–
20 334, Oak Ridge National Laboratory, Oak Ridge, Ten-
21 nessee.

22 **SEC. 2522. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) **AUTHORIZATION OF CONSTRUCTION FUNDING.—**
24 There are authorized to be appropriated to the Secretary
25 for construction of the Spallation Neutron Source—

- 1 (1) \$276,300,000 for fiscal year 2002;
- 2 (2) \$210,571,000 for fiscal year 2003;
- 3 (3) \$124,600,000 for fiscal year 2004;
- 4 (4) \$79,800,000 for fiscal year 2005; and
- 5 (5) \$41,100,000 for fiscal year 2006 for com-
6 pletion of construction.

7 (b) **AUTHORIZATION OF OTHER PROJECT FUND-**
8 **ING.**—There are authorized to be appropriated to the Sec-
9 retary for other project costs (including research and de-
10 velopment necessary to complete the project, preoperations
11 costs, and capital equipment not related to construction)
12 of the Spallation Neutron Source \$15,353,000 for fiscal
13 year 2002 and \$103,279,000 for the period encompassing
14 fiscal years 2003 through 2006, to remain available until
15 expended through September 30, 2006.

16 **SEC. 2523. REPORT.**

17 The Secretary shall report on the Spallation Neutron
18 Source as part of the Department's annual budget submis-
19 sion, including a description of the achievement of mile-
20 stones, a comparison of actual costs to estimated costs,
21 and any changes in estimated project costs or schedule.

22 **SEC. 2524. LIMITATIONS.**

23 The total amount obligated by the Department, in-
24 cluding prior year appropriations, for the Spallation Neu-
25 tron Source may not exceed—

- 1 (1) \$1,192,700,000 for costs of construction;
- 2 (2) \$219,000,000 for other project costs; and
- 3 (3) \$1,411,700,000 for total project cost.

4 **Subtitle C—Facilities,**
5 **Infrastructure, and User Facilities**

6 **SEC. 2541. DEFINITION.**

7 For purposes of this subtitle—

8 (1) the term “nonmilitary energy laboratory”
9 means—

- 10 (A) Ames Laboratory;
- 11 (B) Argonne National Laboratory;
- 12 (C) Brookhaven National Laboratory;
- 13 (D) Fermi National Accelerator Labora-
14 tory;
- 15 (E) Lawrence Berkeley National Labora-
16 tory;
- 17 (F) Oak Ridge National Laboratory;
- 18 (G) Pacific Northwest National Labora-
19 tory;
- 20 (H) Princeton Plasma Physics Laboratory;
- 21 (I) Stanford Linear Accelerator Center;
- 22 (J) Thomas Jefferson National Accelerator
23 Facility; or
- 24 (K) any other facility of the Department
25 that the Secretary, in consultation with the Di-

1 rector, Office of Science and the appropriate
2 congressional committees, determines to be con-
3 sistent with the mission of the Office of
4 Science; and

5 (2) the term “user facility” means—

6 (A) an Office of Science facility at a non-
7 military energy laboratory that provides special
8 scientific and research capabilities, including
9 technical expertise and support as appropriate,
10 to serve the research needs of the Nation’s uni-
11 versities, industry, private laboratories, Federal
12 laboratories, and others, including research in-
13 stitutions or individuals from other nations
14 where reciprocal accommodations are provided
15 to United States research institutions and indi-
16 viduals or where the Secretary considers such
17 accommodation to be in the national interest;
18 and

19 (B) any other Office of Science funded fa-
20 cility designated by the Secretary as a user fa-
21 cility.

1 **SEC. 2542. FACILITY AND INFRASTRUCTURE SUPPORT FOR**
2 **NONMILITARY ENERGY LABORATORIES.**

3 (a) FACILITY POLICY.—The Secretary shall develop
4 and implement a least-cost nonmilitary energy laboratory
5 facility and infrastructure strategy for—

6 (1) maintaining existing facilities and infra-
7 structure, as needed;

8 (2) closing unneeded facilities;

9 (3) making facility modifications; and

10 (4) building new facilities.

11 (b) PLAN.—The Secretary shall prepare a com-
12 prehensive 10-year plan for conducting future facility
13 maintenance, making repairs, modifications, and new ad-
14 ditions, and constructing new facilities at each nonmilitary
15 energy laboratory. Such plan shall provide for facilities
16 work in accordance with the following priorities:

17 (1) Providing for the safety and health of em-
18 ployees, visitors, and the general public with regard
19 to correcting existing structural, mechanical, elec-
20 trical, and environmental deficiencies.

21 (2) Providing for the repair and rehabilitation
22 of existing facilities to keep them in use and prevent
23 deterioration, if feasible.

24 (3) Providing engineering design and construc-
25 tion services for those facilities that require modi-

1 fication or additions in order to meet the needs of
2 new or expanded programs.

3 (c) REPORT.—

4 (1) TRANSMITTAL.—Within 1 year after the
5 date of the enactment of this Act, the Secretary
6 shall prepare and transmit to the appropriate con-
7 gressional committees a report containing the plan
8 prepared under subsection (b).

9 (2) CONTENTS.—For each nonmilitary energy
10 laboratory, such report shall contain—

11 (A) the current priority list of proposed fa-
12 cilities and infrastructure projects, including
13 cost and schedule requirements;

14 (B) a current ten-year plan that dem-
15 onstrates the reconfiguration of its facilities and
16 infrastructure to meet its missions and to ad-
17 dress its long-term operational costs and return
18 on investment;

19 (C) the total current budget for all facili-
20 ties and infrastructure funding; and

21 (D) the current status of each facilities
22 and infrastructure project compared to the
23 original baseline cost, schedule, and scope.

24 (3) ADDITIONAL ELEMENTS.—The report shall
25 also—

1 (A) include a plan for new facilities and fa-
2 cility modifications at each nonmilitary energy
3 laboratory that will be required to meet the De-
4 partment's changing missions of the twenty-
5 first century, including schedules and estimates
6 for implementation, and including a section out-
7 lining long-term funding requirements con-
8 sistent with anticipated budgets and annual au-
9 thorization of appropriations;

10 (B) address the coordination of moderniza-
11 tion and consolidation of facilities among the
12 nonmilitary energy laboratories in order to meet
13 changing mission requirements; and

14 (C) provide for annual reports to the ap-
15 propriate congressional committees on accom-
16 plishments, conformance to schedules, commit-
17 ments, and expenditures.

18 **SEC. 2543. USER FACILITIES.**

19 (a) NOTICE REQUIREMENT.—When the Department
20 makes a user facility available to universities and other
21 potential users, or seeks input from universities and other
22 potential users regarding significant characteristics or
23 equipment in a user facility or a proposed user facility,
24 the Department shall ensure broad public notice of such

1 availability or such need for input to universities and other
2 potential users.

3 (b) COMPETITION REQUIREMENT.—When the De-
4 partment considers the participation of a university or
5 other potential user in the establishment or operation of
6 a user facility, the Department shall employ full and open
7 competition in selecting such a participant.

8 (c) PROHIBITION.—The Department may not redес-
9 ignite a user facility, as defined by section 2541(b) as
10 something other than a user facility for avoid the require-
11 ments of subsections (a) and (b).

12 **Subtitle D—Advisory Panel on** 13 **Office of Science**

14 **SEC. 2561. ESTABLISHMENT.**

15 The Director of the Office of Science and Technology
16 Policy, in consultation with the Secretary, shall establish
17 an Advisory Panel on the Office of Science comprised of
18 knowledgeable individuals to—

19 (1) address concerns about the current status
20 and the future of scientific research supported by
21 the Office;

22 (2) examine alternatives to the current organi-
23 zational structure of the Office within the Depart-
24 ment, taking into consideration existing structures

1 for the support of scientific research in other Fed-
2 eral agencies and the private sector; and

3 (3) suggest actions to strengthen the scientific
4 research supported by the Office that might be
5 taken jointly by the Department and Congress.

6 **SEC. 2562. REPORT.**

7 Within 6 months after the date of the enactment of
8 this Act, the Advisory Panel shall transmit its findings
9 and recommendations in a report to the Director of the
10 Office of Science and Technology Policy and the Sec-
11 retary. The Director and the Secretary shall jointly—

12 (1) consider each of the Panel's findings and
13 recommendations, and comment on each as they
14 consider appropriate; and

15 (2) transmit the Panel's report and the com-
16 ments of the Director and the Secretary on the re-
17 port to the appropriate congressional committees
18 within 9 months after the date of the enactment of
19 this Act.

20 **Subtitle E—Department of Energy**
21 **Authorization of Appropriations**

22 **SEC. 2581. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) OPERATION AND MAINTENANCE.—Including the
24 amounts authorized to be appropriated for fiscal year
25 2002 under section 2505 for Fusion Energy Sciences and

1 under section 2522(b) for the Spallation Neutron Source,
2 there are authorized to be appropriated to the Secretary
3 for the Office of Science (also including subtitle C, High
4 Energy Physics, Nuclear Physics, Biological and Environ-
5 mental Research, Basic Energy Sciences (except for the
6 Spallation Neutron Source), Advanced Scientific Com-
7 puting Research, Energy Research Analysis, Multipro-
8 gram Energy Laboratories-Facilities Support, Facilities
9 and Infrastructure, Safeguards and Security, and Pro-
10 gram Direction) operation and maintenance
11 \$3,299,558,000 for fiscal year 2002, to remain available
12 until expended.

13 (b) RESEARCH REGARDING PRECIOUS METAL CA-
14 TALYSIS.—Within the amounts authorized to be appro-
15 priated to the Secretary under subsection (a), \$5,000,000
16 for fiscal year 2002 may be used to carry out research
17 in the use of precious metals (excluding platinum, palla-
18 dium, and rhodium) in catalysis, either directly through na-
19 tional laboratories, or through the award of grants, coop-
20 erative agreements, or contracts with public or nonprofit
21 entities.

22 (c) CONSTRUCTION.—In addition to the amounts au-
23 thorized to be appropriated under section 2522(a) for con-
24 struction of the Spallation Neutron Source, there are au-
25 thorized to be appropriated to the Secretary for Science—

1 (1) \$11,400,000 for fiscal year 2002 for com-
2 pletion of construction of Project 98-G-304,
3 Neutrinos at the Main Injector, Fermi National Ac-
4 celerator Laboratory;

5 (2) \$11,405,000 for fiscal year 2002 for com-
6 pletion of construction of Project 01-E-300, Labora-
7 tory for Comparative and Functional Genomics, Oak
8 Ridge National Laboratory;

9 (3) \$4,000,000 for fiscal year 2002, \$8,000,000
10 for fiscal year 2003, and \$2,000,000 for fiscal year
11 2004 for completion of construction of Project 02-
12 SC-002, Project Engineering Design (PED), Var-
13 ious Locations;

14 (4) \$3,183,000 for fiscal year 2002 for comple-
15 tion of construction of Project 02-SC-002, Multipro-
16 gram Energy Laboratories Infrastructure Project
17 Engineering Design (PED), Various Locations; and

18 (5) \$18,633,000 for fiscal year 2002 and
19 \$13,029,000 for fiscal year 2003 for completion of
20 construction of Project MEL-001, Multiprogram En-
21 ergy Laboratories, Infrastructure, Various Loca-
22 tions.

23 (d) LIMITS ON USE OF FUNDS.—None of the funds
24 authorized to be appropriated in subsection (c) may be
25 used for construction at any national security laboratory

1 as defined in section 3281(1) of the National Defense Au-
2 thorization Act for Fiscal Year 2000 (50 U.S.C. 2471(1))
3 or at any nuclear weapons production facility as defined
4 in section 3281(2) of the National Defense Authorization
5 Act for Fiscal Year 2000 (50 U.S.C. 2471(2)).

6 **TITLE VI—MISCELLANEOUS**
7 **Subtitle A—General Provisions for**
8 **the Department of Energy**

9 **SEC. 2601. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
10 **AND COMMERCIAL APPLICATION OF ENERGY**
11 **TECHNOLOGY PROGRAMS, PROJECTS, AND**
12 **ACTIVITIES.**

13 (a) **AUTHORIZED ACTIVITIES.**—Except as otherwise
14 provided in this division, research, development, dem-
15 onstration, and commercial application programs,
16 projects, and activities for which appropriations are au-
17 thorized under this division may be carried out under the
18 procedures of the Federal Nonnuclear Energy Research
19 and Development Act of 1974 (42 U.S.C. 5901 et seq.),
20 the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.),
21 or any other Act under which the Secretary is authorized
22 to carry out such programs, projects, and activities, but
23 only to the extent the Secretary is authorized to carry out
24 such activities under each such Act.

1 (b) AUTHORIZED AGREEMENTS.—Except as other-
2 wise provided in this division, in carrying out research,
3 development, demonstration, and commercial application
4 programs, projects, and activities for which appropriations
5 are authorized under this division, the Secretary may use,
6 to the extent authorized under applicable provisions of
7 law, contracts, cooperative agreements, cooperative re-
8 search and development agreements under the Stevenson-
9 Wydler Technology Innovation Act of 1980 (15 U.S.C.
10 3701 et seq.), grants, joint ventures, and any other form
11 of agreement available to the Secretary.

12 (c) DEFINITION.—For purposes of this section, the
13 term “joint venture” has the meaning given that term
14 under section 2 of the National Cooperative Research and
15 Production Act of 1993 (15 U.S.C. 4301), except that
16 such term may apply under this section to research, devel-
17 opment, demonstration, and commercial application of en-
18 ergy technology joint ventures.

19 (d) PROTECTION OF INFORMATION.—Section
20 12(c)(7) of the Stevenson-Wydler Technology Innovation
21 Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the pro-
22 tection of information, shall apply to research, develop-
23 ment, demonstration, and commercial application of en-
24 ergy technology programs, projects, and activities for
25 which appropriations are authorized under this division.

1 (e) INVENTIONS.—An invention conceived and devel-
2 oped by any person using funds provided through a grant
3 under this division shall be considered a subject invention
4 for the purposes of chapter 18 of title 35, United States
5 Code (commonly referred to as the Bayh-Dole Act).

6 (f) OUTREACH.—The Secretary shall ensure that
7 each program authorized by this division includes an out-
8 reach component to provide information, as appropriate,
9 to manufacturers, consumers, engineers, architects, build-
10 ers, energy service companies, universities, facility plan-
11 ners and managers, State and local governments, and
12 other entities.

13 (g) GUIDELINES AND PROCEDURES.—The Secretary
14 shall provide guidelines and procedures for the transition,
15 where appropriate, of energy technologies from research
16 through development and demonstration to commercial
17 application of energy technology. Nothing in this section
18 shall preclude the Secretary from—

19 (1) entering into a contract, cooperative agree-
20 ment, cooperative research and development agree-
21 ment under the Stevenson-Wydler Technology Inno-
22 vation Act of 1980 (15 U.S.C. 3701 et seq.), grant,
23 joint venture, or any other form of agreement avail-
24 able to the Secretary under this section that relates

1 to research, development, demonstration, and com-
2 mercial application of energy technology; or

3 (2) extending a contract, cooperative agree-
4 ment, cooperative research and development agree-
5 ment under the Stevenson-Wydler Technology Inno-
6 vation Act of 1980, grant, joint venture, or any
7 other form of agreement available to the Secretary
8 that relates to research, development, and dem-
9 onstration to cover commercial application of energy
10 technology.

11 (h) APPLICATION OF SECTION.—This section shall
12 not apply to any contract, cooperative agreement, coopera-
13 tive research and development agreement under the Ste-
14 venson-Wydler Technology Innovation Act of 1980 (15
15 U.S.C. 3701 et seq.), grant, joint venture, or any other
16 form of agreement available to the Secretary that is in
17 effect as of the date of enactment of this Act.

18 **SEC. 2602. LIMITS ON USE OF FUNDS.**

19 (a) MANAGEMENT AND OPERATING CONTRACTS.—

20 (1) COMPETITIVE PROCEDURE REQUIRE-
21 MENT.—None of the funds authorized to be appro-
22 priated to the Secretary by this division may be used
23 to award a management and operating contract for
24 a federally owned or operated nonmilitary energy
25 laboratory of the Department unless such contract is

1 awarded using competitive procedures or the Sec-
2 retary grants, on a case-by-case basis, a waiver to
3 allow for such a deviation. The Secretary may not
4 delegate the authority to grant such a waiver.

5 (2) CONGRESSIONAL NOTICE.—At least 2
6 months before a contract award, amendment, or
7 modification for which the Secretary intends to
8 grant such a waiver, the Secretary shall submit to
9 the appropriate congressional committees a report
10 notifying the committees of the waiver and setting
11 forth the reasons for the waiver.

12 (b) PRODUCTION OR PROVISION OF ARTICLES OR
13 SERVICES.—None of the funds authorized to be appro-
14 priated to the Secretary by this division may be used to
15 produce or provide articles or services for the purpose of
16 selling the articles or services to a person outside the Fed-
17 eral Government, unless the Secretary determines that
18 comparable articles or services are not available from a
19 commercial source in the United States.

20 (c) REQUESTS FOR PROPOSALS.—None of the funds
21 authorized to be appropriated to the Secretary by this divi-
22 sion may be used by the Department to prepare or initiate
23 Requests for Proposals for a program if the program has
24 not been authorized by Congress.

1 **SEC. 2603. COST SHARING.**

2 (a) RESEARCH AND DEVELOPMENT.—Except as oth-
3 erwise provided in this division, for research and develop-
4 ment programs carried out under this division, the Sec-
5 retary shall require a commitment from non-Federal
6 sources of at least 20 percent of the cost of the project.
7 The Secretary may reduce or eliminate the non-Federal
8 requirement under this subsection if the Secretary deter-
9 mines that the research and development is of a basic or
10 fundamental nature.

11 (b) DEMONSTRATION AND COMMERCIAL APPLICA-
12 TION.—Except as otherwise provided in this division, the
13 Secretary shall require at least 50 percent of the costs di-
14 rectly and specifically related to any demonstration or
15 commercial application project under this division to be
16 provided from non-Federal sources. The Secretary may re-
17 duce the non-Federal requirement under this subsection
18 if the Secretary determines that the reduction is necessary
19 and appropriate considering the technological risks in-
20 volved in the project and is necessary to meet the objec-
21 tives of this division.

22 (c) CALCULATION OF AMOUNT.—In calculating the
23 amount of the non-Federal commitment under subsection
24 (a) or (b), the Secretary may include personnel, services,
25 equipment, and other resources.

1 **SEC. 2604. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY.**
2
3

4 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.

11 **SEC. 2605. REPROGRAMMING.**

12 (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—

16 (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;

20 (2) amounts used for the program, project, or activity do not exceed—

22 (A) 105 percent of the amount authorized for the program, project, or activity; or

24 (B) \$250,000 more than the amount authorized for the program, project, or activity,
25
26 whichever is less; and

1 (3) the program, project, or activity has been
2 presented to, or requested of, the Congress by the
3 Secretary.

4 (b) REPORT.—(1) The report referred to in sub-
5 section (a) is a report containing a full and complete state-
6 ment of the action proposed to be taken and the facts and
7 circumstances relied upon in support of the proposed ac-
8 tion.

9 (2) In the computation of the 30-day period under
10 subsection (a), there shall be excluded any day on which
11 either House of Congress is not in session because of an
12 adjournment of more than 3 days to a day certain.

13 (c) LIMITATIONS.—(1) In no event may the total
14 amount of funds obligated by the Secretary pursuant to
15 this division exceed the total amount authorized to be ap-
16 propriated to the Secretary by this division.

17 (2) Funds appropriated to the Secretary pursuant to
18 this division may not be used for an item for which Con-
19 gress has declined to authorize funds.

20 **Subtitle B—Other Miscellaneous** 21 **Provisions**

22 **SEC. 2611. NOTICE OF REORGANIZATION.**

23 The Secretary shall provide notice to the appropriate
24 congressional committees not later than 15 days before
25 any reorganization of any environmental research or devel-

1 opment, scientific or energy research, development, or
2 demonstration, or commercial application of energy tech-
3 nology program, project, or activity of the Department.

4 **SEC. 2612. LIMITS ON GENERAL PLANT PROJECTS.**

5 If, at any time during the construction of a civilian
6 environmental research and development, scientific or en-
7 ergy research, development, or demonstration, or commer-
8 cial application of energy technology project of the Depart-
9 ment for which no specific funding level is provided by
10 law, the estimated cost (including any revision thereof) of
11 the project exceeds \$5,000,000, the Secretary may not
12 continue such construction unless the Secretary has fur-
13 nished a complete report to the appropriate congressional
14 committees explaining the project and the reasons for the
15 estimate or revision.

16 **SEC. 2613. LIMITS ON CONSTRUCTION PROJECTS.**

17 (a) LIMITATION.—Except as provided in subsection
18 (b), construction on a civilian environmental research and
19 development, scientific or energy research, development, or
20 demonstration, or commercial application of energy tech-
21 nology project of the Department for which funding has
22 been specifically provided by law may not be started, and
23 additional obligations may not be incurred in connection
24 with the project above the authorized funding amount,

1 whenever the current estimated cost of the construction
2 project exceeds by more than 10 percent the higher of—

3 (1) the amount authorized for the project, if the
4 entire project has been funded by the Congress; or

5 (2) the amount of the total estimated cost for
6 the project as shown in the most recent budget jus-
7 tification data submitted to Congress.

8 (b) NOTICE.—An action described in subsection (a)
9 may be taken if—

10 (1) the Secretary has submitted to the appro-
11 priate congressional committees a report on the pro-
12 posed actions and the circumstances making such
13 actions necessary; and

14 (2) a period of 30 days has elapsed after the
15 date on which the report is received by the commit-
16 tees.

17 (c) EXCLUSION.—In the computation of the 30-day
18 period described in subsection (b)(2), there shall be ex-
19 cluded any day on which either House of Congress is not
20 in session because of an adjournment of more than 3 days
21 to a day certain.

22 (d) EXCEPTION.—Subsections (a) and (b) shall not
23 apply to any construction project that has a current esti-
24 mated cost of less than \$5,000,000.

1 **SEC. 2614. AUTHORITY FOR CONCEPTUAL AND CONSTRU-**
2 **CTION DESIGN.**

3 (a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1)
4 Subject to paragraph (2) and except as provided in para-
5 graph (3), before submitting to Congress a request for
6 funds for a construction project that is in support of a
7 civilian environmental research and development, scientific
8 or energy research, development, or demonstration, or
9 commercial application of energy technology program,
10 project, or activity of the Department, the Secretary shall
11 complete a conceptual design for that project.

12 (2) If the estimated cost of completing a conceptual
13 design for a construction project exceeds \$750,000, the
14 Secretary shall submit to Congress a request for funds for
15 the conceptual design before submitting a request for
16 funds for the construction project.

17 (3) The requirement in paragraph (1) does not apply
18 to a request for funds for a construction project, the total
19 estimated cost of which is less than \$5,000,000.

20 (b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1)
21 The Secretary may carry out construction design (includ-
22 ing architectural and engineering services) in connection
23 with any proposed construction project that is in support
24 of a civilian environmental research and development, sci-
25 entific or energy research, development, and demonstra-
26 tion, or commercial application of energy technology pro-

1 gram, project, or activity of the Department if the total
2 estimated cost for such design does not exceed \$250,000.

3 (2) If the total estimated cost for construction design
4 in connection with any construction project described in
5 paragraph (1) exceeds \$250,000, funds for such design
6 must be specifically authorized by law.

7 **SEC. 2615. NATIONAL ENERGY POLICY DEVELOPMENT**
8 **GROUP MANDATED REPORTS.**

9 (a) THE SECRETARY'S REVIEW OF ENERGY EFFI-
10 CIENCY RENEWABLE ENERGY, AND ALTERNATIVE EN-
11 ERGY RESEARCH AND DEVELOPMENT.—Upon completion
12 of the Secretary's review of current funding and historic
13 performance of the Department's energy efficiency, renew-
14 able energy, and alternative energy research and develop-
15 ment programs in response to the recommendations of the
16 May 16, 2001, Report of the National Energy Policy De-
17 velopment Group, the Secretary shall transmit a report
18 containing the results of such review to the appropriate
19 congressional committees.

20 (b) REVIEW AND RECOMMENDATIONS ON USING THE
21 NATION'S ENERGY RESOURCES MORE EFFICIENTLY.—
22 Upon completion of the Office of Science and Technology
23 Policy and the President's Council of Advisors on Science
24 and Technology reviewing and making recommendations
25 on using the Nation's energy resources more efficiently,

1 in response to the recommendation of the May 16, 2001,
2 Report of the National Energy Policy Development Group,
3 the Director of the Office of Science and Technology Pol-
4 icy shall transmit a report containing the results of such
5 review and recommendations to the appropriate congres-
6 sional committees.

7 **SEC. 2616. PERIODIC REVIEWS AND ASSESSMENTS.**

8 The Secretary shall enter into appropriate arrange-
9 ments with the National Academies of Sciences and Engi-
10 neering to ensure that there be periodic reviews and as-
11 sessments of the programs authorized by this division, as
12 well as the measurable cost and performance-based goals
13 for such programs as established under section 2004, and
14 the progress on meeting such goals. Such reviews and as-
15 sessments shall be conducted at least every 5 years, or
16 more often as the Secretary considers necessary, and the
17 Secretary shall transmit to the appropriate congressional
18 committees reports containing the results of such reviews
19 and assessments.

DIVISION C

SEC. 3001. SHORT TITLE.

(a) SHORT TITLE.—This division may be cited as the “Energy Tax Policy Act of 2001”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division 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.

TITLE I—CONSERVATION

SEC. 3101. CREDIT FOR RESIDENTIAL SOLAR ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. RESIDENTIAL SOLAR ENERGY PROPERTY.

“(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 sum of—

“(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

1 “(2) 15 percent of the qualified solar water
2 heating property expenditures made by the taxpayer
3 during the taxable year.

4 “(b) LIMITATIONS.—

5 “(1) MAXIMUM CREDIT.—The credit allowed
6 under subsection (a) shall not exceed—

7 “(A) \$2,000 for each system of property
8 described in subsection (c)(1), and

9 “(B) \$2,000 for each system of property
10 described in subsection (c)(2).

11 “(2) SAFETY CERTIFICATIONS.—No credit shall
12 be allowed under this section for an item of property
13 unless—

14 “(A) in the case of solar water heating
15 equipment, such equipment is certified for per-
16 formance and safety by the non-profit Solar
17 Rating Certification Corporation or a com-
18 parable entity endorsed by the government of
19 the State in which such property is installed,
20 and

21 “(B) in the case of a photovoltaic system,
22 such system meets appropriate fire and electric
23 code requirements.

1 “(3) LIMITATION BASED ON AMOUNT OF
2 TAX.—The credit allowed under subsection (a) for
3 the taxable year shall not exceed the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section and
9 sections 23, 25D, and 25E) and section 27 for
10 the taxable year.

11 “(c) DEFINITIONS.—For purposes of this section—

12 “(1) QUALIFIED SOLAR WATER HEATING PROP-
13 ERTY EXPENDITURE.—The term ‘qualified solar
14 water heating property expenditure’ means an ex-
15 penditure for property to heat water for use in a
16 dwelling unit located in the United States and used
17 as a residence if at least half of the energy used by
18 such property for such purpose is derived from the
19 sun.

20 “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
21 PENDITURE.—The term ‘qualified photovoltaic prop-
22 erty expenditure’ means an expenditure for property
23 that uses solar energy to generate electricity for use
24 in a dwelling unit.

1 “(3) SOLAR PANELS.—No expenditure relating
2 to a solar panel or other property installed as a roof
3 (or portion thereof) shall fail to be treated as prop-
4 erty described in paragraph (1) or (2) solely because
5 it constitutes a structural component of the struc-
6 ture on which it is installed.

7 “(4) LABOR COSTS.—Expenditures for labor
8 costs properly allocable to the onsite preparation, as-
9 sembly, or original installation of the property de-
10 scribed in paragraph (1) or (2) and for piping or
11 wiring to interconnect such property to the dwelling
12 unit shall be taken into account for purposes of this
13 section.

14 “(5) SWIMMING POOLS, ETC., USED AS STOR-
15 AGE MEDIUM.—Expenditures which are properly al-
16 locable to a swimming pool, hot tub, or any other
17 energy storage medium which has a function other
18 than the function of such storage shall not be taken
19 into account for purposes of this section.

20 “(d) SPECIAL RULES.—

21 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
22 CUPANCY.—In the case of any dwelling unit which is
23 jointly occupied and used during any calendar year
24 as a residence by 2 or more individuals the following
25 shall apply:

1 “(A) The amount of the credit allowable
2 under subsection (a) by reason of expenditures
3 (as the case may be) made during such cal-
4 endar year by any of such individuals with re-
5 spect to such dwelling unit shall be determined
6 by treating all of such individuals as 1 taxpayer
7 whose taxable year is such calendar year.

8 “(B) There shall be allowable with respect
9 to such expenditures to each of such individ-
10 uals, a credit under subsection (a) for the tax-
11 able year in which such calendar year ends in
12 an amount which bears the same ratio to the
13 amount determined under subparagraph (A) as
14 the amount of such expenditures made by such
15 individual during such calendar year bears to
16 the aggregate of such expenditures made by all
17 of such individuals during such calendar year.

18 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
19 HOUSING CORPORATION.—In the case of an indi-
20 vidual who is a tenant-stockholder (as defined in sec-
21 tion 216) in a cooperative housing corporation (as
22 defined in such section), such individual shall be
23 treated as having made his tenant-stockholder’s pro-
24 portionate share (as defined in section 216(b)(3)) of
25 any expenditures of such corporation.

1 “(3) CONDOMINIUMS.—

2 “(A) IN GENERAL.—In the case of an indi-
3 vidual who is a member of a condominium man-
4 agement association with respect to a condo-
5 minium which he owns, such individual shall be
6 treated as having made his proportionate share
7 of any expenditures of such association.

8 “(B) CONDOMINIUM MANAGEMENT ASSO-
9 CIATION.—For purposes of this paragraph, the
10 term ‘condominium management association’
11 means an organization which meets the require-
12 ments of paragraph (1) of section 528(c) (other
13 than subparagraph (E) thereof) with respect to
14 a condominium project substantially all of the
15 units of which are used as residences.

16 “(4) ALLOCATION IN CERTAIN CASES.—If less
17 than 80 percent of the use of an item is for nonbusi-
18 ness purposes, only that portion of the expenditures
19 for such item which is properly allocable to use for
20 nonbusiness purposes shall be taken into account.

21 “(5) WHEN EXPENDITURE MADE; AMOUNT OF
22 EXPENDITURE.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), an expenditure with respect

1 to an item shall be treated as made when the
2 original installation of the item is completed.

3 “(B) EXPENDITURES PART OF BUILDING
4 CONSTRUCTION.—In the case of an expenditure
5 in connection with the construction or recon-
6 struction of a structure, such expenditure shall
7 be treated as made when the original use of the
8 constructed or reconstructed structure by the
9 taxpayer begins.

10 “(C) AMOUNT.—The amount of any ex-
11 penditure shall be the cost thereof.

12 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
13 ERGY FINANCING.—For purposes of determining the
14 amount of expenditures made by any individual with
15 respect to any dwelling unit, there shall not be taken
16 in to account expenditures which are made from
17 subsidized energy financing (as defined in section
18 48(a)(4)(A)).

19 “(e) BASIS ADJUSTMENTS.—For purposes of this
20 subtitle, if a credit is allowed under this section for any
21 expenditure with respect to any property, the increase in
22 the basis of such property which would (but for this sub-
23 section) result from such expenditure shall be reduced by
24 the amount of the credit so allowed.

1 “(f) TERMINATION.—The credit allowed under this
2 section shall not apply to taxable years beginning after
3 December 31, 2006 (December 31, 2008, with respect to
4 qualified photovoltaic property expenditures).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Subsection (a) of section 1016 is amended
7 by striking “and” at the end of paragraph (27), by
8 striking the period at the end of paragraph (28) and
9 inserting “, and”, and by adding at the end the fol-
10 lowing new paragraph:

11 “(29) to the extent provided in section 25C(e),
12 in the case of amounts with respect to which a credit
13 has been allowed under section 25C.”.

14 (2) The table of sections for subpart A of part
15 IV of subchapter A of chapter 1 is amended by in-
16 serting after the item relating to section 25B the fol-
17 lowing new item:

 “Sec. 25C. Residential solar energy property.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years ending after De-
20 cember 31, 2001.

21 **SEC. 3102. EXTENSION AND EXPANSION OF CREDIT FOR**
22 **ELECTRICITY PRODUCED FROM RENEWABLE**
23 **RESOURCES.**

24 (a) EXTENSION OF CREDIT FOR WIND AND CLOSED-
25 LOOP BIOMASS FACILITIES.—Subparagraphs (A) and (B)

1 of section 45(c)(3) are each amended by striking “2002”
2 and inserting “2007”.

3 (b) EXPANSION OF CREDIT FOR OPEN-LOOP BIOMASS
4 AND LANDFILL GAS FACILITIES.—Paragraph (3) of sec-
5 tion 45(c) is amended by adding at the end the following
6 new subparagraphs:

7 “(D) OPEN-LOOP BIOMASS FACILITIES.—
8 In the case of a facility using open-loop biomass
9 to produce electricity, the term ‘qualified facil-
10 ity’ means any facility owned by the taxpayer
11 which is originally placed in service before Jan-
12 uary 1, 2007.

13 “(E) LANDFILL GAS FACILITIES.—In the
14 case of a facility producing electricity from gas
15 derived from the biodegradation of municipal
16 solid waste, the term ‘qualified facility’ means
17 any facility owned by the taxpayer which is
18 originally placed in service before January 1,
19 2007.”.

20 (c) DEFINITION AND SPECIAL RULES.—Subsection
21 (c) of section 45 is amended by adding at the end the
22 following new paragraphs:

23 “(5) OPEN-LOOP BIOMASS.—The term ‘open-
24 loop biomass’ means any solid, nonhazardous, cel-

1 lulosic waste material which is segregated from other
2 waste materials and which is derived from—

3 “(A) any of the following forest-related re-
4 sources: mill residues, precommercial thinnings,
5 slash, and brush, but not including old-growth
6 timber,

7 “(B) solid wood waste materials, including
8 waste pallets, crates, dunnage, manufacturing
9 and construction wood wastes (other than pres-
10 sure-treated, chemically-treated, or painted
11 wood wastes), and landscape or right-of-way
12 tree trimmings, but not including municipal
13 solid waste (garbage), gas derived from the bio-
14 degradation of solid waste, or paper that is
15 commonly recycled, or

16 “(C) agriculture sources, including orchard
17 tree crops, vineyard, grain, legumes, sugar, and
18 other crop by-products or residues.

19 Such term shall not include closed-loop biomass.

20 “(6) REDUCED CREDIT FOR CERTAIN
21 PREEFFECTIVE DATE FACILITIES.—In the case of
22 any facility described in subparagraph (D) or (E) of
23 paragraph (3) which is placed in service before the
24 date of the enactment of this subparagraph—

1 “(A) subsection (a)(1) shall be applied by
2 substituting ‘1.0 cents’ for ‘1.5 cents’, and

3 “(B) the 5-year period beginning on the
4 date of the enactment of this paragraph shall
5 be substituted in lieu of the 10-year period in
6 subsection (a)(2)(A)(ii).

7 “(7) LIMIT ON REDUCTIONS FOR GRANTS, ETC.,
8 FOR OPEN-LOOP BIOMASS FACILITIES.—If the
9 amount of the credit determined under subsection
10 (a) with respect to any open-loop biomass facility is
11 required to be reduced under paragraph (3) of sub-
12 section (b), the fraction under such paragraph shall
13 in no event be greater than $\frac{4}{5}$.

14 “(8) COORDINATION WITH SECTION 29.—The
15 term ‘qualified facility’ shall not include any facility
16 the production from which is allowed as a credit
17 under section 29 for the taxable year or any prior
18 taxable year.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to electricity sold after the date
21 of the enactment of this Act.

22 **SEC. 3103. CREDIT FOR QUALIFIED STATIONARY FUEL**
23 **CELL POWERPLANTS.**

24 (a) BUSINESS PROPERTY.—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 48(a)(3) (defining energy property) is amended by
3 striking “or” at the end of clause (i), by adding
4 “or” at the end of clause (ii), and by inserting after
5 clause (ii) the following new clause:

6 “(iii) equipment which is part of a
7 qualified stationary fuel cell powerplant,”.

8 (2) QUALIFIED STATIONARY FUEL CELL POW-
9 ERPLANT.—Subsection (a) of section 48 is amended
10 by redesignating paragraphs (4) and (5) as para-
11 graphs (5) and (6), respectively, and by inserting
12 after paragraph (3) the following new paragraph:

13 “(4) QUALIFIED STATIONARY FUEL CELL POW-
14 ERPLANT.—For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘qualified
16 stationary fuel cell powerplant’ means a sta-
17 tionary fuel cell power plant that has an elec-
18 tricity-only generation efficiency greater than
19 30 percent.

20 “(B) LIMITATION.—In the case of quali-
21 fied stationary fuel cell powerplant placed in
22 service during the taxable year, the credit under
23 subsection (a) for such year may not exceed
24 \$1,000 for each kilowatt of capacity.

1 “(C) STATIONARY FUEL CELL POWER
2 PLANT.—The term ‘stationary fuel cell power
3 plant’ means an integrated system comprised of
4 a fuel cell stack assembly and associated bal-
5 ance of plant components that converts a fuel
6 into electricity using electrochemical means.

7 “(D) TERMINATION.—Such term shall not
8 include any property placed in service after De-
9 cember 31, 2006.”

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to property placed in
12 service after December 31, 2001, under rules similar
13 to the rules of section 48(m) of the Internal Revenue
14 Code of 1986 (as in effect on the day before the
15 date of the enactment of the Revenue Reconciliation
16 Act of 1990).

17 (b) NONBUSINESS PROPERTY.—

18 (1) IN GENERAL.—Subpart A of part IV of sub-
19 chapter A of chapter 1 (relating to nonrefundable
20 personal credits) is amended by inserting after sec-
21 tion 25C the following new section:

22 **“SEC. 25D. NONBUSINESS QUALIFIED STATIONARY FUEL**
23 **CELL POWERPLANT.**

24 “(a) IN GENERAL.—In the case of an individual,
25 there shall be allowed as a credit against the tax imposed

1 by this chapter for the taxable year an amount equal to
2 10 percent of the qualified stationary fuel cell powerplant
3 expenditures which are paid or incurred during such year.

4 “(b) LIMITATIONS.—

5 “(1) IN GENERAL.—The credit allowed under
6 subsection (a) for the taxable year and all prior tax-
7 able years shall not exceed \$1,000 for each kilowatt
8 of capacity.

9 “(2) LIMITATION BASED ON AMOUNT OF
10 TAX.—The credit allowed under subsection (a) for
11 the taxable year shall not exceed the excess of—

12 “(A) the sum of the regular tax liability
13 (as defined in section 26(b)) plus the tax im-
14 posed by section 55, over

15 “(B) the sum of the credits allowable
16 under this subpart (other than this section and
17 sections 23 and 25E) and section 27 for the
18 taxable year.

19 “(c) QUALIFIED STATIONARY FUEL CELL POWER-
20 PLANT EXPENDITURES.—For purposes of this section, the
21 term ‘qualified stationary fuel cell powerplant expendi-
22 tures’ means expenditures by the taxpayer for any quali-
23 fied stationary fuel cell powerplant (as defined in section
24 48(a)(4))—

1 “(1) which meets the requirements of subpara-
2 graphs (B) and (D) of section 48(a)(3), and

3 “(2) which is installed on or in connection with
4 a dwelling unit—

5 “(A) which is located in the United States,
6 and

7 “(B) which is used by the taxpayer as a
8 residence.

9 Such term includes expenditures for labor costs properly
10 allocable to the onsite preparation, assembly, or original
11 installation of the property.

12 “(d) SPECIAL RULES.—For purposes of this section,
13 rules similar to the rules of section 25C(d) shall apply.

14 “(e) BASIS ADJUSTMENTS.—For purposes of this
15 subtitle, if a credit is allowed under this section for any
16 expenditure with respect to any property, the increase in
17 the basis of such property which would (but for this sub-
18 section) result from such expenditure shall be reduced by
19 the amount of the credit so allowed.

20 “(f) TERMINATION.—This section shall not apply to
21 any expenditure made after December 31, 2006.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Subsection (a) of section 1016 is
24 amended by striking “and” at the end of para-
25 graph (28), by striking the period at the end of

1 paragraph (29) and inserting “, and”, and by
2 adding at the end the following new paragraph:
3 “(30) to the extent provided in section 25D(e),
4 in the case of amounts with respect to which a credit
5 has been allowed under section 25D.”.

6 (B) The table of sections for subpart A of
7 part IV of subchapter A of chapter 1 is amend-
8 ed by inserting after the item relating to section
9 25C the following new item:

“Sec. 25D. Nonbusiness qualified stationary fuel cell power-
plant.”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to expenditures paid
12 or incurred after December 31, 2001.

13 **SEC. 3104. ALTERNATIVE MOTOR VEHICLE CREDIT.**

14 (a) IN GENERAL.—Subpart B of part IV of sub-
15 chapter A of chapter 1 (relating to foreign tax credit, etc.)
16 is amended by adding at the end the following:

17 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

18 “(a) ALLOWANCE OF CREDIT.—There shall be al-
19 lowed as a credit against the tax imposed by this chapter
20 for the taxable year an amount equal to the sum of—

21 “(1) the new qualified fuel cell motor vehicle
22 credit determined under subsection (b),

23 “(2) the new qualified hybrid motor vehicle
24 credit determined under subsection (c),

1 “(3) the new qualified alternative fuel motor ve-
2 hicle credit determined under subsection (d), and

3 “(4) the advanced lean burn technology motor
4 vehicle credit determined under subsection (e).

5 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
6 CREDIT.—

7 “(1) IN GENERAL.—For purposes of subsection
8 (a), the new qualified fuel cell motor vehicle credit
9 determined under this subsection with respect to a
10 new qualified fuel cell motor vehicle placed in service
11 by the taxpayer during the taxable year is—

12 “(A) \$4,000, if such vehicle has a gross ve-
13 hicle weight rating of not more than 8,500
14 pounds,

15 “(B) \$10,000, if such vehicle has a gross
16 vehicle weight rating of more than 8,500
17 pounds but not more than 14,000 pounds,

18 “(C) \$20,000, if such vehicle has a gross
19 vehicle weight rating of more than 14,000
20 pounds but not more than 26,000 pounds, and

21 “(D) \$40,000, if such vehicle has a gross
22 vehicle weight rating of more than 26,000
23 pounds.

24 “(2) INCREASE FOR FUEL EFFICIENCY.—

1 “(A) IN GENERAL.—The amount deter-
2 mined under paragraph (1)(A) with respect to
3 a new qualified fuel cell motor vehicle which is
4 a passenger automobile or light truck shall be
5 increased by—

6 “(i) \$1,000, if such vehicle achieves at
7 least 150 percent but less than 175 per-
8 cent of the 2000 model year city fuel econ-
9 omy,

10 “(ii) \$1,500, if such vehicle achieves
11 at least 175 percent but less than 200 per-
12 cent of the 2000 model year city fuel econ-
13 omy,

14 “(iii) \$2,000, if such vehicle achieves
15 at least 200 percent but less than 225 per-
16 cent of the 2000 model year city fuel econ-
17 omy,

18 “(iv) \$2,500, if such vehicle achieves
19 at least 225 percent but less than 250 per-
20 cent of the 2000 model year city fuel econ-
21 omy,

22 “(v) \$3,000, if such vehicle achieves
23 at least 250 percent but less than 275 per-
24 cent of the 2000 model year city fuel econ-
25 omy,

1 “(vi) \$3,500, if such vehicle achieves
 2 at least 275 percent but less than 300 per-
 3 cent of the 2000 model year city fuel econ-
 4 omy, and

5 “(vii) \$4,000, if such vehicle achieves
 6 at least 300 percent of the 2000 model
 7 year city fuel economy.

8 “(B) 2000 MODEL YEAR CITY FUEL ECON-
 9 OMY.—For purposes of subparagraph (A), the
 10 2000 model year city fuel economy with respect
 11 to a vehicle shall be determined in accordance
 12 with the following tables:

13 “(i) In the case of a passenger auto-
 14 mobile:

“If vehicle inertia weight	The 2000 model year city fuel
class is:	economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 or 8,500 lbs	11.1 mpg.

15 “(ii) In the case of a light truck:

“If vehicle inertia weight	The 2000 model year city fuel
class is:	economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg

“If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.0 mpg.

1 “(C) VEHICLE INERTIA WEIGHT CLASS.—

2 For purposes of subparagraph (B), the term
3 ‘vehicle inertia weight class’ has the same
4 meaning as when defined in regulations pre-
5 scribed by the Administrator of the Environ-
6 mental Protection Agency for purposes of the
7 administration of title II of the Clean Air Act
8 (42 U.S.C. 7521 et seq.).

9 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-
10 CLE.—For purposes of this subsection, the term
11 ‘new qualified fuel cell motor vehicle’ means a motor
12 vehicle—

13 “(A) which is propelled by power derived
14 from one or more cells which convert chemical
15 energy directly into electricity by combining ox-
16 ygen with hydrogen fuel which is stored on
17 board the vehicle in any form and may or may
18 not require reformation prior to use,

19 “(B) which, in the case of a passenger
20 automobile or light truck—

1 “(i) for 2002 and later model vehicles,
2 has received a certificate of conformity
3 under the Clean Air Act and meets or ex-
4 ceeds the equivalent qualifying California
5 low emission vehicle standard under sec-
6 tion 243(e)(2) of the Clean Air Act for
7 that make and model year, and

8 “(ii) for 2004 and later model vehi-
9 cles, has received a certificate that such ve-
10 hicle meets or exceeds the Tier II emission
11 level established in regulations prescribed
12 by the Administrator of the Environmental
13 Protection Agency under section 202(i) of
14 the Clean Air Act for that make and model
15 year vehicle,

16 “(C) the original use of which commences
17 with the taxpayer,

18 “(D) which is acquired for use or lease by
19 the taxpayer and not for resale, and

20 “(E) which is made by a manufacturer.

21 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE
22 CREDIT.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a), the new qualified hybrid motor vehicle credit de-
25 termined under this subsection with respect to a new

1 qualified hybrid motor vehicle placed in service by
 2 the taxpayer during the taxable year is the credit
 3 amount determined under paragraph (2).

4 “(2) CREDIT AMOUNT.—

5 “(A) IN GENERAL.—The credit amount de-
 6 termined under this paragraph shall be deter-
 7 mined in accordance with the following tables:

8 “(i) In the case of a new qualified hy-
 9 brid motor vehicle which is a passenger
 10 automobile or light truck and which pro-
 11 vides the following percentage of the max-
 12 imum available power:

**“If percentage of the max- The credit amount is:
 imum available power is:**

At least 2.5 percent but less than 10 percent	\$250
At least 10 percent but less than 20 percent	\$500
At least 20 percent but less than 30 percent	\$750
At least 30 percent	\$1,000.

13 “(ii) In the case of a new qualified hy-
 14 brid motor vehicle which is a heavy duty
 15 hybrid motor vehicle and which provides
 16 the following percentage of the maximum
 17 available power:

18 “(I) If such vehicle has a gross
 19 vehicle weight rating of not more than
 20 14,000 pounds:

**“If percentage of the max- The credit amount is:
 imum available power is:**

At least 20 percent but less than 30 percent	\$1,500
At least 30 percent but less than 40 percent	\$1,750
At least 40 percent but less than 50 percent	\$2,000

“If percentage of the maximum available power is: The credit amount is:

At least 50 percent but less than 60 percent	\$2,250
At least 60 percent	\$2,500.

1 “(II) If such vehicle has a gross
2 vehicle weight rating of more than
3 14,000 but not more than 26,000
4 pounds:

“If percentage of the maximum available power is: The credit amount is:

At least 20 percent but less than 30 percent	\$4,000
At least 30 percent but less than 40 percent	\$4,500
At least 40 percent but less than 50 percent	\$5,000
At least 50 percent but less than 60 percent	\$5,500
At least 60 percent	\$6,000.

5 “(III) If such vehicle has a gross
6 vehicle weight rating of more than
7 26,000 pounds:

“If percentage of the maximum available power is: The credit amount is:

At least 20 percent but less than 30 percent	\$6,000
At least 30 percent but less than 40 percent	\$7,000
At least 40 percent but less than 50 percent	\$8,000
At least 50 percent but less than 60 percent	\$9,000
At least 60 percent	\$10,000.

8 “(B) INCREASE FOR FUEL EFFICIENCY.—

9 “(i) AMOUNT.—The amount deter-
10 mined under subparagraph (A)(i) with re-
11 spect to a passenger automobile or light
12 truck shall be increased by—

13 “(I) \$1,000, if such vehicle
14 achieves at least 125 percent but less
15 than 150 percent of the 2000 model
16 year city fuel economy,

1 “(II) \$1,500, if such vehicle
2 achieves at least 150 percent but less
3 than 175 percent of the 2000 model
4 year city fuel economy,

5 “(III) \$2,000, if such vehicle
6 achieves at least 175 percent but less
7 than 200 percent of the 2000 model
8 year city fuel economy,

9 “(IV) \$2,500, if such vehicle
10 achieves at least 200 percent but less
11 than 225 percent of the 2000 model
12 year city fuel economy,

13 “(V) \$3,000, if such vehicle
14 achieves at least 225 percent but less
15 than 250 percent of the 2000 model
16 year city fuel economy, and

17 “(VI) \$3,500, if such vehicle
18 achieves at least 250 percent of the
19 2000 model year city fuel economy.

20 “(ii) 2000 MODEL YEAR CITY FUEL
21 ECONOMY.—For purposes of clause (i), the
22 2000 model year city fuel economy with re-
23 spect to a vehicle shall be determined using
24 the tables provided in subsection (b)(2)(B)
25 with respect to such vehicle.

1 “(iii) OPTION TO USE LIKE VEHI-
 2 CLE.—For purposes of clause (i), at the
 3 option of the vehicle manufacturer, the in-
 4 crease for fuel efficiency may be calculated
 5 by comparing the new qualified hybrid
 6 motor vehicle to a ‘like vehicle’.

7 “(C) INCREASE FOR ACCELERATED EMIS-
 8 SIONS PERFORMANCE.—The amount deter-
 9 mined under subparagraph (A)(ii) with respect
 10 to an applicable heavy duty hybrid motor vehi-
 11 cle shall be increased by the increase credit
 12 amount determined in accordance with the fol-
 13 lowing tables:

14 “(i) In the case of a vehicle which has
 15 a gross vehicle weight rating of not more
 16 than 14,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$3,500
2003	\$3,000
2004	\$2,500
2005	\$2,000
2006	\$1,500.

17 “(ii) In the case of a vehicle which
 18 has a gross vehicle weight rating of more
 19 than 14,000 pounds but not more than
 20 26,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$9,000
2003	\$7,750
2004	\$6,500

“If the model year is:	The increase credit amount is:
2005	\$5,250
2006	\$4,000.

1 “(iii) In the case of a vehicle which
 2 has a gross vehicle weight rating of more
 3 than 26,000 pounds:

“If the model year is:	The increase credit amount is:
2002	\$14,000
2003	\$12,000
2004	\$10,000
2005	\$8,000
2006	\$6,000.

4 “(D) CONSERVATION CREDIT.—

5 “(i) AMOUNT.—The amount deter-
 6 mined under subparagraph (A)(i) with re-
 7 spect to a passenger automobile or light
 8 truck shall be increased by—

9 “(I) \$250, if such vehicle
 10 achieves a lifetime fuel savings of at
 11 least 1,500 gallons of gasoline, and

12 “(II) \$500, if such vehicle
 13 achieves a lifetime fuel savings of at
 14 least 2,500 gallons of gasoline.

15 “(ii) LIFETIME FUEL SAVINGS FOR
 16 LIKE VEHICLE.—For purposes of clause
 17 (i), at the option of the vehicle manufac-
 18 turer, the lifetime fuel savings fuel may be
 19 calculated by comparing the new qualified
 20 hybrid motor vehicle to a ‘like vehicle’.

21 “(E) DEFINITIONS.—

1 “(i) APPLICABLE HEAVY DUTY HY-
2 BRID MOTOR VEHICLE.—For purposes of
3 subparagraph (C), the term ‘applicable
4 heavy duty hybrid motor vehicle’ means a
5 heavy duty hybrid motor vehicle which is
6 powered by an internal combustion or heat
7 engine which is certified as meeting the
8 emission standards set in the regulations
9 prescribed by the Administrator of the En-
10 vironmental Protection Agency for 2007
11 and later model year diesel heavy duty en-
12 gines or 2008 and later model year
13 ottocycle heavy duty engines, as applicable.

14 “(ii) HEAVY DUTY HYBRID MOTOR VE-
15 HICLE.—For purposes of this paragraph,
16 the term ‘heavy duty hybrid motor vehicle’
17 means a new qualified hybrid motor vehicle
18 which has a gross vehicle weight rating of
19 more than 10,000 pounds and draws pro-
20 pulsion energy from both of the following
21 onboard sources of stored energy:

22 “(I) An internal combustion or
23 heat engine using consumable fuel
24 which, for 2002 and later model vehi-
25 cles, has received a certificate of con-

1 formity under the Clean Air Act and
2 meets or exceeds a level of not greater
3 than 3.0 grams per brake horsepower-
4 hour of oxides of nitrogen and 0.01
5 per brake horsepower-hour of particu-
6 late matter.

7 “(II) A rechargeable energy stor-
8 age system.

9 “(iii) MAXIMUM AVAILABLE POWER.—

10 “(I) PASSENGER AUTOMOBILE
11 OR LIGHT TRUCK.—For purposes of
12 subparagraph (A)(i), the term ‘max-
13 imum available power’ means the
14 maximum power available from the
15 battery or other electrical storage de-
16 vice, during a standard 10 second
17 pulse power test, divided by the sum
18 of the battery or other electrical stor-
19 age device and the SAE net power of
20 the heat engine.

21 “(II) HEAVY DUTY HYBRID
22 MOTOR VEHICLE.—For purposes of
23 subparagraph (A)(ii), the term ‘max-
24 imum available power’ means the
25 maximum power available from the

1 battery or other electrical storage de-
2 vice, during a standard 10 second
3 pulse power test, divided by the vehi-
4 cle's total traction power. The term
5 'total traction power' means the sum
6 of the electric motor peak power and
7 the heat engine peak power of the ve-
8 hicle, except that if the electric motor
9 is the sole means by which the vehicle
10 can be driven, the total traction power
11 is the peak electric motor power.

12 “(iv) LIKE VEHICLE.—For purposes
13 of subparagraph (B)(iii), the term ‘like ve-
14 hicle’ for a new qualified hybrid motor ve-
15 hicle derived from a conventional produc-
16 tion vehicle produced in the same model
17 year means a model that is equivalent in
18 the following areas:

19 “(I) Body style (2-door or 4-
20 door).

21 “(II) Transmission (automatic or
22 manual).

23 “(III) Acceleration performance
24 (± 0.05 seconds).

1 “(IV) Drivetrain (2-wheel drive
2 or 4-wheel drive).

3 “(V) Certification by the Admin-
4 istrator of the Environmental Protec-
5 tion Agency.

6 “(v) LIFETIME FUEL SAVINGS.—For
7 purposes of subsection (c)(2)(D), the term
8 ‘lifetime fuel savings’ shall be calculated by
9 dividing 120,000 by the difference between
10 the 2000 model year city fuel economy for
11 the vehicle inertia weight class and the city
12 fuel economy for the new qualified hybrid
13 motor vehicle.

14 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-
15 CLE.—For purposes of this subsection, the term
16 ‘new qualified hybrid motor vehicle’ means a motor
17 vehicle—

18 “(A) which draws propulsion energy from
19 onboard sources of stored energy which are
20 both—

21 “(i) an internal combustion or heat
22 engine using combustible fuel, and

23 “(ii) a rechargeable energy storage
24 system,

1 “(B) which, in the case of a passenger
2 automobile or light truck, for 2002 and later
3 model vehicles, has received a certificate of con-
4 formity under the Clean Air Act and meets or
5 exceeds the equivalent qualifying California low
6 emission vehicle standard under section
7 243(e)(2) of the Clean Air Act for that make
8 and model year,

9 “(C) the original use of which commences
10 with the taxpayer,

11 “(D) which is acquired for use or lease by
12 the taxpayer and not for resale, and

13 “(E) which is made by a manufacturer.

14 “(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
15 VEHICLE CREDIT.—

16 “(1) ALLOWANCE OF CREDIT.—Except as pro-
17 vided in paragraph (5), the credit determined under
18 this subsection is an amount equal to the applicable
19 percentage of the incremental cost of any new quali-
20 fied alternative fuel motor vehicle placed in service
21 by the taxpayer during the taxable year.

22 “(2) APPLICABLE PERCENTAGE.—For purposes
23 of paragraph (1), the applicable percentage with re-
24 spect to any new qualified alternative fuel motor ve-
25 hicle is—

1 “(A) 50 percent, plus

2 “(B) 30 percent, if such vehicle—

3 “(i) has received a certificate of con-
4 formity under the Clean Air Act and meets
5 or exceeds the most stringent standard
6 available for certification under the Clean
7 Air Act for that make and model year vehi-
8 cle (other than a zero emission standard),
9 or

10 “(ii) has received an order from an
11 applicable State certifying the vehicle for
12 sale or lease in California and meets or ex-
13 ceeds the most stringent standard available
14 for certification under the State laws of
15 California (enacted in accordance with a
16 waiver granted under section 209(b) of the
17 Clean Air Act) for that make and model
18 year vehicle (other than a zero emission
19 standard).

20 “(3) INCREMENTAL COST.—For purposes of
21 this subsection, the incremental cost of any new
22 qualified alternative fuel motor vehicle is equal to
23 the amount of the excess of the manufacturer’s sug-
24 gested retail price for such vehicle over such price
25 for a gasoline or diesel fuel motor vehicle of the

1 same model, to the extent such amount does not
2 exceed—

3 “(A) \$5,000, if such vehicle has a gross ve-
4 hicle weight rating of not more than 8,500
5 pounds,

6 “(B) \$10,000, if such vehicle has a gross
7 vehicle weight rating of more than 8,500
8 pounds but not more than 14,000 pounds,

9 “(C) \$25,000, if such vehicle has a gross
10 vehicle weight rating of more than 14,000
11 pounds but not more than 26,000 pounds, and

12 “(D) \$40,000, if such vehicle has a gross
13 vehicle weight rating of more than 26,000
14 pounds.

15 “(4) QUALIFIED ALTERNATIVE FUEL MOTOR
16 VEHICLE DEFINED.—For purposes of this
17 subsection—

18 “(A) IN GENERAL.—The term ‘qualified
19 alternative fuel motor vehicle’ means any motor
20 vehicle—

21 “(i) which is only capable of operating
22 on an alternative fuel,

23 “(ii) the original use of which com-
24 mences with the taxpayer,

1 “(iii) which is acquired by the tax-
2 payer for use or lease, but not for resale,
3 and

4 “(iv) which is made by a manufac-
5 turer.

6 “(B) ALTERNATIVE FUEL.—The term ‘al-
7 ternative fuel’ means compressed natural gas,
8 liquefied natural gas, liquefied petroleum gas,
9 hydrogen, and any liquid at least 85 percent of
10 the volume of which consists of methanol.

11 “(5) CREDIT FOR MIXED-FUEL VEHICLES.—

12 “(A) IN GENERAL.—In the case of a
13 mixed-fuel vehicle placed in service by the tax-
14 payer during the taxable year, the credit deter-
15 mined under this subsection is an amount equal
16 to—

17 “(i) in the case of a 75/25 mixed-fuel
18 vehicle, 70 percent of the credit which
19 would have been allowed under this sub-
20 section if such vehicle was a qualified alter-
21 native fuel motor vehicle, and

22 “(ii) in the case of a 95/5 mixed-fuel
23 vehicle, 95 percent of the credit which
24 would have been allowed under this sub-

1 section if such vehicle was a qualified alter-
2 native fuel motor vehicle.

3 “(B) MIXED-FUEL VEHICLE.—For pur-
4 poses of this subsection, the term ‘mixed-fuel
5 vehicle’ means any motor vehicle described in
6 subparagraph (C) or (D) of paragraph (3),
7 which—

8 “(i) is certified by the manufacturer
9 as being able to perform efficiently in nor-
10 mal operation on a combination of an al-
11 ternative fuel and a petroleum-based fuel,

12 “(ii) either—

13 “(I) has received a certificate of
14 conformity under the Clean Air Act,
15 or

16 “(II) has received an order from
17 an applicable State certifying the vehi-
18 cle for sale or lease in California and
19 meets or exceeds the low emission ve-
20 hicle standard under section 88.105–
21 94 of title 40, Code of Federal Regu-
22 lations, for that make and model year
23 vehicle,

24 “(iii) the original use of which com-
25 mences with the taxpayer,

1 “(iv) which is acquired by the tax-
2 payer for use or lease, but not for resale,
3 and

4 “(v) which is made by a manufac-
5 turer.

6 “(C) 75/25 MIXED-FUEL VEHICLE.—For
7 purposes of this subsection, the term ‘75/25
8 mixed-fuel vehicle’ means a mixed-fuel vehicle
9 which operates using at least 75 percent alter-
10 native fuel and not more than 25 percent petro-
11 leum-based fuel.

12 “(D) 95/5 MIXED-FUEL VEHICLE.—For
13 purposes of this subsection, the term ‘95/5
14 mixed-fuel vehicle’ means a mixed-fuel vehicle
15 which operates using at least 95 percent alter-
16 native fuel and not more than 5 percent petro-
17 leum-based fuel.

18 “(e) ADVANCED LEAN BURN TECHNOLOGY MOTOR
19 VEHICLE CREDIT.—

20 “(1) IN GENERAL.—For purposes of subsection
21 (a), the advanced lean burn technology motor vehicle
22 credit determined under this subsection with respect
23 to a new qualified advanced lean burn technology
24 motor vehicle placed in service by the taxpayer dur-

1 ing the taxable year is the credit amount determined
2 under paragraph (2).

3 “(2) CREDIT AMOUNT.—

4 “(A) INCREASE FOR FUEL EFFICIENCY.—

5 The credit amount determined under this para-
6 graph shall be—

7 “(i) \$1,000, if such vehicle achieves at
8 least 125 percent but less than 150 per-
9 cent of the 2000 model year city fuel econ-
10 omy,

11 “(ii) \$1,500, if such vehicle achieves
12 at least 150 percent but less than 175 per-
13 cent of the 2000 model year city fuel econ-
14 omy,

15 “(iii) \$2,000, if such vehicle achieves
16 at least 175 percent but less than 200 per-
17 cent of the 2000 model year city fuel econ-
18 omy,

19 “(iv) \$2,500, if such vehicle achieves
20 at least 200 percent but less than 225 per-
21 cent of the 2000 model year city fuel econ-
22 omy,

23 “(v) \$3,000, if such vehicle achieves
24 at least 225 percent but less than 250 per-

1 cent of the 2000 model year city fuel econ-
2 omy, and

3 “(vi) \$3,500, if such vehicle achieves
4 at least 250 percent of the 2000 model
5 year city fuel economy.

6 For purposes of clause (i), the 2000 model year
7 city fuel economy with respect to a vehicle shall
8 be determined using the tables provided in sub-
9 section (b)(2)(B) with respect to such vehicle.

10 “(B) CONSERVATION CREDIT.—The
11 amount determined under subparagraph (A)
12 with respect to an advanced lean burn tech-
13 nology motor vehicle shall be increased by—

14 “(i) \$250, if such vehicle achieves a
15 lifetime fuel savings of at least 1,500 gal-
16 lons of gasoline, and

17 “(ii) \$500, if such vehicle achieves a
18 lifetime fuel savings of at least 2,500 gal-
19 lons of gasoline.

20 “(C) OPTION TO USE LIKE VEHICLE.—At
21 the option of the vehicle manufacturer, the in-
22 crease for fuel efficiency and conservation credit
23 may be calculated by comparing the new ad-
24 vanced lean-burn technology motor vehicle to a
25 like vehicle.

1 “(3) DEFINITIONS.—For purposes of this sub-
2 section.—

3 “(A) ADVANCED LEAN BURN TECHNOLOGY
4 MOTOR VEHICLE.—The term ‘advanced lean
5 burn technology motor vehicle’ means a motor
6 vehicle with an internal combustion engine
7 that—

8 “(i) is designed to operate primarily
9 using more air than is necessary for com-
10 plete combustion of the fuel,

11 “(ii) incorporates direct injection,

12 “(iii) achieves at least 125 percent of
13 the 2000 model year city fuel economy,
14 and

15 “(iv) for 2004 and later model vehi-
16 cles, has received a certificate that such ve-
17 hicle meets or exceeds the Bin 5, Tier 2
18 emission levels (for passenger vehicles) or
19 Bin 8, Tier 2 emission levels (for light
20 trucks) established in regulations pre-
21 scribed by the Administrator of the Envi-
22 ronmental Protection Agency under section
23 202(i) of the Clean Air Act for that make
24 and model year vehicle.

1 “(B) LIKE VEHICLE.—The term ‘like vehi-
2 cle’ for an advanced lean burn technology motor
3 vehicle derived from a conventional production
4 vehicle produced in the same model year means
5 a model that is equivalent in the following
6 areas:

7 “(i) Body style (2-door or 4-door),

8 “(ii) Transmission (automatic or man-
9 ual),

10 “(iii) Acceleration performance (\pm
11 0.05 seconds).

12 “(iv) Drivetrain (2-wheel drive or 4-
13 wheel drive).

14 “(v) Certification by the Adminis-
15 trator of the Environmental Protection
16 Agency.

17 “(C) LIFETIME FUEL SAVINGS.—The term
18 ‘lifetime fuel savings’ shall be calculated by di-
19 viding 120,000 by the difference between the
20 2000 model year city fuel economy for the vehi-
21 cle inertia weight class and the city fuel econ-
22 omy for the new qualified hybrid motor vehicle.

23 “(f) LIMITATION BASED ON AMOUNT OF TAX.—The
24 credit allowed under subsection (a) for the taxable year
25 shall not exceed the excess of—

1 “(1) the sum of the regular tax liability (as de-
2 fined in section 26(b)) plus the tax imposed by sec-
3 tion 55, over

4 “(2) the sum of the credits allowable under sub-
5 part A and sections 27, 29, and 30A for the taxable
6 year.

7 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—

8 For purposes of this section—

9 “(1) CONSUMABLE FUEL.—The term
10 ‘consumable fuel’ means any solid, liquid, or gaseous
11 matter which releases energy when consumed by an
12 auxiliary power unit.

13 “(2) MOTOR VEHICLE.—The term ‘motor vehi-
14 cle’ has the meaning given such term by section
15 30(c)(2).

16 “(3) 2000 MODEL YEAR CITY FUEL ECON-
17 OMY.—The 2000 model year city fuel economy with
18 respect to any vehicle shall be measured under rules
19 similar to the rules under section 4064(c).

20 “(4) OTHER TERMS.—The terms ‘automobile’,
21 ‘passenger automobile’, ‘light truck’, and ‘manufac-
22 turer’ have the meanings given such terms in regula-
23 tions prescribed by the Administrator of the Envi-
24 ronmental Protection Agency for purposes of the ad-

1 ministration of title II of the Clean Air Act (42
2 U.S.C. 7521 et seq.).

3 “(5) REDUCTION IN BASIS.—For purposes of
4 this subtitle, the basis of any property for which a
5 credit is allowable under subsection (a) shall be re-
6 duced by the amount of such credit so allowed.

7 “(6) NO DOUBLE BENEFIT.—The amount of
8 any deduction or credit allowable under this chapter
9 (other than the credit allowable under this sec-
10 tion)—

11 “(A) for any incremental cost taken into
12 account in computing the amount of the credit
13 determined under subsection (d) shall be re-
14 duced by the amount of such credit attributable
15 to such cost, and

16 “(B) with respect to a vehicle described
17 under subsection (b) or (c), shall be reduced by
18 the amount of credit allowed under subsection
19 (a) for such vehicle for the taxable year.

20 “(7) PROPERTY USED BY TAX-EXEMPT ENTI-
21 TIES.—In the case of a credit amount which is al-
22 lowable with respect to a motor vehicle which is ac-
23 quired by an entity exempt from tax under this
24 chapter, the person which sells or leases such vehicle
25 to the entity shall be treated as the taxpayer with

1 respect to the vehicle for purposes of this section
2 and the credit shall be allowed to such person, but
3 only if the person clearly discloses to the entity in
4 any sale or lease document the specific amount of
5 any credit otherwise allowable to the entity under
6 this section and reduces the sale or lease price of
7 such vehicle by an equivalent amount of such credit.

8 “(8) RECAPTURE.—The Secretary shall, by reg-
9 ulations, provide for recapturing the benefit of any
10 credit allowable under subsection (a) with respect to
11 any property which ceases to be property eligible for
12 such credit (including recapture in the case of a
13 lease period of less than the economic life of a vehi-
14 cle).

15 “(9) PROPERTY USED OUTSIDE UNITED
16 STATES, ETC., NOT QUALIFIED.—No credit shall be
17 allowed under subsection (a) with respect to any
18 property referred to in section 50(b) or with respect
19 to the portion of the cost of any property taken into
20 account under section 179.

21 “(10) ELECTION TO NOT TAKE CREDIT.—No
22 credit shall be allowed under subsection (a) for any
23 vehicle if the taxpayer elects to not have this section
24 apply to such vehicle.

25 “(11) CARRYFORWARD ALLOWED.—

1 “(A) IN GENERAL.—If the credit amount
2 allowable under subsection (a) for a taxable
3 year exceeds the amount of the limitation under
4 subsection (f) for such taxable year (referred to
5 as the ‘unused credit year’ in this paragraph),
6 such excess shall be allowed as a credit
7 carryforward for each of the 20 taxable years
8 following the unused credit year.

9 “(B) RULES.—Rules similar to the rules of
10 section 39 shall apply with respect to the credit
11 carryforward under subparagraph (A).

12 “(12) INTERACTION WITH AIR QUALITY AND
13 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
14 erwise provided in this section, a motor vehicle shall
15 not be considered eligible for a credit under this sec-
16 tion unless such vehicle is in compliance with—

17 “(A) the applicable provisions of the Clean
18 Air Act for the applicable make and model year
19 of the vehicle (or applicable air quality provi-
20 sions of State law in the case of a State which
21 has adopted such provision under a waiver
22 under section 209(b) of the Clean Air Act), and

23 “(B) the motor vehicle safety provisions of
24 sections 30101 through 30169 of title 49,
25 United States Code.

1 “(h) REGULATIONS.—

2 “(1) IN GENERAL.—The Secretary shall pro-
3 mulgate such regulations as necessary to carry out
4 the provisions of this section.

5 “(2) ADMINISTRATOR OF ENVIRONMENTAL
6 PROTECTION AGENCY.—The Administrator of the
7 Environmental Protection Agency, in coordination
8 with the Secretary of Transportation and the Sec-
9 retary of the Treasury, shall prescribe such regula-
10 tions as necessary to determine whether a motor ve-
11 hicle meets the requirements to be eligible for a
12 credit under this section.

13 “(i) TERMINATION.—This section shall not apply to
14 any property placed in service after—

15 “(1) in the case of a new qualified fuel cell
16 motor vehicle (as described in subsection (b)), De-
17 cember 31, 2011, and

18 “(2) in the case of any other property, Decem-
19 ber 31, 2007.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 1016(a) is amended by striking
22 “and” at the end of paragraph (29), by striking the
23 period at the end of paragraph (30) and inserting “,
24 and”, and by adding at the end the following:

1 “(31) to the extent provided in section
2 30B(g)(5).”.

3 (2) Section 6501(m) is amended by inserting
4 “30B(g)(10),” after “30(d)(4),”.

5 (3) The table of sections for subpart B of part
6 IV of subchapter A of chapter 1 is amended by in-
7 serting after the item relating to section 30A the fol-
8 lowing:

“Sec. 30B. Alternative motor vehicle credit.”.

9 (c) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to property placed in service after
11 December 31, 2001, in taxable years ending after such
12 date.

13 **SEC. 3105. EXTENSION OF DEDUCTION FOR CERTAIN RE-**
14 **FUELING PROPERTY.**

15 (a) **IN GENERAL.**—Section 179A(f) (relating to ter-
16 mination) is amended by striking “2004” and inserting
17 “2007”.

18 (b) **MODIFICATION OF PHASEOUT.**—Subparagraph
19 (B) of section 179A(b)(1) is amended—

20 (1) in clause (i), by striking “2002” and insert-
21 ing “2005”,

22 (2) in clause (ii), by striking “2003” and in-
23 serting “2006”, and

24 (3) in clause (iii), by striking “2004” and in-
25 serting “2007”.

1 **SEC. 3106. MODIFICATION OF CREDIT FOR QUALIFIED**
2 **ELECTRIC VEHICLES.**

3 (a) AMOUNT OF CREDIT.—

4 (1) IN GENERAL.—Section 30(a) (relating to al-
5 lowance of credit) is amended by striking “10 per-
6 cent of”.

7 (2) LIMITATION OF CREDIT ACCORDING TO
8 TYPE OF VEHICLE.—Section 30(b) (relating to limi-
9 tations) is amended—

10 (A) by striking paragraphs (1) and (2) and
11 inserting the following:

12 “(1) LIMITATION ACCORDING TO TYPE OF VE-
13 HICLE.—The amount of the credit allowed under
14 subsection (a) for any vehicle shall not exceed the
15 greatest of the following amounts applicable to such
16 vehicle:

17 “(A) In the case of a vehicle which con-
18 forms to the Motor Vehicle Safety Standard
19 500 prescribed by the Secretary of Transpor-
20 tation, the lesser of—

21 “(i) 10 percent of the manufacturer’s
22 suggested retail price of the vehicle, or

23 “(ii) \$4,000.

24 “(B) In the case of a vehicle not described
25 in subparagraph (A) with a gross vehicle weight
26 rating not exceeding 8,500 pounds—

1 “(i) \$4,000, or

2 “(ii) \$5,000, if such vehicle is—

3 “(I) capable of a driving range of
4 at least 70 miles on a single charge of
5 the vehicle’s rechargeable batteries
6 and measured pursuant to the urban
7 dynamometer schedules under appen-
8 dix I to part 86 of title 40, Code of
9 Federal Regulations, or

10 “(II) capable of a payload capaci-
11 ty of at least 1,000 pounds.

12 “(C) In the case of a vehicle with a gross
13 vehicle weight rating exceeding 8,500 pounds
14 but not exceeding 14,000 pounds, \$10,000.

15 “(D) In the case of a vehicle with a gross
16 vehicle weight rating exceeding 14,000 pounds
17 but not exceeding 26,000 pounds, \$20,000.

18 “(E) In the case of a vehicle with a gross
19 vehicle weight rating exceeding 26,000 pounds,
20 \$40,000.”, and

21 (B) by redesignating paragraph (3) as
22 paragraph (2).

23 (3) CONFORMING AMENDMENTS.—

1 (A) Section 53(d)(1)(B)(iii) is amended by
2 striking “section 30(b)(3)(B)” and inserting
3 “section 30(b)(2)(B)”.

4 (B) Section 55(c)(2) is amended by strik-
5 ing “30(b)(3)” and inserting “30(b)(2)”.

6 (b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

7 (1) IN GENERAL.—Section 30(c)(1)(A) (defin-
8 ing qualified electric vehicle) is amended to read as
9 follows:

10 “(A) which is—

11 “(i) operated solely by use of a bat-
12 tery or battery pack, or

13 “(ii) powered primarily through the
14 use of an electric battery or battery pack
15 using a flywheel or capacitor which stores
16 energy produced by an electric motor
17 through regenerative braking to assist in
18 vehicle operation,”.

19 (2) LEASED VEHICLES.—Section 30(c)(1)(C) is
20 amended by inserting “or lease” after “use”.

21 (3) CONFORMING AMENDMENTS.—

22 (A) Subsections (a), and (c) of section 30
23 are each amended by inserting “battery” after
24 “qualified” each place it appears.

1 (B) The heading of subsection (c) of sec-
2 tion 30 is amended by inserting “BATTERY”
3 after “QUALIFIED”.

4 (C) The heading of section 30 is amended
5 by inserting “**BATTERY**” after “**QUALIFIED**”.

6 (D) The item relating to section 30 in the
7 table of sections for subpart B of part IV of
8 subchapter A of chapter 1 is amended by in-
9 serting “battery” after “qualified”.

10 (E) Section 179A(c)(3) is amended by in-
11 serting “battery” before “electric”.

12 (F) The heading of paragraph (3) of sec-
13 tion 179A(c) is amended by inserting “BAT-
14 TERY” before “ELECTRIC”.

15 (c) **ADDITIONAL SPECIAL RULES.**—Section 30(d)
16 (relating to special rules) is amended by adding at the end
17 the following:

18 “(5) **NO DOUBLE BENEFIT.**—The amount of
19 any deduction or credit allowable under this chapter
20 for any cost taken into account in computing the
21 amount of the credit determined under subsection
22 (a) shall be reduced by the amount of such credit at-
23 tributable to such cost.

24 “(6) **PROPERTY USED BY TAX-EXEMPT ENTI-**
25 **TIES.**—In the case of a credit amount which is al-

1 lowable with respect to a vehicle which is acquired
2 by an entity exempt from tax under this chapter, the
3 person which sells or leases such vehicle to the entity
4 shall be treated as the taxpayer with respect to the
5 vehicle for purposes of this section and the credit
6 shall be allowed to such person, but only if the per-
7 son clearly discloses to the entity in any sale or lease
8 contract the specific amount of any credit otherwise
9 allowable to the entity under this section and re-
10 duces the sale or lease price of such vehicle by an
11 equivalent amount of such credit.

12 “(7) CARRYFORWARD ALLOWED.—

13 “(A) IN GENERAL.—If the credit amount
14 allowable under subsection (a) for a taxable
15 year exceeds the amount of the limitation under
16 subsection (b)(3) for such taxable year, such ex-
17 cess shall be allowed as a credit carryforward
18 for each of the 20 taxable years following such
19 taxable year.

20 “(B) RULES.—Rules similar to the rules of
21 section 39 shall apply with respect to the credit
22 carryforward under subparagraph (A).”

23 (d) EXTENSION.—Section 30(e) (relating to termi-
24 nation) is amended by striking “2004” and inserting
25 “2007”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2001, in taxable years ending after such
4 date.

5 **SEC. 3107. TAX CREDIT FOR ENERGY EFFICIENT APPLI-**
6 **ANCES.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 (relating to business-related cred-
9 its) is amended by adding at the end the following new
10 section:

11 **“SEC. 45G. ENERGY EFFICIENT APPLIANCE CREDIT.**

12 “(a) GENERAL RULE.—For purposes of section 38,
13 the energy efficient appliance credit determined under this
14 section for the taxable year is an amount equal to the ap-
15 plicable amount determined under subsection (b) with re-
16 spect to the eligible production of qualified energy efficient
17 appliances produced by the taxpayer during the calendar
18 year ending with or within the taxable year.

19 “(b) APPLICABLE AMOUNT; ELIGIBLE PRODUC-
20 TION.—For purposes of subsection (a)—

21 “(1) APPLICABLE AMOUNT.—The applicable
22 amount is—

23 “(A) \$50 in the case of an energy efficient
24 clothes washer described in subsection (d)(2)(A)

1 or an energy efficient refrigerator described in
2 subsection (d)(3)(B)(i), and

3 “(B) \$100 in the case of any other energy
4 efficient clothes washer or energy efficient re-
5 frigerator.

6 “(2) ELIGIBLE PRODUCTION.—

7 “(A) IN GENERAL.—The eligible produc-
8 tion of each category of qualified energy effi-
9 cient appliances is the excess of—

10 “(i) the number of appliances in such
11 category which are produced by the tax-
12 payer during such calendar year, over

13 “(ii) the average number of appliances
14 in such category which were produced by
15 the taxpayer during calendar years 1998,
16 1999, and 2000.

17 “(B) CATEGORIES.—For purposes of sub-
18 paragraph (A), the categories are—

19 “(i) energy efficient clothes washers
20 described in subsection (d)(2)(A),

21 “(ii) energy efficient clothes washers
22 described in subsection (d)(2)(B),

23 “(iii) energy efficient refrigerators de-
24 scribed in subsection (d)(3)(B)(i), and

1 “(iv) energy efficient refrigerators de-
2 scribed in subsection (d)(3)(B)(ii).

3 “(C) SPECIAL RULE FOR 2001 PRODUC-
4 TION.—For purposes of determining eligible
5 production for calendar year 2001—

6 “(i) only production after the date of
7 the enactment of this section shall be
8 taken into account under subparagraph
9 (A)(i), and

10 “(ii) the amount taken into account
11 under subparagraph (A)(ii) shall be an
12 amount which bears the same ratio to the
13 amount which would (but for this subpara-
14 graph) be taken into account under sub-
15 paragraph (A)(ii) as—

16 “(I) the number of days in cal-
17 endar year 2001 after the date of the
18 enactment of this section, bears to

19 “(II) 365.

20 “(c) LIMITATION ON MAXIMUM CREDIT.—

21 “(1) IN GENERAL.—The maximum amount of
22 credit allowed under subsection (a) with respect to
23 a taxpayer for all taxable years shall be—

24 “(A) \$30,000,000 with respect to the cred-
25 it determined under subsection (b)(1)(A), and

1 “(B) \$30,000,000 with respect to the cred-
2 it determined under subsection (b)(1)(B).

3 “(2) LIMITATION BASED ON GROSS RE-
4 CEIPTS.—The credit allowed under subsection (a)
5 with respect to a taxpayer for the taxable year shall
6 not exceed an amount equal to 2 percent of the aver-
7 age annual gross receipts of the taxpayer for the 3
8 taxable years preceding the taxable year in which
9 the credit is determined.

10 “(3) GROSS RECEIPTS.—For purposes of this
11 subsection, the rules of paragraphs (2) and (3) of
12 section 448(c) shall apply.

13 “(d) QUALIFIED ENERGY EFFICIENT APPLIANCE.—
14 For purposes of this section:

15 “(1) IN GENERAL.—The term ‘qualified energy
16 efficient appliance’ means—

17 “(A) an energy efficient clothes washer, or

18 “(B) an energy efficient refrigerator.

19 “(2) ENERGY EFFICIENT CLOTHES WASHER.—
20 The term ‘energy efficient clothes washer’ means a
21 residential clothes washer, including a residential
22 style coin operated washer, which is manufactured
23 with—

24 “(A) a 1.26 MEF or greater, or

1 “(B) a 1.42 MEF (1.5 MEF for washers
2 produced after 2004) or greater.

3 “(3) ENERGY EFFICIENT REFRIGERATOR.—The
4 term ‘energy efficient refrigerator’ means an auto-
5 matic defrost refrigerator-freezer which—

6 “(A) has an internal volume of at least
7 16.5 cubic feet, and

8 “(B) consumes—

9 “(i) 10 percent less kw/hr/yr than the
10 energy conservation standards promulgated
11 by the Department of Energy for refrig-
12 erators produced during 2001, and

13 “(ii) 15 percent less kw/hr/yr than
14 such energy conservation standards for re-
15 frigerators produced after 2001.

16 “(4) MEF.—The term ‘MEF’ means Modified
17 Energy Factor (as determined by the Secretary of
18 Energy).

19 “(e) SPECIAL RULES.—

20 “(1) IN GENERAL.—Rules similar to the rules
21 of subsections (c), (d), and (e) of section 52 shall
22 apply for purposes of this section.

23 “(2) AGGREGATION RULES.—All persons treat-
24 ed as a single employer under subsection (a) or (b)
25 of section 52 or subsection (m) or (o) of section 414

1 shall be treated as 1 person for purposes of sub-
2 section (a).

3 “(f) VERIFICATION.—The taxpayer shall submit such
4 information or certification as the Secretary, in consulta-
5 tion with the Secretary of Energy, determines necessary
6 to claim the credit amount under subsection (a).

7 “(g) TERMINATION.—This section shall not apply—

8 “(1) with respect to energy efficient refrig-
9 erators described in subsection (d)(3)(B)(i) produced
10 after 2004, and

11 “(2) with respect to all other qualified energy
12 efficient appliances produced after 2006.”.

13 (b) LIMITATION ON CARRYBACK.—Section 39(d) (re-
14 lating to transition rules) is amended by adding at the
15 end the following new paragraph:

16 “(11) NO CARRYBACK OF ENERGY EFFICIENT
17 APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No
18 portion of the unused business credit for any taxable
19 year which is attributable to the energy efficient ap-
20 pliance credit determined under section 45G may be
21 carried to a taxable year ending before the date of
22 the enactment of section 45G.”.

23 (c) CONFORMING AMENDMENT.—Section 38(b) (re-
24 lating to general business credit) is amended by striking
25 “plus” at the end of paragraph (14), by striking the period

1 at the end of paragraph (15) and inserting “, plus”, and
 2 by adding at the end the following new paragraph:

3 “(16) the energy efficient appliance credit de-
 4 termined under section 45G(a).”.

5 (d) CLERICAL AMENDMENT.—The table of sections
 6 for subpart D of part IV of subchapter A of chapter 1
 7 is amended by inserting after the item relating to section
 8 45F the following new item:

“Sec. 45G. Energy efficient appliance credit.”.

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years ending after the
 11 date of the enactment of this Act.

12 **SEC. 3108. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
 13 **MENTS TO EXISTING HOMES.**

14 (a) IN GENERAL.—Subpart A of part IV of sub-
 15 chapter A of chapter 1 (relating to nonrefundable personal
 16 credits) is amended by inserting after section 25D the fol-
 17 lowing new section:

18 **“SEC. 25E. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
 19 **ING HOMES.**

20 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 21 dividual, there shall be allowed as a credit against the tax
 22 imposed by this chapter for the taxable year an amount
 23 equal to 20 percent of the amount paid or incurred by
 24 the taxpayer for qualified energy efficiency improvements
 25 installed during such taxable year.

1 “(b) LIMITATIONS.—

2 “(1) MAXIMUM CREDIT.—The credit allowed by
3 this section with respect to a dwelling shall not ex-
4 ceed \$2,000.

5 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
6 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
7 credit was allowed to the taxpayer under subsection
8 (a) with respect to a dwelling in 1 or more prior tax-
9 able years, the amount of the credit otherwise allow-
10 able for the taxable year with respect to that dwell-
11 ing shall not exceed the amount of \$2,000 reduced
12 by the sum of the credits allowed under subsection
13 (a) to the taxpayer with respect to the dwelling for
14 all prior taxable years.

15 “(3) LIMITATION BASED ON AMOUNT OF
16 TAX.—The credit allowed under subsection (a) for
17 the taxable year shall not exceed the excess of—

18 “(A) the sum of the regular tax liability
19 (as defined in section 26(b)) plus the tax im-
20 posed by section 55, over

21 “(B) the sum of the credits allowable
22 under this subpart (other than this section and
23 section 23) and section 27 for the taxable year.

24 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
25 credit allowable under subsection (a) exceeds the limita-

1 tion imposed by subsection (b)(3) for such taxable year,
2 such excess shall be carried to the succeeding taxable year
3 and added to the credit allowable under subsection (a) for
4 such succeeding taxable year.

5 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-
6 MENTS.—For purposes of this section, the term ‘qualified
7 energy efficiency improvements’ means any energy effi-
8 cient building envelope component which meets the pre-
9 scriptive criteria for such component established by the
10 1998 International Energy Conservation Code, if—

11 “(1) such component is installed in or on a
12 dwelling—

13 “(A) located in the United States, and

14 “(B) owned and used by the taxpayer as
15 the taxpayer’s principal residence (within the
16 meaning of section 121),

17 “(2) the original use of such component com-
18 mences with the taxpayer, and

19 “(3) such component reasonably can be ex-
20 pected to remain in use for at least 5 years.

21 If the aggregate cost of such components with respect to
22 any dwelling exceeds \$1,000, such components shall be
23 treated as qualified energy efficiency improvements only
24 if such components are also certified in accordance with
25 subsection (e) as meeting such criteria.

1 “(e) CERTIFICATION.—The certification described in
2 subsection (d) shall be—

3 “(1) determined on the basis of the technical
4 specifications or applicable ratings (including prod-
5 uct labeling requirements) for the measurement of
6 energy efficiency, based upon energy use or building
7 envelope component performance, for the energy effi-
8 cient building envelope component,

9 “(2) provided by a local building regulatory au-
10 thority, a utility, a manufactured home production
11 inspection primary inspection agency (IPLA), or an
12 accredited home energy rating system provider who
13 is accredited by or otherwise authorized to use ap-
14 proved energy performance measurement methods by
15 the Home Energy Ratings Systems Council or the
16 National Association of State Energy Officials, and

17 “(3) made in writing in a manner that specifies
18 in readily verifiable fashion the energy efficient
19 building envelope components installed and their re-
20 spective energy efficiency levels.

21 “(f) DEFINITIONS AND SPECIAL RULES.—

22 “(1) TENANT-STOCKHOLDER IN COOPERATIVE
23 HOUSING CORPORATION.—In the case of an indi-
24 vidual who is a tenant-stockholder (as defined in sec-
25 tion 216) in a cooperative housing corporation (as

1 defined in such section), such individual shall be
2 treated as having paid his tenant-stockholder's pro-
3 portionate share (as defined in section 216(b)(3)) of
4 the cost of qualified energy efficiency improvements
5 made by such corporation.

6 “(2) CONDOMINIUMS.—

7 “(A) IN GENERAL.—In the case of an indi-
8 vidual who is a member of a condominium man-
9 agement association with respect to a condo-
10 minium which he owns, such individual shall be
11 treated as having paid his proportionate share
12 of the cost of qualified energy efficiency im-
13 provements made by such association.

14 “(B) CONDOMINIUM MANAGEMENT ASSO-
15 CIATION.—For purposes of this paragraph, the
16 term ‘condominium management association’
17 means an organization which meets the require-
18 ments of paragraph (1) of section 528(c) (other
19 than subparagraph (E) thereof) with respect to
20 a condominium project substantially all of the
21 units of which are used as residences.

22 “(3) BUILDING ENVELOPE COMPONENT.—The
23 term ‘building envelope component’ means insulation
24 material or system which is specifically and pri-
25 marily designed to reduce the heat loss or gain of a

1 dwelling when installed in or on such dwelling, exte-
2 rior windows (including skylights) and doors, and
3 metal roofs with appropriate pigmented coatings
4 which are specifically and primarily designed to re-
5 duce the heat gain of a dwelling when installed in
6 or on such dwelling.

7 “(4) MANUFACTURED HOMES INCLUDED.—For
8 purposes of this section, the term ‘dwelling’ includes
9 a manufactured home which conforms to Federal
10 Manufactured Home Construction and Safety Stand-
11 ards (24 C.F.R. 3280).

12 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
13 title, if a credit is allowed under this section for any ex-
14 penditure with respect to any property, the increase in the
15 basis of such property which would (but for this sub-
16 section) result from such expenditure shall be reduced by
17 the amount of the credit so allowed.

18 “(h) APPLICATION OF SECTION.—This section shall
19 apply to qualified energy efficiency improvements installed
20 after December 31, 2001 and before January 1, 2007.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (a) of section 1016 is amended
23 by striking “and” at the end of paragraph (30), by
24 striking the period at the end of paragraph (31) and

1 inserting “, and”, and by adding at the end the fol-
2 lowing new paragraph:

3 “(32) to the extent provided in section 25E(g),
4 in the case of amounts with respect to which a credit
5 has been allowed under section 25E.”.

6 (2) The table of sections for subpart A of part
7 IV of subchapter A of chapter 1 is amended by in-
8 serting after the item relating to section 25D the
9 following new item:

“Sec. 25E. Energy efficiency improvements to existing homes.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after De-
12 cember 31, 2001.

13 **SEC. 3109. BUSINESS CREDIT FOR CONSTRUCTION OF NEW**
14 **ENERGY EFFICIENT HOME.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
16 chapter A of chapter 1 (relating to business related cred-
17 its) is amended by inserting after section 45G the fol-
18 lowing new section:

19 **“SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.**

20 “(a) IN GENERAL.—For purposes of section 38, in
21 the case of an eligible contractor, the credit determined
22 under this section for the taxable year is an amount equal
23 to the aggregate adjusted bases of all energy efficient
24 property installed in a qualified new energy efficient home
25 during construction of such home.

1 “(b) LIMITATIONS.—

2 “(1) MAXIMUM CREDIT.—

3 “(A) IN GENERAL.—The credit allowed by
4 this section with respect to a dwelling shall not
5 exceed \$2,000.

6 “(B) PRIOR CREDIT AMOUNTS ON SAME
7 DWELLING TAKEN INTO ACCOUNT.—If a credit
8 was allowed under subsection (a) with respect
9 to a dwelling in 1 or more prior taxable years,
10 the amount of the credit otherwise allowable for
11 the taxable year with respect to that dwelling
12 shall not exceed the amount of \$2,000 reduced
13 by the sum of the credits allowed under sub-
14 section (a) with respect to the dwelling for all
15 prior taxable years.

16 “(2) COORDINATION WITH REHABILITATION
17 AND ENERGY CREDITS.—For purposes of this
18 section—

19 “(A) the basis of any property referred to
20 in subsection (a) shall be reduced by that por-
21 tion of the basis of any property which is attrib-
22 utable to qualified rehabilitation expenditures
23 (as defined in section 47(c)(2)) or to the energy
24 percentage of energy property (as determined
25 under section 48(a)), and

1 “(B) expenditures taken into account
2 under either section 47 or 48(a) shall not be
3 taken into account under this section.

4 “(c) DEFINITIONS.—For purposes of this section—

5 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
6 ble contractor’ means the person who constructed
7 the new energy efficient home, or in the case of a
8 manufactured home which conforms to Federal
9 Manufactured Home Construction and Safety Stand-
10 ards (24 C.F.R. 3280), the manufactured home pro-
11 ducer of such home.

12 “(2) ENERGY EFFICIENT PROPERTY.—The
13 term ‘energy efficient property’ means any energy
14 efficient building envelope component, and any en-
15 ergy efficient heating or cooling appliance.

16 “(3) QUALIFIED NEW ENERGY EFFICIENT
17 HOME.—The term ‘qualified new energy efficient
18 home’ means a dwelling—

19 “(A) located in the United States,

20 “(B) the construction of which is substan-
21 tially completed after December 31, 2001,

22 “(C) the original use of which is as a prin-
23 cipal residence (within the meaning of section
24 121) which commences with the person who ac-

1 quires such dwelling from the eligible con-
2 tractor, and

3 “(D) which is certified to have a level of
4 annual heating and cooling energy consumption
5 that is at least 30 percent below the annual
6 level of heating and cooling energy consumption
7 of a comparable dwelling constructed in accord-
8 ance with the standards of the 1998 Inter-
9 national Energy Conservation Code.

10 “(4) CONSTRUCTION.—The term ‘construction’
11 includes reconstruction and rehabilitation.

12 “(5) ACQUIRE.—The term ‘acquire’ includes
13 purchase and, in the case of reconstruction and re-
14 habilitation, such term includes a binding written
15 contract for such reconstruction or rehabilitation.

16 “(6) BUILDING ENVELOPE COMPONENT.—The
17 term ‘building envelope component’ means insulation
18 material or system which is specifically and pri-
19 marily designed to reduce the heat loss or gain of a
20 dwelling when installed in or on such dwelling, exte-
21 rior windows (including skylights) and doors, and
22 metal roofs with appropriate pigmented coatings
23 which are specifically and primarily designed to re-
24 duce the heat gain of a dwelling when installed in
25 or on such dwelling.

1 “(7) MANUFACTURED HOME INCLUDED.—The
2 term ‘dwelling’ includes a manufactured home con-
3 forming to Federal Manufactured Home Construc-
4 tion and Safety Standards (24 C.F.R. 3280).

5 “(d) CERTIFICATION.—

6 “(1) METHOD.—A certification described in
7 subsection (c)(3)(D) shall be determined on the
8 basis of one of the following methods:

9 “(A) The technical specifications or appli-
10 cable ratings (including product labeling re-
11 quirements) for the measurement of energy effi-
12 ciency for the energy efficient building envelope
13 component or energy efficient heating or cooling
14 appliance, based upon energy use or building
15 envelope component performance.

16 “(B) An energy performance measurement
17 method that utilizes computer software ap-
18 proved by organizations designated by the Sec-
19 retary.

20 “(2) PROVIDER.—Such certification shall be
21 provided by—

22 “(A) in the case of a method described in
23 paragraph (1)(A), a local building regulatory
24 authority, a utility, a manufactured home pro-
25 duction inspection primary inspection agency

1 (IPLA), or an accredited home energy rating
2 systems provider who is accredited by, or other-
3 wise authorized to use, approved energy per-
4 formance measurement methods by the Home
5 Energy Ratings Systems Council or the Na-
6 tional Association of State Energy Officials, or

7 “(B) in the case of a method described in
8 paragraph (1)(B), an individual recognized by
9 an organization designated by the Secretary for
10 such purposes.

11 “(3) FORM.—Such certification shall be made
12 in writing in a manner that specifies in readily
13 verifiable fashion the energy efficient building enve-
14 lope components and energy efficient heating or
15 cooling appliances installed and their respective en-
16 ergy efficiency levels, and in the case of a method
17 described in subparagraph (B) of paragraph (1), ac-
18 companied by written analysis documenting the
19 proper application of a permissible energy perform-
20 ance measurement method to the specific cir-
21 cumstances of such dwelling.

22 “(4) REGULATIONS.—

23 “(A) IN GENERAL.—In prescribing regula-
24 tions under this subsection for energy perform-
25 ance measurement methods, the Secretary shall

1 prescribe procedures for calculating annual en-
2 ergy costs for heating and cooling and cost sav-
3 ings and for the reporting of the results. Such
4 regulations shall—

5 “(i) be based on the National Home
6 Energy Rating Technical Guidelines of the
7 National Association of State Energy Offi-
8 cials, the Home Energy Rating Guidelines
9 of the Home Energy Rating Systems
10 Council, or the modified 1998 California
11 Residential ACM manual,

12 “(ii) provide that any calculation pro-
13 cedures be developed such that the same
14 energy efficiency measures allow a home to
15 qualify for the credit under this section re-
16 gardless of whether the house uses a gas
17 or oil furnace or boiler or an electric heat
18 pump, and

19 “(iii) require that any computer soft-
20 ware allow for the printing of the Federal
21 tax forms necessary for the credit under
22 this section and explanations for the home-
23 buyer of the energy efficient features that
24 were used to comply with the requirements
25 of this section.

1 “(B) PROVIDERS.—For purposes of para-
2 graph (2)(B), the Secretary shall establish re-
3 quirements for the designation of individuals
4 based on the requirements for energy consult-
5 ants and home energy raters specified by the
6 National Association of State Energy Officials.

7 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
8 title, if a credit is allowed under this section for any ex-
9 penditure with respect to any property, the increase in the
10 basis of such property which would (but for this sub-
11 section) result from such expenditure shall be reduced by
12 the amount of the credit so allowed.

13 “(f) APPLICATION OF SECTION.—Subsection (a) shall
14 apply to dwellings purchased during the period beginning
15 on January 1, 2002, and ending on December 31, 2006.”.

16 (b) CREDIT MADE PART OF GENERAL BUSINESS
17 CREDIT.—Subsection (b) of section 38 (relating to current
18 year business credit) is amended by striking “plus” at the
19 end of paragraph (15), by striking the period at the end
20 of paragraph (16) and inserting “, plus”, and by adding
21 at the end thereof the following new paragraph:

22 “(17) the new energy efficient home credit de-
23 termined under section 45H.”.

24 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
25 (relating to certain expenses for which credits are allow-

1 able) is amended by adding at the end thereof the fol-
2 lowing new subsection:

3 “(d) NEW ENERGY EFFICIENT HOME EXPENSES.—
4 No deduction shall be allowed for that portion of expenses
5 for a new energy efficient home otherwise allowable as a
6 deduction for the taxable year which is equal to the
7 amount of the credit determined for such taxable year
8 under section 45H.”.

9 (d) LIMITATION ON CARRYBACK.—Subsection (d) of
10 section 39 is amended by adding at the end the following
11 new paragraph:

12 “(12) NO CARRYBACK OF NEW ENERGY EFFI-
13 CIENT HOME CREDIT BEFORE EFFECTIVE DATE.—
14 No portion of the unused business credit for any
15 taxable year which is attributable to the credit deter-
16 mined under section 45H may be carried back to
17 any taxable year ending before January 1, 2002.”.

18 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS
19 CREDITS.—Subsection (c) of section 196 is amended by
20 striking “and” at the end of paragraph (9), by striking
21 the period at the end of paragraph (10) and inserting “,
22 and”, and by adding after paragraph (10) the following
23 new paragraph:

24 “(11) the new energy efficient home credit de-
25 termined under section 45H.”.

1 (f) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 is amended by inserting after the item relating to section
 4 45G the following new item:

“Sec. 45H. New energy efficient home credit.”.

5 (g) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years ending after De-
 7 cember 31, 2001.

8 **SEC. 3110. ALLOWANCE OF DEDUCTION FOR ENERGY EFFI-**
 9 **CIENT COMMERCIAL BUILDING PROPERTY.**

10 (a) IN GENERAL.—Part VI of subchapter B of chap-
 11 ter 1 (relating to itemized deductions for individuals and
 12 corporations) is amended by inserting after section 179A
 13 the following new section:

14 **“SEC. 179B. DEDUCTION FOR ENERGY EFFICIENT COMMER-**
 15 **CIAL BUILDING PROPERTY.**

16 “(a) ALLOWANCE OF DEDUCTION.—

17 “(1) IN GENERAL.—There shall be allowed as a
 18 deduction an amount equal to energy efficient com-
 19 mercial building property expenditures made by a
 20 taxpayer for the taxable year.

21 “(2) MAXIMUM AMOUNT OF DEDUCTION.—The
 22 amount of energy efficient commercial building prop-
 23 erty expenditures taken into account under para-
 24 graph (1) shall not exceed an amount equal to the
 25 product of—

1 “(A) \$2.25, and

2 “(B) the square footage of the building
3 with respect to which the expenditures are
4 made.

5 “(3) YEAR DEDUCTION ALLOWED.—The deduc-
6 tion under paragraph (1) shall be allowed for the
7 taxable year in which the building is placed in serv-
8 ice.

9 “(b) ENERGY EFFICIENT COMMERCIAL BUILDING
10 PROPERTY EXPENDITURES.—For purposes of this sec-
11 tion, the term ‘energy efficient commercial building prop-
12 erty expenditures’ means an amount paid or incurred for
13 energy efficient commercial building property installed on
14 or in connection with new construction or reconstruction
15 of property—

16 “(1) for which depreciation is allowable under
17 section 167,

18 “(2) which is located in the United States, and

19 “(3) the construction or erection of which is
20 completed by the taxpayer.

21 Such property includes all residential rental property, in-
22 cluding low-rise multifamily structures and single family
23 housing property which is not within the scope of Stand-
24 ard 90.1–1999 (described in subsection (c)). Such term
25 includes expenditures for labor costs properly allocable to

1 the onsite preparation, assembly, or original installation
2 of the property.

3 “(c) ENERGY EFFICIENT COMMERCIAL BUILDING
4 PROPERTY.—For purposes of subsection (b)—

5 “(1) IN GENERAL.—The term ‘energy efficient
6 commercial building property’ means any property
7 which reduces total annual energy and power costs
8 with respect to the lighting, heating, cooling, ventila-
9 tion, and hot water supply systems of the building
10 by 50 percent or more in comparison to a reference
11 building which meets the requirements of Standard
12 90.1–1999 of the American Society of Heating, Re-
13 frigerating, and Air Conditioning Engineers and the
14 Illuminating Engineering Society of North America
15 using methods of calculation under paragraph (2)
16 and certified by qualified professionals as provided
17 under subsection (f).

18 “(2) METHODS OF CALCULATION.—The Sec-
19 retary, in consultation with the Secretary of Energy,
20 shall promulgate regulations which describe in detail
21 methods for calculating and verifying energy and
22 power consumption and cost, taking into consider-
23 ation the provisions of the 1998 California Nonresi-
24 dential ACM Manual. These procedures shall meet
25 the following requirements:

1 “(A) In calculating tradeoffs and energy
2 performance, the regulations shall prescribe the
3 costs per unit of energy and power, such as kil-
4 owatt hour, kilowatt, gallon of fuel oil, and
5 cubic foot or Btu of natural gas, which may be
6 dependent on time of usage.

7 “(B) The calculational methodology shall
8 require that compliance be demonstrated for a
9 whole building. If some systems of the building,
10 such as lighting, are designed later than other
11 systems of the building, the method shall pro-
12 vide that either—

13 “(i) the expenses taken into account
14 under subsection (a) shall not occur until
15 the date designs for all energy-using sys-
16 tems of the building are completed,

17 “(ii) the energy performance of all
18 systems and components not yet designed
19 shall be assumed to comply minimally with
20 the requirements of such Standard 90.1–
21 1999, or

22 “(iii) the expenses taken into account
23 under subsection (a) shall be a fraction of
24 such expenses based on the performance of

1 less than all energy-using systems in ac-
2 cordance with subparagraph (C).

3 “(C) The expenditures in connection with
4 the design of subsystems in the building, such
5 as the envelope, the heating, ventilation, air
6 conditioning and water heating system, and the
7 lighting system shall be allocated to the appro-
8 priate building subsystem based on system-spe-
9 cific energy cost savings targets in regulations
10 promulgated by the Secretary of Energy which
11 are equivalent, using the calculation method-
12 ology, to the whole building requirement of 50
13 percent savings.

14 “(D) The calculational methods under this
15 subparagraph need not comply fully with sec-
16 tion 11 of such Standard 90.1–1999.

17 “(E) The calculational methods shall be
18 fuel neutral, such that the same energy effi-
19 ciency features shall qualify a building for the
20 deduction under this subsection regardless of
21 whether the heating source is a gas or oil fur-
22 nace or an electric heat pump.

23 “(F) The calculational methods shall pro-
24 vide appropriate calculated energy savings for
25 design methods and technologies not otherwise

1 credited in either such Standard 90.1–1999 or
2 in the 1998 California Nonresidential ACM
3 Manual, including the following:

4 “(i) Natural ventilation.

5 “(ii) Evaporative cooling.

6 “(iii) Automatic lighting controls such
7 as occupancy sensors, photocells, and time-
8 clocks.

9 “(iv) Daylighting.

10 “(v) Designs utilizing semi-condi-
11 tioned spaces that maintain adequate com-
12 fort conditions without air conditioning or
13 without heating.

14 “(vi) Improved fan system efficiency,
15 including reductions in static pressure.

16 “(vii) Advanced unloading mecha-
17 nisms for mechanical cooling, such as mul-
18 tiple or variable speed compressors.

19 “(viii) The calculational methods may
20 take into account the extent of commis-
21 sioning in the building, and allow the tax-
22 payer to take into account measured per-
23 formance that exceeds typical performance.

24 “(3) COMPUTER SOFTWARE.—

1 “(A) IN GENERAL.—Any calculation under
2 this subsection shall be prepared by qualified
3 computer software.

4 “(B) QUALIFIED COMPUTER SOFTWARE.—
5 For purposes of this paragraph, the term
6 ‘qualified computer software’ means software—

7 “(i) for which the software designer
8 has certified that the software meets all
9 procedures and detailed methods for calcu-
10 lating energy and power consumption and
11 costs as required by the Secretary,

12 “(ii) which provides such forms as re-
13 quired to be filed by the Secretary in con-
14 nection with energy efficiency of property
15 and the deduction allowed under this sec-
16 tion, and

17 “(iii) which provides a notice form
18 which summarizes the energy efficiency
19 features of the building and its projected
20 annual energy costs.

21 “(d) ALLOCATION OF DEDUCTION FOR PUBLIC
22 PROPERTY.—In the case of energy efficient commercial
23 building property installed on or in public property, the
24 Secretary shall promulgate a regulation to allow the allo-
25 cation of the deduction to the person primarily responsible

1 for designing the property in lieu of the public entity which
2 is the owner of such property. Such person shall be treated
3 as the taxpayer for purposes of this section.

4 “(e) NOTICE TO OWNER.—The qualified individual
5 shall provide an explanation to the owner of the building
6 regarding the energy efficiency features of the building
7 and its projected annual energy costs as provided in the
8 notice under subsection (c)(3)(B)(iii).

9 “(f) CERTIFICATION.—The Secretary, in consultation
10 with the Secretary of Energy, shall establish requirements
11 for certification and compliance procedures similar to the
12 procedures under section 45H(d).

13 “(g) BASIS REDUCTION.—For purposes of this title,
14 the basis of any property shall be reduced by the amount
15 of the deduction with respect to such property which is
16 allowed by subsection (a).

17 “(h) TERMINATION.—This section shall not apply to
18 property placed in service after December 31, 2006.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1016(a) is amended by striking
21 “and” at the end of paragraph (31), by striking the
22 period at the end of paragraph (32) and inserting “,
23 and”, and by inserting the following new paragraph:

24 “(33) to the extent provided in section
25 179B(g).”.

1 (2) Section 1245(a) is amended by inserting
2 “179B,” after “179A,” both places it appears in
3 paragraphs (2)(C) and (3)(C).

4 (3) Section 1250(b)(3) is amended by inserting
5 before the period at the end of the first sentence “or
6 by section 179B”.

7 (4) Section 263(a)(1) is amended by striking
8 “or” at the end of subparagraph (G), by striking the
9 period at the end of subparagraph (H) and inserting
10 “, or”, and by inserting after subparagraph (H) the
11 following new subparagraph:

12 “(I) expenditures for which a deduction is
13 allowed under section 179B.”.

14 (5) Section 312(k)(3)(B) is amended by strik-
15 ing “or 179A” each place it appears in the heading
16 and text and inserting “, 179A, or 179B”.

17 (c) CLERICAL AMENDMENT.—The table of sections
18 for part VI of subchapter B of chapter 1 is amended by
19 adding after section 179A the following new item:

 “Sec. 179B. Deduction for energy efficient commercial building
 property.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2001.

1 **SEC. 3111. ALLOWANCE OF DEDUCTION FOR QUALIFIED EN-**
2 **ERGY MANAGEMENT DEVICES AND RETRO-**
3 **FITTED QUALIFIED METERS.**

4 (a) IN GENERAL.—Part VI of subchapter B of chap-
5 ter 1 (relating to itemized deductions for individuals and
6 corporations) is amended by inserting after section 179B
7 the following new section:

8 **“SEC. 179C. DEDUCTION FOR QUALIFIED ENERGY MANAGE-**
9 **MENT DEVICES AND RETROFITTED METERS.**

10 “(a) ALLOWANCE OF DEDUCTION.—In the case of a
11 taxpayer who is a supplier of electric energy or natural
12 gas or a provider of electric energy or natural gas services,
13 there shall be allowed as a deduction an amount equal to
14 the cost of each qualified energy management device
15 placed in service during the taxable year.

16 “(b) MAXIMUM DEDUCTION.—The deduction allowed
17 by this section with respect to each qualified energy man-
18 agement device shall not exceed \$30.

19 “(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—
20 The term ‘qualified energy management device’ means any
21 tangible property to which section 168 applies if such
22 property is a meter or metering device—

23 “(1) which is acquired and used by the tax-
24 payer to enable consumers to manage their purchase
25 or use of electricity or natural gas in response to en-
26 ergy price and usage signals, and

1 “(2) which permits reading of energy price and
2 usage signals on at least a daily basis.

3 “(d) PROPERTY USED OUTSIDE THE UNITED
4 STATES NOT QUALIFIED.—No deduction shall be allowed
5 under subsection (a) with respect to property which is
6 used predominantly outside the United States or with re-
7 spect to the portion of the cost of any property taken into
8 account under section 179.

9 “(e) BASIS REDUCTION.—

10 “(1) IN GENERAL.—For purposes of this title,
11 the basis of any property shall be reduced by the
12 amount of the deduction with respect to such prop-
13 erty which is allowed by subsection (a).

14 “(2) ORDINARY INCOME RECAPTURE.—For
15 purposes of section 1245, the amount of the deduc-
16 tion allowable under subsection (a) with respect to
17 any property that is of a character subject to the al-
18 lowance for depreciation shall be treated as a deduc-
19 tion allowed for depreciation under section 167.”.

20 “(b) CONFORMING AMENDMENTS.—

21 “(1) Section 263(a)(1) is amended by striking
22 “or” at the end of subparagraph (H), by striking
23 the period at the end of subparagraph (I) and in-
24 serting “, or”, and by inserting after subparagraph
25 (I) the following new subparagraph:

1 “(J) expenditures for which a deduction is
2 allowed under section 179C.”.

3 (2) Section 312(k)(3)(B) is amended by strik-
4 ing “or 179B” each place it appears in the heading
5 and text and inserting “, 179B, or 179C”.

6 (3) Section 1016(a) is amended by striking
7 “and” at the end of paragraph (32), by striking the
8 period at the end of paragraph (33) and inserting “,
9 and”, and by inserting after paragraph (33) the fol-
10 lowing new paragraph:

11 “(34) to the extent provided in section
12 179C(e)(1).”.

13 (4) Section 1245(a) is amended by inserting
14 “179C,” after “179B,” both places it appears in
15 paragraphs (2)(C) and (3)(C).

16 (5) The table of contents for subpart B of part
17 IV of subchapter A of chapter 1 is amended by in-
18 serting after the item relating to section 179B the
19 following new item:

“Sec. 179C. Deduction for qualified energy management devices
and retrofitted meters.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to qualified energy management
22 devices placed in service after the date of the enactment
23 of this Act.

1 **SEC. 3112. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DE-**
2 **PRECIATION OF QUALIFIED ENERGY MAN-**
3 **AGEMENT DEVICES.**

4 (a) **IN GENERAL.**—Subparagraph (A) of section
5 168(e)(3) (relating to classification of property) is amend-
6 ed by striking “and” at the end of clause (ii), by striking
7 the period at the end of clause (iii) and inserting “, and”,
8 and by adding at the end the following new clause:

9 “(iv) any qualified energy manage-
10 ment device.”.

11 (b) **DEFINITION OF QUALIFIED ENERGY MANAGE-**
12 **MENT DEVICE.**—Section 168(i) (relating to definitions
13 and special rules) is amended by inserting at the end the
14 following new paragraph:

15 “(15) **QUALIFIED ENERGY MANAGEMENT DE-**
16 **VICE.**—The term ‘qualified energy management de-
17 vice’ means any qualified energy management device
18 as defined in section 179C(c) which is placed in
19 service by a taxpayer who is a supplier of electric en-
20 ergy or natural gas or a provider of electric energy
21 or natural gas services.”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to property placed in service after
24 the date of the enactment of this Act.

1 **SEC. 3113. ENERGY CREDIT FOR COMBINED HEAT AND**
2 **POWER SYSTEM PROPERTY.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 48(a)(3) (defining energy property) is amended by strik-
5 ing “or” at the end of clause (ii), by adding “or” at the
6 end of clause (iii), and by inserting after clause (iii) the
7 following new clause:

8 “(iv) combined heat and power system
9 property,”.

10 (b) COMBINED HEAT AND POWER SYSTEM PROP-
11 erty.—Subsection (a) of section 48 is amended by redес-
12 ignating paragraphs (5) and (6) as paragraphs (6) and
13 (7), respectively, and by inserting after paragraph (4) the
14 following new paragraph:

15 “(5) COMBINED HEAT AND POWER SYSTEM
16 PROPERTY.—For purposes of this subsection—

17 “(A) COMBINED HEAT AND POWER SYS-
18 TEM PROPERTY.—The term ‘combined heat and
19 power system property’ means property com-
20 prising a system—

21 “(i) which uses the same energy
22 source for the simultaneous or sequential
23 generation of electrical power, mechanical
24 shaft power, or both, in combination with
25 the generation of steam or other forms of

1 useful thermal energy (including heating
2 and cooling applications),

3 “(ii) which has an electrical capacity
4 of more than 50 kilowatts or a mechanical
5 energy capacity of more than 67 horse-
6 power or an equivalent combination of elec-
7 trical and mechanical energy capacities,

8 “(iii) which produces—

9 “(I) at least 20 percent of its
10 total useful energy in the form of
11 thermal energy, and

12 “(II) at least 20 percent of its
13 total useful energy in the form of elec-
14 trical or mechanical power (or com-
15 bination thereof),

16 “(iv) the energy efficiency percentage
17 of which exceeds 60 percent (70 percent in
18 the case of a system with an electrical ca-
19 pacity in excess of 50 megawatts or a me-
20 chanical energy capacity in excess of
21 67,000 horsepower, or an equivalent com-
22 bination of electrical and mechanical en-
23 ergy capacities), and

1 “(v) which is placed in service after
2 December 31, 2001, and before January 1,
3 2007.

4 “(B) SPECIAL RULES.—

5 “(i) ENERGY EFFICIENCY PERCENT-
6 AGE.—For purposes of subparagraph
7 (A)(iv), the energy efficiency percentage of
8 a system is the fraction—

9 “(I) the numerator of which is
10 the total useful electrical, thermal,
11 and mechanical power produced by
12 the system at normal operating rates,
13 and

14 “(II) the denominator of which is
15 the lower heating value of the primary
16 fuel source for the system.

17 “(ii) DETERMINATIONS MADE ON BTU
18 BASIS.—The energy efficiency percentage
19 and the percentages under subparagraph
20 (A)(iii) shall be determined on a Btu basis.

21 “(iii) INPUT AND OUTPUT PROPERTY
22 NOT INCLUDED.—The term ‘combined heat
23 and power system property’ does not in-
24 clude property used to transport the en-

1 energy source to the facility or to distribute
2 energy produced by the facility.

3 “(iv) PUBLIC UTILITY PROPERTY.—

4 “(I) ACCOUNTING RULE FOR
5 PUBLIC UTILITY PROPERTY.—If the
6 combined heat and power system
7 property is public utility property (as
8 defined in section 168(i)(1)), the tax-
9 payer may only claim the credit under
10 the subsection if, with respect to such
11 property, the taxpayer uses a normal-
12 ization method of accounting.

13 “(II) CERTAIN EXCEPTION NOT
14 TO APPLY.—The matter in paragraph
15 (3) which follows subparagraph (D)
16 shall not apply to combined heat and
17 power system property.

18 “(C) EXTENSION OF DEPRECIATION RE-
19 COVERY PERIOD.—If a taxpayer is allowed cred-
20 it under this section for combined heat and
21 power system property and such property would
22 (but for this subparagraph) have a class life of
23 15 years or less under section 168, such prop-
24 erty shall be treated as having a 22-year class
25 life for purposes of section 168.”.

1 (c) NO CARRYBACK OF ENERGY CREDIT BEFORE
2 EFFECTIVE DATE.—Subsection (d) of section 39 is
3 amended by adding at the end the following new para-
4 graph:

5 “(13) NO CARRYBACK OF ENERGY CREDIT BE-
6 FORE EFFECTIVE DATE.—No portion of the unused
7 business credit for any taxable year which is attrib-
8 utable to the energy credit with respect to property
9 described in section 48(a)(5) may be carried back to
10 a taxable year ending before January 1, 2002.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to property placed in service after
13 December 31, 2001.

14 **SEC. 3114. NEW NONREFUNDABLE PERSONAL CREDITS AL-**
15 **LOWED AGAINST REGULAR AND MINIMUM**
16 **TAXES.**

17 (a) IN GENERAL.—Paragraph (1) of section 26(a) is
18 amended by striking “and 25B” and inserting “25B, 25C,
19 25D, and 25E”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 24(b)(3)(B) is amended by striking
22 “and 25B” and inserting “, 25B, 25C, 25D, and
23 25E”.

24 (2) Section 25(e)(1)(C) is amended by inserting
25 “25C, 25D, and 25E” after “25B,”.

1 (3) Section 25B(g)(2) is amended by striking
2 “section 23” and inserting “sections 23, 25C, 25D,
3 and 25E”.

4 (4) Section 904(h) is amended by striking “and
5 25B” and inserting “25B, 25C, 25D, and 25E”.

6 (5) Section 1400C(d) is amended by striking
7 “and 25B” and inserting “25B, 25C, 25D, and
8 25E”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2001.

12 **SEC. 3115. PHASEOUT OF 4.3-CENT MOTOR FUEL EXCISE**
13 **TAXES ON RAILROADS AND INLAND WATER-**
14 **WAY TRANSPORTATION WHICH REMAIN IN**
15 **GENERAL FUND.**

16 (a) TAXES ON TRAINS.—

17 (1) IN GENERAL.—Clause (ii) of section
18 4041(a)(1)(C) is amended by striking subclauses (I),
19 (II), and (III) and inserting the following new sub-
20 clauses:

21 “(I) 3.3 cents per gallon after
22 September 30, 2001, and before Jan-
23 uary 1, 2005,

1 “(II) 2.3 cents per gallon after
2 December 31, 2004, and before Janu-
3 ary 1, 2007,

4 “(III) 1.3 cents per gallon after
5 December 31, 2006, and before Janu-
6 ary 1, 2009,

7 “(IV) 0.3 cent per gallon after
8 December 31, 2008, and before Janu-
9 ary 1, 2010, and

10 “(V) 0 after December 31,
11 2009.”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subsection (d) of section 4041 is
14 amended by redesignating paragraph (3) as
15 paragraph (4) and by inserting after paragraph
16 (2) the following new paragraph:

17 “(3) DIESEL FUEL USED IN TRAINS.—In the
18 case of any sale for use (or use) after September 30,
19 2010, there is hereby imposed a tax of 0.1 cent per
20 gallon on any liquid other than gasoline (as defined
21 in section 4083)—

22 “(A) sold by any person to an owner, les-
23 see, or other operator of a diesel-powered train
24 for use as a fuel in such train, or

1 “(B) used by any person as a fuel in a die-
2 sel-powered train unless there was a taxable
3 sale of such fuel under subparagraph (A).

4 No tax shall be imposed by this paragraph on the
5 sale or use of any liquid if tax was imposed on such
6 liquid under section 4081.”

7 (B) Subsection (f) of section 4082 is
8 amended by striking “section 4041(a)(1)” and
9 inserting “subsections (a)(1) and (d)(3) of sec-
10 tion 4041”.

11 (C) Subparagraph (B) of section
12 6421(f)(3) is amended to read as follows:

13 “(B) so much of the rate specified in sec-
14 tion 4081(a)(2)(A) as does not exceed the rate
15 applicable under section 4041(a)(1)(C)(ii).”.

16 (D) Subparagraph (B) of section
17 6427(l)(3) is amended to read as follows:

18 “(B) so much of the rate specified in sec-
19 tion 4081(a)(2)(A) as does not exceed the rate
20 applicable under section 4041(a)(1)(C)(ii).”.

21 (b) FUEL USED ON INLAND WATERWAYS.—Subpara-
22 graph (C) of section 4042(b)(2) is amended to read as
23 follows:

24 “(C) The deficit reduction rate is—

1 “(i) 3.3 cents per gallon after Sep-
2 tember 30, 2001, and before January 1,
3 2005,

4 “(ii) 2.3 cents per gallon after Decem-
5 ber 31, 2004, and before January 1, 2007,

6 “(iii) 1.3 cents per gallon after De-
7 cember 31, 2006, and before January 1,
8 2009,

9 “(iv) 0.3 cent per gallon after Decem-
10 ber 31, 2008, and before January 1, 2010,
11 and

12 “(v) 0 after December 31, 2009.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on October 1, 2001.

15 **SEC. 3116. REDUCED MOTOR FUEL EXCISE TAX ON CER-**
16 **TAIN MIXTURES OF DIESEL FUEL.**

17 (a) IN GENERAL.—Clause (iii) of section
18 4081(a)(2)(A) is amended by inserting before the period
19 “(19.7 cents per gallon in the case of a diesel-water fuel
20 emulsion at least 14 percent of which is water)”.

21 (b) REFUNDS FOR TAX-PAID PURCHASES.—

22 (1) IN GENERAL.—Section 6427 is amended by
23 redesignating subsections (m) through (p) as sub-
24 sections (n) through (q), respectively, and by insert-
25 ing after subsection (l) the following new subsection:

1 “(m) DIESEL FUEL USED TO PRODUCE EMUL-
2 SION.—

3 “(1) IN GENERAL.—Except as provided in sub-
4 section (k), if any diesel fuel on which tax was im-
5 posed by section 4081 at the regular tax rate is used
6 by any person in producing an emulsion described in
7 section 4081(a)(2)(A) which is sold or used in such
8 person’s trade or business, the Secretary shall pay
9 (without interest) to such person an amount equal to
10 the excess of the regular tax rate over the incentive
11 tax rate with respect to such fuel.

12 “(2) DEFINITIONS.—For purposes of paragraph
13 (1)—

14 “(A) REGULAR TAX RATE.—The term ‘reg-
15 ular tax rate’ means the aggregate rate of tax
16 imposed by section 4081 determined without re-
17 gard to the parenthetical in section
18 4081(a)(2)(A).

19 “(B) INCENTIVE TAX RATE.—The term
20 ‘incentive tax rate’ means the aggregate rate of
21 tax imposed by section 4081 determined with
22 regard to the parenthetical in section
23 4081(a)(2)(A).”

24 “(c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on October 1, 2001.

1 **SEC. 3117. CREDIT FOR INVESTMENT IN QUALIFYING AD-**
2 **VANCED CLEAN COAL TECHNOLOGY.**

3 (a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN
4 COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (re-
5 lating to amount of credit) is amended by striking “and”
6 at the end of paragraph (2), by striking the period at the
7 end of paragraph (3) and inserting “, and”, and by adding
8 at the end the following:

9 “(4) the qualifying advanced clean coal tech-
10 nology facility credit.”.

11 (b) AMOUNT OF QUALIFYING ADVANCED CLEAN
12 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of
13 part IV of subchapter A of chapter 1 (relating to rules
14 for computing investment credit) is amended by inserting
15 after section 48 the following:

16 **“SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECH-**
17 **NOLOGY FACILITY CREDIT.**

18 “(a) IN GENERAL.—For purposes of section 46, the
19 qualifying advanced clean coal technology facility credit
20 for any taxable year is an amount equal to 10 percent
21 of the qualified investment in a qualifying advanced clean
22 coal technology facility for such taxable year.

23 “(b) QUALIFYING ADVANCED CLEAN COAL TECH-
24 NOLOGY FACILITY.—

25 “(1) IN GENERAL.—For purposes of subsection
26 (a), the term ‘qualifying advanced clean coal tech-

1 nology facility’ means a facility of the taxpayer
2 which—

3 “(A)(i)(I) original use of which commences
4 with the taxpayer, or

5 “(II) is a retrofitted or repowered conven-
6 tional technology facility, the retrofitting or
7 repowering of which is completed by the tax-
8 payer (but only with respect to that portion of
9 the basis which is properly attributable to such
10 retrofitting or repowering), or

11 “(ii) is acquired through purchase (as de-
12 fined by section 179(d)(2)),

13 “(B) is depreciable under section 167,

14 “(C) has a useful life of not less than 4
15 years,

16 “(D) is located in the United States, and

17 “(E) uses qualifying advanced clean coal
18 technology.

19 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
20 For purposes of subparagraph (A) of paragraph (1),
21 in the case of a facility which—

22 “(A) is originally placed in service by a
23 person, and

24 “(B) is sold and leased back by such per-
25 son, or is leased to such person, within 3

1 months after the date such facility was origi-
2 nally placed in service, for a period of not less
3 than 12 years,

4 such facility shall be treated as originally placed in
5 service not earlier than the date on which such prop-
6 erty is used under the leaseback (or lease) referred
7 to in subparagraph (B). The preceding sentence
8 shall not apply to any property if the lessee and les-
9 sor of such property make an election under this
10 sentence. Such an election, once made, may be re-
11 voked only with the consent of the Secretary.

12 “(c) QUALIFYING ADVANCED CLEAN COAL TECH-
13 NOLOGY.—For purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualifying ad-
15 vanced clean coal technology’ means, with respect to
16 clean coal technology—

17 “(A) which has—

18 “(i) multiple applications, with a com-
19 bined capacity of not more than 5,000
20 megawatts (4,000 megawatts before 2009),
21 of advanced pulverized coal or atmospheric
22 fluidized bed combustion technology—

23 “(I) installed as a new, retrofit,
24 or repowering application,

1 “(II) operated between 2000 and
2 2012, and

3 “(III) having a design net heat
4 rate of not more than 9,500 Btu per
5 kilowatt hour when the design coal
6 has a heat content of more than 9,000
7 Btu per pound, or a design net heat
8 rate of not more than 9,900 Btu per
9 kilowatt hour when the design coal
10 has a heat content of 9,000 Btu per
11 pound or less,

12 “(ii) multiple applications, with a
13 combined capacity of not more than 1,000
14 megawatts (500 megawatts before 2009
15 and 750 megawatts before 2013), of pres-
16 surized fluidized bed combustion
17 technology—

18 “(I) installed as a new, retrofit,
19 or repowering application,

20 “(II) operated between 2000 and
21 2016, and

22 “(III) having a design net heat
23 rate of not more than 8,400 Btu per
24 kilowatt hour when the design coal
25 has a heat content of more than 9,000

1 Btu per pound, or a design net heat
2 rate of not more than 9,900 Btu's per
3 kilowatt hour when the design coal
4 has a heat content of 9,000 Btu per
5 pound or less, and

6 “(iii) multiple applications, with a
7 combined capacity of not more than 2,000
8 megawatts (1,000 megawatts before 2009
9 and 1,500 megawatts before 2013), of in-
10 tegrated gasification combined cycle tech-
11 nology, with or without fuel or chemical co-
12 production—

13 “(I) installed as a new, retrofit,
14 or repowering application,

15 “(II) operated between 2000 and
16 2016,

17 “(III) having a design net heat
18 rate of not more than 8,550 Btu per
19 kilowatt hour when the design coal
20 has a heat content of more than 9,000
21 Btu per pound, or a design net heat
22 rate of not more than 9,900 Btu per
23 kilowatt hour when the design coal
24 has a heat content of 9,000 Btu per
25 pound or less, and

1 “(IV) having a net thermal effi-
2 ciency on any fuel or chemical co-pro-
3 duction of not less than 39 percent
4 (higher heating value), or

5 “(iv) multiple applications, with a
6 combined capacity of not more than 2,000
7 megawatts (1,000 megawatts before 2009
8 and 1,500 megawatts before 2013) of tech-
9 nology for the production of electricity—

10 “(I) installed as a new, retrofit,
11 or repowering application,

12 “(II) operated between 2000 and
13 2016, and

14 “(III) having a carbon emission
15 rate which is not more than 85 per-
16 cent of conventional technology, and

17 “(B) which reduces the discharge into the
18 atmosphere of 1 or more of the following pollut-
19 ants to not more than—

20 “(i) 5 percent of the potential com-
21 bustion concentration sulfur dioxide emis-
22 sions for a coal with a potential combus-
23 tion concentration sulfur emission of 1.2
24 lb/million btu of heat input or greater,

1 “(ii) 15 percent of the potential com-
2 bustion concentration sulfur dioxide emis-
3 sions for a coal with a potential combus-
4 tion concentration sulfur emission of less
5 than 1.2 lb/million btu of heat input,

6 “(iii) nitrogen oxide emissions of 0.1
7 lb per million btu of heat input from other
8 than cyclone-fired boilers,

9 “(iv) 15 percent of the uncontrolled
10 nitrogen oxide emissions from cyclone-fired
11 boilers,

12 “(v) particulate emissions of 0.02 lb
13 per million btu of heat input, and

14 “(vi) the emission levels specified in
15 the new source performance standards of
16 the Clean Air Act (42 U.S.C. 7411) in ef-
17 fect at the time of retrofitting, repowering,
18 or replacement of the qualifying clean coal
19 technology unit for the category of source
20 if such level is lower than the levels speci-
21 fied in clause (i), (ii), (iii), (iv), or (v).

22 “(2) EXCEPTIONS.—Such term shall not in-
23 clude any projects receiving or scheduled to receive
24 funding under the Clean Coal Technology Program,

1 or the Power Plant Improvement administered by
2 the Secretary of the Department of Energy.

3 “(d) CLEAN COAL TECHNOLOGY.—For purposes of
4 this section, the term ‘clean coal technology’ means ad-
5 vanced technology which uses coal to produce 75 percent
6 or more of its thermal output as electricity including ad-
7 vanced pulverized coal or atmospheric fluidized bed com-
8 bustion, pressurized fluidized bed combustion, integrated
9 gasification combined cycle with or without fuel or chem-
10 ical co-production, and any other technology for the pro-
11 duction of electricity which exceeds the performance of
12 conventional technology.

13 “(e) CONVENTIONAL TECHNOLOGY.—The term ‘con-
14 ventional technology’ means—

15 “(1) coal-fired combustion technology with a de-
16 sign net heat rate of not less than 9,500 Btu per kil-
17 owatt hour (HHV) and a carbon equivalents emis-
18 sion rate of not more than 0.54 pounds of carbon
19 per kilowatt hour when the design coal has a heat
20 content of more than 9,000 Btu per pound,

21 “(2) coal-fired combustion technology with a de-
22 sign net heat rate of not less than 10,500 Btu per
23 kilowatt hour (HHV) and a carbon equivalents emis-
24 sion rate of not more than 0.60 pounds of carbon

1 per kilowatt hour when the design coal has a heat
2 content of 9,000 Btu per pound or less, or

3 “(3) natural gas-fired combustion technology
4 with a design net heat rate of not less than 7,500
5 Btu per kilowatt hour (HHV) and a carbon equiva-
6 lents emission rate of not more than 0.24 pounds of
7 carbon per kilowatt hour.

8 “(f) DESIGN NET HEAT RATE.—The design net heat
9 rate shall be based on the design annual heat input to
10 and the design annual net electrical output from the quali-
11 fying advanced clean coal technology (determined without
12 regard to such technology’s co-generation of steam).

13 “(g) SELECTION CRITERIA.—Selection criteria for
14 qualifying advanced clean coal technology facilities—

15 “(1) shall be established by the Secretary of
16 Energy as part of a competitive solicitation,

17 “(2) shall include primary criteria of minimum
18 design net heat rate, maximum design thermal effi-
19 ciency, environmental performance, and lowest cost
20 to the government, and

21 “(3) shall include supplemental criteria as de-
22 termined appropriate by the Secretary of Energy.

23 “(h) QUALIFIED INVESTMENT.—For purposes of
24 subsection (a), the term ‘qualified investment’ means, with
25 respect to any taxable year, the basis of a qualifying ad-

1 vanced clean coal technology facility placed in service by
2 the taxpayer during such taxable year.

3 “(i) QUALIFIED PROGRESS EXPENDITURES.—

4 “(1) INCREASE IN QUALIFIED INVESTMENT.—

5 In the case of a taxpayer who has made an election
6 under paragraph (5), the amount of the qualified in-
7 vestment of such taxpayer for the taxable year (de-
8 termined under subsection (c) without regard to this
9 section) shall be increased by an amount equal to
10 the aggregate of each qualified progress expenditure
11 for the taxable year with respect to progress expend-
12 iture property.

13 “(2) PROGRESS EXPENDITURE PROPERTY DE-

14 FINED.—For purposes of this subsection, the term
15 ‘progress expenditure property’ means any property
16 being constructed by or for the taxpayer and which
17 it is reasonable to believe will qualify as a qualifying
18 advanced clean coal technology facility which is
19 being constructed by or for the taxpayer when it is
20 placed in service.

21 “(3) QUALIFIED PROGRESS EXPENDITURES DE-

22 FINED.—For purposes of this subsection—

23 “(A) SELF-CONSTRUCTED PROPERTY.—In

24 the case of any self-constructed property, the
25 term ‘qualified progress expenditures’ means

1 the amount which, for purposes of this subpart,
2 is properly chargeable (during such taxable
3 year) to capital account with respect to such
4 property.

5 “(B) NONSELF-CONSTRUCTED PROP-
6 ERTY.—In the case of nonself-constructed prop-
7 erty, the term ‘qualified progress expenditures’
8 means the amount paid during the taxable year
9 to another person for the construction of such
10 property.

11 “(4) OTHER DEFINITIONS.—For purposes of
12 this subsection—

13 “(A) SELF-CONSTRUCTED PROPERTY.—
14 The term ‘self-constructed property’ means
15 property for which it is reasonable to believe
16 that more than half of the construction expendi-
17 tures will be made directly by the taxpayer.

18 “(B) NONSELF-CONSTRUCTED PROP-
19 ERTY.—The term ‘nonself-constructed property’
20 means property which is not self-constructed
21 property.

22 “(C) CONSTRUCTION, ETC.—The term
23 ‘construction’ includes reconstruction and erec-
24 tion, and the term ‘constructed’ includes recon-
25 structed and erected.

1 “(D) ONLY CONSTRUCTION OF QUALI-
2 FYING ADVANCED CLEAN COAL TECHNOLOGY
3 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-
4 struction shall be taken into account only if, for
5 purposes of this subpart, expenditures therefor
6 are properly chargeable to capital account with
7 respect to the property.

8 “(5) ELECTION.—An election under this sub-
9 section may be made at such time and in such man-
10 ner as the Secretary may by regulations prescribe.
11 Such an election shall apply to the taxable year for
12 which made and to all subsequent taxable years.
13 Such an election, once made, may not be revoked ex-
14 cept with the consent of the Secretary.

15 “(j) COORDINATION WITH OTHER CREDITS.—This
16 section shall not apply to any property with respect to
17 which the rehabilitation credit under section 47 or the en-
18 ergy credit under section 48 is allowed unless the taxpayer
19 elects to waive the application of such credit to such prop-
20 erty.

21 “(k) TERMINATION.—This section shall not apply
22 with respect to any qualified investment made after De-
23 cember 31, 2011.

24 “(l) NATIONAL LIMITATION.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this section, the term ‘qualifying ad-
3 vanced clean coal technology facility’ shall include
4 such a facility only to the extent that such facility
5 is allocated a portion of the national megawatt limi-
6 tation under this subsection.

7 “(2) NATIONAL MEGAWATT LIMITATION.—The
8 national megawatt limitation under this subsection
9 is 7,500 megawatts.

10 “(3) ALLOCATION OF LIMITATION.—The na-
11 tional megawatt limitation shall be allocated by the
12 Secretary under rules prescribed by the Secretary.
13 Not later than 6 months after the date of enactment
14 of this subsection, the Secretary shall prescribe such
15 regulations as may be necessary or appropriate to
16 carry out the purposes of this section, including
17 regulations—

18 “(A) to limit which facility qualifies as
19 ‘qualified advanced clean coal technology’ in
20 subsection (c) to particular facilities, a portion
21 of particular facilities, or a portion of the pro-
22 duction from particular facilities, so that when
23 all such facilities (or portions thereof) are
24 placed in service over the ten year period in sec-
25 tion (k), the combination of facilities approved

1 for tax credits (and/or portions of facilities ap-
2 proved for tax credits) will not exceed a com-
3 bined capacity of 7,500 megawatts;

4 “(B) to provide a certification process in
5 consultation with the Secretary of Energy
6 under subsection (g) that will approve and allo-
7 cate the 7,500 megawatts of available tax cred-
8 its authority—

9 “(i) to encourage that facilities with
10 the highest thermal efficiencies and envi-
11 ronmental performance be placed in service
12 as soon as possible;

13 “(ii) to allocate credits to taxpayers
14 that have a definite and credible plan for
15 placing into commercial operation a quali-
16 fying advanced clean coal technology facil-
17 ity, including—

18 “(I) a site,

19 “(II) contractual commitments
20 for procurement and construction,

21 “(III) filings for all necessary
22 preconstruction approvals,

23 “(IV) a demonstrated record of
24 having successfully completed com-
25 parable projects on a timely basis, and

1 “(V) such other factors that the
2 Secretary shall determine are appro-
3 priate;

4 “(iii) to allocate credits to a portion of
5 a facility (or a portion of the production
6 from a facility) if the Secretary determines
7 that such an allocation should maximize
8 the amount of efficient production encour-
9 aged with the available tax credits;

10 “(C) to set progress requirements and con-
11 ditional approvals so that credits for approved
12 projects that become unlikely to meet the nec-
13 essary conditions that can be reallocated by the
14 Secretary to other projects;

15 “(D) to reallocate credits that are not allo-
16 cated to 1 technology described in clauses (i)
17 through (iv) of subsection (c)(1)(A) because an
18 insufficient number of qualifying facilities re-
19 quested credits for one technology, to another
20 technology described in another subparagraph
21 of subsection (c) in order to maximize the
22 amount of energy efficient production encour-
23 aged with the available tax credits; and

24 “(E) to provide taxpayers with opportuni-
25 ties to correct administrative errors and omis-

1 sions with respect to allocations and record-
2 keeping within a reasonable period after their
3 discovery, taking into account the availability of
4 regulations and other administrative guidance
5 from the Secretary.”.

6 (c) RECAPTURE.—Section 50(a) (relating to other
7 special rules) is amended by adding at the end the fol-
8 lowing:

9 “(6) SPECIAL RULES RELATING TO QUALIFYING
10 ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—
11 For purposes of applying this subsection in the case
12 of any credit allowable by reason of section 48A, the
13 following shall apply:

14 “(A) GENERAL RULE.—In lieu of the
15 amount of the increase in tax under paragraph
16 (1), the increase in tax shall be an amount
17 equal to the investment tax credit allowed under
18 section 38 for all prior taxable years with re-
19 spect to a qualifying advanced clean coal tech-
20 nology facility (as defined by section 48A(b)(1))
21 multiplied by a fraction whose numerator is the
22 number of years remaining to fully depreciate
23 under this title the qualifying advanced clean
24 coal technology facility disposed of, and whose
25 denominator is the total number of years over

1 which such facility would otherwise have been
2 subject to depreciation. For purposes of the
3 preceding sentence, the year of disposition of
4 the qualifying advanced clean coal technology
5 facility property shall be treated as a year of re-
6 maining depreciation.

7 “(B) PROPERTY CEASES TO QUALIFY FOR
8 PROGRESS EXPENDITURES.—Rules similar to
9 the rules of paragraph (2) shall apply in the
10 case of qualified progress expenditures for a
11 qualifying advanced clean coal technology facil-
12 ity under section 48A, except that the amount
13 of the increase in tax under subparagraph (A)
14 of this paragraph shall be substituted in lieu of
15 the amount described in such paragraph (2).

16 “(C) APPLICATION OF PARAGRAPH.—This
17 paragraph shall be applied separately with re-
18 spect to the credit allowed under section 38 re-
19 garding a qualifying advanced clean coal tech-
20 nology facility.”.

21 (d) TRANSITIONAL RULE.—Section 39(d) (relating to
22 transitional rules) is amended by adding at the end the
23 following:

24 “(14) NO CARRYBACK OF SECTION 48A CREDIT
25 BEFORE EFFECTIVE DATE.—No portion of the un-

1 used business credit for any taxable year which is
2 attributable to the qualifying advanced clean coal
3 technology facility credit determined under section
4 48A may be carried back to a taxable year ending
5 before January 1, 2002.”.

6 (e) TECHNICAL AMENDMENTS.—

7 (1) Section 49(a)(1)(C) is amended by striking
8 “and” at the end of clause (ii), by striking the pe-
9 riod at the end of clause (iii) and inserting “, and”,
10 and by adding at the end the following:

11 “(iv) the portion of the basis of any
12 qualifying advanced clean coal technology
13 facility attributable to any qualified invest-
14 ment (as defined by section 48A(c)).”

15 (2) Section 50(a)(4) is amended by striking
16 “and (2)” and inserting “, (2), and (6)”.

17 (3) Section 50(c) is amended by adding at the
18 end the following new paragraph:

19 “(6) SPECIAL RULE FOR QUALIFYING AD-
20 VANCED CLEAN COAL TECHNOLOGY FACILITIES.—
21 Paragraphs (1) and (2) shall not apply to any prop-
22 erty with respect to the credit determined under sec-
23 tion 48A.”

24 (4) The table of sections for subpart E of part
25 IV of subchapter A of chapter 1 is amended by in-

1 serting after the item relating to section 48 the fol-
2 lowing:

 “Sec. 48A. Qualifying advanced clean coal technology facility
 credit.”.

3 (f) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to periods after December 31,
5 2001, under rules similar to the rules of section 48(m)
6 of the Internal Revenue Code of 1986 (as in effect on the
7 day before the date of enactment of the Revenue Reconcili-
8 ation Act of 1990).

9 **SEC. 3118. CREDIT FOR PRODUCTION FROM QUALIFYING**
10 **ADVANCED CLEAN COAL TECHNOLOGY.**

11 (a) **CREDIT FOR PRODUCTION FROM QUALIFYING**
12 **ADVANCED CLEAN COAL TECHNOLOGY.**—Subpart D of
13 part IV of subchapter A of chapter 1 (relating to business
14 related credits) is amended by adding after section 45J
15 the following:

16 **“SEC. 45K. CREDIT FOR PRODUCTION FROM QUALIFYING**
17 **ADVANCED CLEAN COAL TECHNOLOGY.**

18 “(a) **GENERAL RULE.**—For purposes of section 38,
19 the qualifying advanced clean coal technology production
20 credit of any taxpayer for any taxable year is equal to—

21 “(1) the applicable amount of advanced clean
22 coal technology production credit, multiplied by

23 “(2) the sum of—

24 “(A) the kilowatt hours of electricity, plus

1 “(B) each 3,413 Btu of fuels or chemicals,
 2 produced by the taxpayer during such taxable year
 3 at a qualifying advanced clean coal technology facil-
 4 ity during the 10-year period beginning on the date
 5 the facility was originally placed in service.

6 “(b) APPLICABLE AMOUNT.—For purposes of this
 7 section, the applicable amount of advanced clean coal tech-
 8 nology production credit with respect to production from
 9 a qualifying advanced clean coal technology facility shall
 10 be determined as follows:

11 “(1) Where the design coal has a heat content
 12 of more than 9,000 Btu per pound:

13 “(A) In the case of a facility originally
 14 placed in service before 2009, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	\$.0060	\$.0038
More than 8,400 but not more than 8,550	\$.0025	\$.0010
More than 8,550 but not more than 8,750	\$.0010	\$.0010.

15 “(B) In the case of a facility originally
 16 placed in service after 2008 and before 2013,
 17 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	\$.0105	\$.0090
More than 7,770 but not more than 8,125	\$.0085	\$.0068
More than 8,125 but not more than 8,350	\$.0075	\$.0055.

1 “(C) In the case of a facility originally
 2 placed in service after 2012 and before 2017,
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	\$.0140	\$.01
More than 7,380 but not more than 7,720	\$.0120	\$.0090.

4 “(2) Where the design coal has a heat content
 5 of not more than 9,000 Btu per pound:

6 “(A) In the case of a facility originally
 7 placed in service before 2009, if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	\$.0060	\$.0038
More than 8,500 but not more than 8,650	\$.0025	\$.0010
More than 8,650 but not more than 8,750	\$.0010	\$.0010.

8 “(B) In the case of a facility originally
 9 placed in service after 2008 and before 2013,
 10 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	\$.0105	\$.009
More than 8,000 but not more than 8,250	\$.0085	\$.0068
More than 8,250 but not more than 8,400	\$.0075	\$.0055.

11 “(C) In the case of a facility originally
 12 placed in service after 2012 and before 2017,
 13 if—

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	\$.0140	\$.0115

“The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
More than 7,800 but not more than 7,950	\$.0120	\$.0090.

1 “(3) Where the clean coal technology facility is
2 producing fuel or chemicals:

3 “(A) In the case of a facility originally
4 placed in service before 2009, if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	\$.0060	\$.0038
Less than 40.6 but not less than 40 percent	\$.0025	\$.0010
Less than 40 but not less than 39 percent	\$.0010	\$.0010.

5 “(B) In the case of a facility originally
6 placed in service after 2008 and before 2013,
7 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	\$.0105	\$.009
Less than 43.9 but not less than 42 percent	\$.0085	\$.0068
Less than 42 but not less than 40.9 percent	\$.0075	\$.0055.

8 “(C) In the case of a facility originally
9 placed in service after 2012 and before 2017,
10 if—

“The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	\$.0140	\$.0115
Less than 44.2 but not less than 43.6 percent	\$.0120	\$.0090.

11 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
12 endar years after 2001, each amount in paragraphs (1),

1 (2), and (3) shall be adjusted by multiplying such amount
2 by the inflation adjustment factor for the calendar year
3 in which the amount is applied. If any amount as in-
4 creased under the preceding sentence is not a multiple of
5 0.01 cent, such amount shall be rounded to the nearest
6 multiple of 0.01 cent.

7 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) IN GENERAL.—Any term used in this sec-
10 tion which is also used in section 48A shall have the
11 meaning given such term in section 48A.

12 “(2) APPLICABLE RULES.—The rules of para-
13 graphs (3), (4), and (5) of section 45 shall apply.

14 “(3) INFLATION ADJUSTMENT FACTOR.—The
15 term ‘inflation adjustment factor’ means, with re-
16 spect to a calendar year, a fraction the numerator
17 of which is the GDP implicit price deflator for the
18 preceding calendar year and the denominator of
19 which is the GDP implicit price deflator for the cal-
20 endar year 2001.

21 “(4) GDP IMPLICIT PRICE DEFLATOR.—The
22 term ‘GDP implicit price deflator’ means the most
23 recent revision of the implicit price deflator for the
24 gross domestic product as computed by the Depart-

1 ment of Commerce before March 15 of the calendar
2 year.”.

3 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
4 tion 38(b) is amended by striking “plus” at the end of
5 paragraph (18), by striking the period at the end of para-
6 graph (19) and inserting “, plus”, and by adding at the
7 end the following:

8 “(20) the qualifying advanced clean coal tech-
9 nology production credit determined under section
10 45K(a).”.

11 (c) TRANSITIONAL RULE.—Section 39(d) (relating to
12 transitional rules) is amended by adding after paragraph
13 (14) the following:

14 “(15) NO CARRYBACK OF SECTION 45K CREDIT
15 BEFORE EFFECTIVE DATE.—No portion of the un-
16 used business credit for any taxable year which is
17 attributable to the qualifying advanced clean coal
18 technology production credit determined under sec-
19 tion 45K may be carried back to a taxable year end-
20 ing before the date of enactment of section 45K.”.

21 (d) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by adding at the end the following:

 “Sec. 45K. Credit for production from qualifying advanced clean
 coal technology.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to production after the date of en-
3 actment of this Act.

4 **TITLE II—RELIABILITY**

5 **SEC. 3201. NATURAL GAS GATHERING LINES TREATED AS 7-** 6 **YEAR PROPERTY.**

7 (a) IN GENERAL.—Subparagraph (C) of section
8 168(e)(3) (relating to classification of certain property) is
9 amended by striking “and” at the end of clause (i), by
10 redesignating clause (ii) as clause (iii), and by inserting
11 after clause (i) the following new clause:

12 “(ii) any natural gas gathering line,
13 and”.

14 (b) NATURAL GAS GATHERING LINE.—Subsection (i)
15 of section 168 is amended by adding after paragraph (15)
16 the following new paragraph:

17 “(16) NATURAL GAS GATHERING LINE.—The
18 term ‘natural gas gathering line’ means—

19 “(A) the pipe, equipment, and appur-
20 tenances determined to be a gathering line by
21 the Federal Energy Regulatory Commission, or

22 “(B) the pipe, equipment, and appur-
23 tenances used to deliver natural gas from the
24 wellhead or a commonpoint to the point at
25 which such gas first reaches—

- 1 “(i) a gas processing plant,
 2 “(ii) an interconnection with a trans-
 3 mission pipeline certificated by the Federal
 4 Energy Regulatory Commission as an
 5 interstate transmission pipeline,
 6 “(iii) an interconnection with an
 7 intrastate transmission pipeline, or
 8 “(iv) a direct interconnection with a
 9 local distribution company, a gas storage
 10 facility, or an industrial consumer.”.

11 (c) ALTERNATIVE SYSTEM.—The table contained in
 12 section 168(g)(3)(B) is amended by inserting after the
 13 item relating to subparagraph (C)(i) the following:

“ (C)(ii) 10”.

14 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 15 paragraph (B) of section 56(a)(1) is amended by inserting
 16 before the period the following: “or in clause (ii) of section
 17 168(e)(3)(C)”.

18 (e) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to property placed in service after
 20 the date of the enactment of this Act.

21 **SEC. 3202. NATURAL GAS DISTRIBUTION LINES TREATED**
 22 **AS 10-YEAR PROPERTY.**

23 (a) IN GENERAL.—Subparagraph (D) of section
 24 168(e)(3) (relating to classification of certain property) is
 25 amended by striking “and” at the end of clause (i), by

1 striking the period at the end of clause (ii) and by insert-
 2 ing “, and”, and by adding at the end the following new
 3 clause:

4 “(iii) any natural gas distribution
 5 line.”

6 (b) ALTERNATIVE SYSTEM.—The table contained in
 7 section 168(g)(3)(B) is amended by inserting after the
 8 item relating to subparagraph (D)(ii) the following:

“(D)(iii) 20”.

9 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
 10 paragraph (B) of section 56(a)(1) is amended by inserting
 11 before the period the following: “or in clause (iii) of section
 12 168(e)(3)(D)”.

13 (d) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to property placed in service after
 15 the date of the enactment of this Act.

16 **SEC. 3203. PETROLEUM REFINING PROPERTY TREATED AS**
 17 **7-YEAR PROPERTY.**

18 (a) IN GENERAL.—Subparagraph (C) of section
 19 168(e)(3) (relating to classification of certain property),
 20 as amended by section 3201, is amended by striking
 21 “and” at the end of clause (ii), by redesignating clause
 22 (iii) as clause (iv), and by inserting after clause (ii) the
 23 following new clause:

24 “(iii) any property used for the dis-
 25 tillation, fractionation, and catalytic crack-

1 ing of crude petroleum into gasoline and
2 its other components, and”.

3 (b) ALTERNATIVE SYSTEM.—The table contained in
4 section 168(g)(3)(B), as amended by section 3201, is
5 amended by inserting after the item relating to subpara-
6 graph (C)(ii) the following:

“ (C)(iii) 10”.

7 (c) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-
8 paragraph (B) of section 56(a)(1), as amended by section
9 3201, is amended by inserting “or (iii)” after “clause
10 (ii)”.

11 (d) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to property placed in service after
13 the date of the enactment of this Act.

14 **SEC. 3204. EXPENSING OF CAPITAL COSTS INCURRED IN**
15 **COMPLYING WITH ENVIRONMENTAL PROTEC-**
16 **TION AGENCY SULFUR REGULATIONS.**

17 (a) IN GENERAL.—Section 179(b) (relating to elec-
18 tion to expense certain depreciable business assets) is
19 amended by adding at the end the following new para-
20 graph:

21 “(5) LIMITATION FOR SMALL BUSINESS REFIN-
22 ERS.—

23 “(A) IN GENERAL.—In the case of a small
24 business refiner electing to expense qualified
25 costs, in lieu of the dollar limitations in para-

1 graph (1), the limitation on the aggregate costs
2 which may be taken into account under sub-
3 section (a) for any taxable year shall not exceed
4 75 percent of the qualified costs.

5 “(B) QUALIFIED COSTS.—For purposes of
6 this paragraph, the term ‘qualified costs’ means
7 costs paid or incurred by a small business re-
8 finer for the purpose of complying with the
9 Highway Diesel Fuel Sulfur Control Require-
10 ments of the Environmental Protection Agency.

11 “(C) SMALL BUSINESS REFINER.—For
12 purposes of this paragraph, the term ‘small
13 business refiner’ means, with respect to any
14 taxable year, a refiner which, within the refin-
15 ing operations of the business, employs not
16 more than 1,500 employees on business days
17 during such taxable year performing services in
18 the refining operations of such businesses and
19 has an average total capacity of 155,000 bar-
20 rels per day or less.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to expenses paid or incurred after
23 the date of the enactment of this Act.

1 **SEC. 3205. ENVIRONMENTAL TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 (relating to business-related cred-
4 its) is amended by adding at the end the following new
5 section:

6 **“SEC. 45I. ENVIRONMENTAL TAX CREDIT.**

7 “(a) IN GENERAL.—For purposes of section 38, the
8 amount of the environmental tax credit determined under
9 this section with respect to any small business refiner for
10 any taxable year is an amount equal to 5 cents for every
11 gallon of 15 parts per million or less sulfur diesel produced
12 at a facility by such small business refiner.

13 “(b) MAXIMUM CREDIT.—For any small business re-
14 finer, the aggregate amount allowable as a credit under
15 subsection (a) for any taxable year with respect to any
16 facility shall not exceed 25 percent of the qualified capital
17 costs incurred by such small business refiner with respect
18 to such facility not taken into account in determining the
19 credit under subsection (a) for any preceding taxable year.

20 “(c) DEFINITIONS.—For purposes of this section—

21 “(1) SMALL BUSINESS REFINER.—The term
22 ‘small business refiner’ means, with respect to any
23 taxable year, a refiner which, within the refining op-
24 erations of the business, employs not more than
25 1,500 employees on business days during such tax-
26 able year performing services in the refining oper-

1 ations of such businesses and has an average total
2 capacity of 155,000 barrels per day or less.

3 “(2) QUALIFIED CAPITAL COSTS.—The term
4 ‘qualified capital costs’ means, with respect to any
5 facility, those costs paid or incurred during the ap-
6 plicable period for compliance with the applicable
7 EPA regulations with respect to such facility, includ-
8 ing expenditures for the construction of new process
9 operation units or the dismantling and reconstruc-
10 tion of existing process units to be used in the pro-
11 duction of 15 parts per million or less sulfur diesel
12 fuel, associated adjacent or offsite equipment (in-
13 cluding tankage, catalyst, and power supply), engi-
14 neering, construction period interest, and sitework.

15 “(3) APPLICABLE EPA REGULATIONS.—The
16 term ‘applicable EPA regulations’ means the High-
17 way Diesel Fuel Sulfur Control Requirements of the
18 Environmental Protection Agency.

19 “(4) APPLICABLE PERIOD.—The term ‘applica-
20 ble period’ means, with respect to any facility, the
21 period beginning on the day after the date of the en-
22 actment of this section and ending with the date
23 which is one year after the date on which the tax-
24 payer must comply with the applicable EPA regula-
25 tions with respect to such facility.

1 “(d) REDUCTION IN BASIS.—For purposes of this
2 subtitle, if a credit is determined under this section with
3 respect to any property by reason of qualified capital
4 costs, the basis of such property shall be reduced by the
5 amount of the credit so determined.

6 “(e) CERTIFICATION.—

7 “(1) REQUIRED.—Not later than the date
8 which is 30 months after the first day of the first
9 taxable year in which the environmental tax credit is
10 allowed with respect to a facility, the small business
11 refiner must obtain certification from the Secretary,
12 in consultation with the Administrator of the Envi-
13 ronmental Protection Agency, that the taxpayer’s
14 qualified capital costs with respect to such facility
15 will result in compliance with the applicable EPA
16 regulations.

17 “(2) CONTENTS OF APPLICATION.—An applica-
18 tion for certification shall include relevant informa-
19 tion regarding unit capacities and operating charac-
20 teristics sufficient for the Secretary, in consultation
21 with the Administrator of the Environmental Protec-
22 tion Agency, to determine that such qualified capital
23 costs are necessary for compliance with the applica-
24 ble EPA regulations.

1 “(3) REVIEW PERIOD.—Any application shall
2 be reviewed and notice of certification, if applicable,
3 shall be made within 60 days of receipt of such ap-
4 plication.

5 “(4) RECAPTURE.—Notwithstanding subsection
6 (f), failure to obtain certification under paragraph
7 (1) constitutes a recapture event under subsection
8 (f) with an applicable percentage of 100 percent.

9 “(f) RECAPTURE OF ENVIRONMENTAL TAX CRED-
10 IT.—

11 “(1) IN GENERAL.—Except as provided in sub-
12 section (e), if, as of the close of any taxable year,
13 there is a recapture event with respect to any facility
14 of the small business refiner, then the tax of such
15 refiner under this chapter for such taxable year shall
16 be increased by an amount equal to the product of—

17 “(A) the applicable recapture percentage,
18 and

19 “(B) the aggregate decrease in the credits
20 allowed under section 38 for all prior taxable
21 years which would have resulted if the qualified
22 capital costs of the taxpayer described in sub-
23 section (c)(2) with respect to such facility had
24 been zero.

25 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the applicable recapture percentage
3 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Year 1	100
Year 2	80
Year 3	60
Year 4	40
Year 5	20
Years 6 and thereafter	0.

4 “(B) YEARS.—For purposes of subpara-
5 graph (A), year 1 shall begin on the first day
6 of the taxable year in which the qualified cap-
7 ital costs with respect to a facility described in
8 subsection (c)(2) are paid or incurred by the
9 taxpayer.

10 “(3) RECAPTURE EVENT DEFINED.—For pur-
11 poses of this subsection, the term ‘recapture event’
12 means—

13 “(A) FAILURE TO COMPLY.—The failure
14 by the small business refiner to meet the appli-
15 cable EPA regulations within the applicable pe-
16 riod with respect to the facility.

17 “(B) CESSATION OF OPERATION.—The
18 cessation of the operation of the facility as a fa-
19 cility which produces 15 parts per million or
20 less sulfur diesel after the applicable period.

21 “(C) CHANGE IN OWNERSHIP.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), the disposition of a
3 small business refiner’s interest in the fa-
4 cility with respect to which the credit de-
5 scribed in subsection (a) was allowable.

6 “(ii) AGREEMENT TO ASSUME RECAP-
7 TURE LIABILITY.—Clause (i) shall not
8 apply if the person acquiring such interest
9 in the facility agrees in writing to assume
10 the recapture liability of the person dis-
11 posing of such interest in effect imme-
12 diately before such disposition. In the
13 event of such an assumption, the person
14 acquiring the interest in the facility shall
15 be treated as the taxpayer for purposes of
16 assessing any recapture liability (computed
17 as if there had been no change in owner-
18 ship).

19 “(4) SPECIAL RULES.—

20 “(A) TAX BENEFIT RULE.—The tax for
21 the taxable year shall be increased under para-
22 graph (1) only with respect to credits allowed
23 by reason of this section which were used to re-
24 duce tax liability. In the case of credits not so
25 used to reduce tax liability, the carryforwards

1 and carrybacks under section 39 shall be appro-
2 priately adjusted.

3 “(B) NO CREDITS AGAINST TAX.—Any in-
4 crease in tax under this subsection shall not be
5 treated as a tax imposed by this chapter for
6 purposes of determining the amount of any
7 credit under this chapter or for purposes of sec-
8 tion 55.

9 “(C) NO RECAPTURE BY REASON OF CAS-
10 UALTY LOSS.—The increase in tax under this
11 subsection shall not apply to a cessation of op-
12 eration of the facility by reason of a casualty
13 loss to the extent such loss is restored by recon-
14 struction or replacement within a reasonable pe-
15 riod established by the Secretary.

16 “(g) CONTROLLED GROUPS.—For purposes of this
17 section, all persons treated as a single employer under sub-
18 section (b), (c), (m), or (o) of section 414 shall be treated
19 as a single employer.”.

20 (b) CREDIT MADE PART OF GENERAL BUSINESS
21 CREDIT.—Subsection (b) of section 38 (relating to general
22 business credit) is amended by striking “plus” at the end
23 of paragraph (16), by striking the period at the end of
24 paragraph (17) and inserting “, plus”, and by adding at
25 the end the following new paragraph:

1 “(18) in the case of a small business refiner,
2 the environmental tax credit determined under sec-
3 tion 45I(a).”.

4 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
5 (relating to certain expenses for which credits are allow-
6 able) is amended by adding after subsection (d) the fol-
7 lowing new subsection:

8 “(e) ENVIRONMENTAL TAX CREDIT.—No deduction
9 shall be allowed for that portion of the expenses otherwise
10 allowable as a deduction for the taxable year which is
11 equal to the amount of the credit determined for the tax-
12 able year under section 45I(a).”.

13 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating
14 to adjustments to basis) is amended by striking “and” at
15 the end of paragraph (33), by striking the period at the
16 end of paragraph (34) and inserting “, and”, and by add-
17 ing at the end the following new paragraph:

18 “(35) in the case of a facility with respect to
19 which a credit was allowed under section 45I, to the
20 extent provided in section 45I(d).”.

21 (e) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by adding at the end the following new item:

 “Sec. 45I. Environmental tax credit.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenses paid or incurred after
3 the date of the enactment of this Act.

4 **SEC. 3206. DETERMINATION OF SMALL REFINER EXCEP-**
5 **TION TO OIL DEPLETION DEDUCTION.**

6 (a) IN GENERAL.—Paragraph (4) of section 613A(d)
7 (relating to certain refiners excluded) is amended to read
8 as follows:

9 “(4) CERTAIN REFINERS EXCLUDED.—If the
10 taxpayer or a related person engages in the refining
11 of crude oil, subsection (c) shall not apply to the
12 taxpayer for a taxable year if the average daily refin-
13 ery runs of the taxpayer and the related person for
14 the taxable year exceed 75,000 barrels. For purposes
15 of this paragraph, the average daily refinery runs for
16 any taxable year shall be determined by dividing the
17 aggregate refinery runs for the taxable year by the
18 number of days in the taxable year.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2001.

22 **SEC. 3207. TAX-EXEMPT BOND FINANCING OF CERTAIN**
23 **ELECTRIC FACILITIES.**

24 (a) IN GENERAL.—Subpart A of part IV of sub-
25 chapter B of chapter 1 (relating to tax exemption require-

1 ments for State and local bonds) is amended by inserting
2 after section 141 the following new section:

3 **“SEC. 141A. TREATMENT OF GOVERNMENT-OWNED ELEC-**
4 **TRIC OUTPUT FACILITIES.**

5 “(a) EXCEPTIONS FROM PRIVATE BUSINESS USE
6 LIMITATIONS WHERE OPEN ACCESS REQUIREMENTS
7 MET.—

8 “(1) GENERAL RULE.—For purposes of this
9 part, the term ‘private business use’ shall not
10 include—

11 “(A) any permitted open access activity by
12 a governmental unit with respect to an electric
13 output facility owned by such unit, or

14 “(B) any permitted sale of electricity by a
15 governmental unit which is generated at an ex-
16 isting generation facility owned by such unit.

17 “(2) PERMITTED OPEN ACCESS ACTIVITY.—For
18 purposes of this section—

19 “(A) IN GENERAL.—The term ‘permitted
20 open access activity’ means any activity meeting
21 the open access requirements of any of the fol-
22 lowing clauses with respect to such electric out-
23 put facility:

24 “(i) TRANSMISSION AND ANCILLARY
25 FACILITY.—In the case of a transmission

1 facility or a facility providing ancillary
2 services, the provision of transmission serv-
3 ice and ancillary services meets the open
4 access requirements of this clause only if
5 such services are provided on a non-
6 discriminatory open access basis—

7 “(I) pursuant to an open access
8 transmission tariff filed with and ap-
9 proved by FERC, including an accept-
10 able reciprocity tariff, or

11 “(II) under a regional trans-
12 mission organization agreement ap-
13 proved by FERC.

14 “(ii) DISTRIBUTION FACILITIES.—In
15 the case of a distribution facility, the deliv-
16 ery of electric energy meets the open ac-
17 cess requirements of this clause only if
18 such delivery is made on a nondiscrim-
19 inatory open access basis.

20 “(iii) GENERATION FACILITIES.—In
21 the case of a generation facility, the deliv-
22 ery of electric energy generated by such fa-
23 cility meets the open access requirements
24 of this clause only if—

1 “(I) such facility is directly con-
2 nected to distribution facilities owned
3 by the governmental unit which owns
4 the generation facility, and

5 “(II) such distribution facilities
6 meet the open access requirements of
7 clause (ii).

8 “(B) SPECIAL RULES.—

9 “(i) VOLUNTARILY FILED TARIFFS.—
10 Subparagraph (A)(i)(I) shall apply in the
11 case of a voluntarily filed tariff only if the
12 governmental unit files a report with
13 FERC within 90 days after the date of the
14 enactment of this section relating to
15 whether or not such governmental unit will
16 join a regional transmission organization.

17 “(ii) CONTROL OF TRANSMISSION FA-
18 CILITIES BY REGIONAL TRANSMISSION OR-
19 GANIZATION.—A governmental unit shall
20 be treated as meeting the open access re-
21 quirements of subparagraph (A)(i) if a re-
22 gional transmission organization controls
23 the transmission facilities.

24 “(iii) ERCOT UTILITY.—References
25 to FERC in subparagraph (A) shall be

1 treated as references to the Public Utility
2 Commission of Texas with respect to any
3 ERCOT utility (as defined in section
4 212(k)(2)(B) of the Federal Power Act (16
5 U.S.C. 824k(k)(2)(B))).

6 “(3) PERMITTED SALE.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—The term ‘permitted
9 sale’ means—

10 “(i) any sale of electricity to an on-
11 system purchaser if the seller meets the
12 open access requirements of paragraph (2)
13 with respect to all distribution and trans-
14 mission facilities (if any) owned by such
15 seller, and

16 “(ii) subject to subparagraphs (B)
17 and (C), any sale of electricity to a whole-
18 sale native load purchaser, and any load
19 loss sale, if—

20 “(I) the seller meets the open ac-
21 cess requirements of paragraph (2)
22 with respect to all transmission facili-
23 ties (if any) owned by such seller, or

24 “(II) in any case in which the
25 seller does not own any transmission

1 facilities, all persons providing trans-
2 mission services to the seller's whole-
3 sale native load purchasers meet the
4 open access requirements of para-
5 graph (2) with respect to all trans-
6 mission facilities owned by such per-
7 sons.

8 “(B) LIMITATION ON SALES TO WHOLE-
9 SALE NATIVE LOAD PURCHASERS.—A sale to a
10 wholesale native load purchaser shall be treated
11 as a permitted sale only to the extent that—

12 “(i) such purchaser resells the elec-
13 tricity directly at retail to persons within
14 the purchaser's distribution area, or

15 “(ii) such electricity is resold by such
16 purchaser through one or more wholesale
17 purchasers (each of whom as of June 30,
18 2000, was a party to a requirements con-
19 tract or a firm power contract described in
20 paragraph (5)(B)(ii)) to retail purchasers
21 in the ultimate wholesale purchaser's dis-
22 tribution area.

23 “(C) LOAD LOSS SALES.—

1 “(i) IN GENERAL.—The term ‘load
2 loss sale’ means any sale at wholesale to
3 the extent that—

4 “(I) the aggregate sales at whole-
5 sale during the recovery period does
6 not exceed the load loss mitigation
7 sales limit for such period, and

8 “(II) the aggregate sales at
9 wholesale during the first calendar
10 year after the recovery period does not
11 exceed the excess carried under clause
12 (iv) to such year.

13 “(ii) LOAD LOSS MITIGATION SALES
14 LIMIT.—For purposes of clause (i), the
15 load loss mitigation sales limit for the re-
16 covery period is the sum of the annual load
17 losses for each year of such period.

18 “(iii) ANNUAL LOAD LOSS.—A govern-
19 mental unit’s annual load loss for each
20 year of the recovery period is the amount
21 (if any) by which—

22 “(I) the megawatt hours of elec-
23 tric energy sold during such year to
24 wholesale native load purchasers

1 which do not constitute private busi-
2 ness use are less than

3 “(III) the megawatt hours of
4 electric energy sold during the base
5 year to wholesale native load pur-
6 chasers which do not constitute pri-
7 vate business use.

8 The annual load loss for any year shall not
9 exceed the portion of the amount deter-
10 mined under the preceding sentence which
11 is attributable to open access requirements.

12 “(iv) CARRYOVERS.—If the limitation
13 under clause (i) for the recovery period ex-
14 ceeds the aggregate sales during such pe-
15 riod which are taken into account under
16 clause (i), such excess (but not more than
17 10 percent of such limitation) may be car-
18 ried over to the first calendar year fol-
19 lowing the recovery period.

20 “(v) RECOVERY PERIOD.—The recov-
21 ery period is the 7-year period beginning
22 with the start-up year.

23 “(vi) START-UP YEAR.—The start-up
24 year is the calendar year which includes
25 the date of the enactment of this section

1 or, if later, at the election of the govern-
2 mental unit—

3 “(I) the first year that the gov-
4 ernmental unit offers nondiscrim-
5 inatory open transmission access, or

6 “(II) the first year in which at
7 least 10 percent of the governmental
8 unit’s wholesale customers’ aggregate
9 retail native load is open to retail
10 competition.

11 “(4) ON-SYSTEM PURCHASER.—For purposes of
12 this section, the term ‘on-system purchaser’ means
13 any person whose electric equipment is directly con-
14 nected with any transmission or distribution facility
15 owned by the governmental unit owning the existing
16 generation facility if—

17 “(A) such person—

18 “(i) purchases electric energy from
19 such governmental unit at retail, and

20 “(ii)(I) was within such unit’s dis-
21 tribution area at the close of the base year
22 or

23 “(II) is a person as to whom the gov-
24 ernmental unit has a statutory service obli-
25 gation, or

1 “(B) is a wholesale native load purchaser
2 from such governmental unit.

3 “(5) WHOLESALE NATIVE LOAD PURCHASER.—
4 For purposes of this section—

5 “(A) IN GENERAL.—The term ‘wholesale
6 native load purchaser’ means a wholesale pur-
7 chaser as to whom the governmental unit had—

8 “(i) a statutory service obligation at
9 wholesale at the close of the base year, or

10 “(ii) an obligation at the close of the
11 base year under a requirements or firm
12 sales contract if, as of June 30, 2000, such
13 contract had been in effect for (or had an
14 initial term of) at least 10 years.

15 “(B) PERMITTED SALES UNDER EXISTING
16 CONTRACTS.—A private business use sale dur-
17 ing any year to a wholesale native load pur-
18 chaser (other than a person to whom the gov-
19 ernmental unit had a statutory service obliga-
20 tion) under a contract shall be treated as a per-
21 mitted sale by reason of being a load loss sale
22 only to the extent that the private business use
23 sales under the contract during such year ex-
24 ceed the lesser of—

- 1 “(i) the private business use sales
2 under the contract during the base year, or
3 “(ii) the maximum private business
4 use sales which would (but for this section)
5 be permitted without causing the bonds to
6 be private activity bonds.

7 This subparagraph shall only apply to the ex-
8 tent that the sale is allocable to bonds issued
9 before the date of the enactment of this section
10 (or bonds issued to refund such bonds).

11 “(6) SPECIAL RULES.—

12 “(A) TIME OF SALE RULE.—For purposes
13 of paragraphs (3)(C)(iii) and (5)(B), the deter-
14 mination of whether a sale after the date of the
15 enactment of this section is a private business
16 use shall be made with regard to this section.

17 “(B) JOINT ACTION AGENCIES.—To the
18 extent provided in regulations, a joint action
19 agency, or a member of (or a wholesale native
20 load purchaser from) a joint action agency,
21 which is entitled to make a sale described in
22 subparagraph (A) or (B) in a year, may trans-
23 fer the entitlement to make that sale to the
24 member (or purchaser), or the joint action
25 agency, respectively.

1 “(b) CERTAIN BONDS FOR TRANSMISSION AND DIS-
2 TRIBUTION FACILITIES NOT TAX EXEMPT.—

3 “(1) IN GENERAL.—Section 103 shall not apply
4 to any bond issued on or after the date of the enact-
5 ment of this section if any portion of the proceeds
6 of the issue of which such bond is a part is used (di-
7 rectly or indirectly) to finance—

8 “(A) any electric transmission facility, or

9 “(B) any start-up electric utility distribu-
10 tion facility.

11 “(2) EXCEPTIONS RELATING TO TRANSMISSION
12 FACILITIES.—Paragraph (1)(A) shall not apply to
13 any bond issued to finance—

14 “(A) any repair of a transmission facility
15 in service on the date of the enactment of this
16 section, so long as the repair does not—

17 “(i) increase the voltage level of such
18 facility over its level at the close of the
19 base year, or

20 “(ii) increase the thermal load limit of
21 such facility by more than 3 percent over
22 such limit at the close of the base year,

23 “(B) any qualifying upgrade of an electric
24 transmission facility in service on the date of
25 the enactment of this section, or

1 “(C) any transmission facility necessary to
2 comply with an obligation under a shared or re-
3 ciprocal transmission agreement in effect on
4 such date.

5 “(3) EXCEPTION FOR LOCAL ELECTRIC TRANS-
6 MISSION FACILITY.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—In the case of a gov-
9 ernmental unit which owns distribution facili-
10 ties, paragraph (1)(A) shall not apply to any
11 bond issued to finance an electric transmission
12 facility owned by such governmental unit and
13 located within such governmental unit’s dis-
14 tribution area, but only to the extent such facil-
15 ity is, or will be, necessary to supply electricity
16 to serve the retail native load, or wholesale na-
17 tive load, of such governmental unit or of 1 or
18 more other governmental units owning distribu-
19 tion facilities which are directly connected to
20 such electric transmission facility.

21 “(B) RETAIL LOAD.—The term ‘retail
22 load’ means, with respect to a governmental
23 unit, the electric load of end-users in the dis-
24 tribution area of the governmental unit.

1 “(C) WHOLESALE NATIVE LOAD.—The
2 term ‘wholesale native load’ means—

3 “(i) the retail load of such unit’s
4 wholesale native load purchasers (or of an
5 ultimate wholesale purchaser described in
6 subsection (a)(3)(B)(ii)), and

7 “(ii) the electric load of purchasers
8 (not described in clause (i)) under whole-
9 sale requirements contracts which—

10 “(I) do not constitute private
11 business use (determined without re-
12 gard to this section), and

13 “(II) were in effect in the base
14 year.

15 “(D) NECESSARY TO SERVE LOAD.—For
16 purposes of determining whether a transmission
17 facility is, or will be, necessary to supply elec-
18 tricity to retail native load or wholesale native
19 load—

20 “(i) the governmental unit’s available
21 transmission rights shall be taken into ac-
22 count,

23 “(ii) electric reliability standards or
24 requirements of national or regional reli-
25 ability organizations, regional transmission

1 organizations and the Electric Reliability
2 Council of Texas shall be taken into ac-
3 count, and

4 “(iii) transmission, siting and con-
5 struction decisions of regional transmission
6 organizations and State and Federal regu-
7 latory and siting agencies, after a pro-
8 ceeding that provides for public input,
9 shall be presumptive evidence regarding
10 whether transmission facilities are nec-
11 essary to serve native load.

12 “(E) QUALIFYING UPGRADE.—The term
13 ‘qualifying upgrade’ means an improvement or
14 addition to transmission facilities of the govern-
15 mental unit in service on the date of the enact-
16 ment of this section which—

17 “(i) is ordered or approved by a re-
18 gional transmission organization or by a
19 State regulatory or siting agency, after a
20 proceeding that provides for public input,
21 and

22 “(ii) is, or will be, necessary to supply
23 electricity to serve the retail native load, or
24 wholesale native load, of such govern-
25 mental unit or of one or more govern-

1 mental units owning distribution facilities
2 which are directly connected to such trans-
3 mission facility.

4 “(4) START-UP ELECTRIC UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this sub-
5 section, the term ‘start-up electric utility distribution
6 facility’ means any distribution facility to provide
7 electric service for sale to the public if such facility
8 is placed in service—
9

10 “(A) by a governmental unit that did not
11 operate an electric utility on the date of the en-
12 actment of this section, and

13 “(B) during the first 10 years after the
14 date such governmental unit begins operating
15 an electric utility.

16 A governmental unit is treated as having operated
17 an electric utility on the date of the enactment of
18 this section if it operates electric output facilities
19 which were (on such date) operated by another gov-
20 ernmental unit to provide electric service for sale to
21 the public.

22 “(5) EXCEPTION FOR REFUNDING BONDS.—

23 “(A) IN GENERAL.—Paragraph (1) shall
24 not apply to any eligible refunding bond.

1 “(B) ELIGIBLE REFUNDING BOND.—For
2 purposes of subparagraph (A), the term ‘eligible
3 refunding bond’ means any bond (or series of
4 bonds) issued to refund any bond issued before
5 the date of the enactment of this section if the
6 average maturity date of the issue of which the
7 refunding bond is a part is not later than the
8 average maturity date of the bonds to be re-
9 funded by such issue.

10 “(c) DEFINITIONS; SPECIAL RULES.—For purposes
11 of this section—

12 “(1) BASE YEAR.—The term ‘base year’
13 means—

14 “(A) the calendar year preceding the start-
15 up year, or

16 “(B) at the election of the governmental
17 unit, the second or third calendar years pre-
18 ceding the start-up year.

19 “(2) DISTRIBUTION AREA.—The term ‘distribu-
20 tion area’ means the area in which a governmental
21 unit owns distribution facilities.

22 “(3) ELECTRIC OUTPUT FACILITY.—The term
23 ‘electric output facility’ means an output facility
24 that is an electric generation, transmission, or dis-
25 tribution facility.

1 “(4) DISTRIBUTION FACILITY.—The term ‘dis-
2 tribution facility’ means an electric output facility
3 that is not a generation or transmission facility.

4 “(5) TRANSMISSION FACILITY.—The term
5 ‘transmission facility’ means an electric output facil-
6 ity (other than a generation facility) that operates at
7 an electric voltage of 69 kV or greater. To the ex-
8 tent provided in regulations, such term includes any
9 output facility that FERC determines is a trans-
10 mission facility under standards applied by FERC
11 under the Federal Power Act (as in effect on the
12 date of the enactment of this section).

13 “(6) EXISTING GENERATION FACILITY.—

14 “(A) IN GENERAL.—The term ‘existing
15 generation facility’ means any electric genera-
16 tion facility if—

17 “(i) such facility is originally placed in
18 service on or before the date of enactment
19 of this Act and is owned by any govern-
20 mental unit on such date, or

21 “(ii) such facility is originally placed
22 in service after such date if the construc-
23 tion of the facility commenced before June
24 1, 2000, and such facility is owned by any

1 governmental unit when it is placed in
2 service.

3 “(B) DENIAL OF TREATMENT TO EXPAN-
4 SIONS.—Such term shall not include any facility
5 to the extent the generating capacity of such fa-
6 cility as of any date is 3 percent above the
7 greater of its nameplate or rated capacity as of
8 the date of the enactment of this section (or, in
9 the case of a facility described in subparagraph
10 (A)(ii), the date that the facility is placed in
11 service).

12 “(7) REGIONAL TRANSMISSION ORGANIZA-
13 TION.—The term ‘regional transmission organiza-
14 tion’ includes an independent system operator.

15 “(8) FERC.—The term ‘FERC’ means the
16 Federal Energy Regulatory Commission.

17 “(9) GOVERNMENT-OWNED FACILITY.—An elec-
18 tric transmission facility shall be treated as owned
19 by a governmental unit as of any date to the extent
20 that—

21 “(A) such unit acquired (before the base
22 year) long-term firm transmission capacity (as
23 determined under regulations) of such facility
24 for the purposes of serving customers to which
25 such unit had at the close of the base year—

1 “(i) a statutory service obligation, or

2 “(ii) an obligation under a require-
3 ments contract, and

4 “(B) such unit holds such capacity as of
5 such date.

6 “(10) STATUTORY SERVICE OBLIGATION.—The
7 term ‘statutory service obligation’ means an obliga-
8 tion under State or Federal law (exclusive of an obli-
9 gation arising solely under a contract entered into
10 with a person) to provide electric distribution serv-
11 ices or electric sales services, as provided in such
12 law.

13 “(11) CONTRACT MODIFICATIONS.—A material
14 modification of a contract shall be treated as a new
15 contract.

16 “(d) ELECTION TO TERMINATE TAX-EXEMPT BOND
17 FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILI-
18 TIES.—

19 “(1) IN GENERAL.—At the election of a govern-
20 mental unit, section 103(a) shall not apply to any
21 bond issued by or on behalf of such unit after the
22 date of such election if any portion of the proceeds
23 of the issue of which such bond is a part are used
24 to provide any electric output facilities. Such an
25 election, once made, shall be irrevocable.

1 “(2) OTHER EFFECTS OF ELECTION.—During
2 the period that the election under paragraph (1) is
3 in effect with respect to a governmental unit, the
4 term ‘private activity bond’ shall not include—

5 “(A) any bond issued by such unit before
6 the date of the enactment of this section to pro-
7 vide an electric output facility if, as of the date
8 of the election, such bond was not a private ac-
9 tivity bond, and

10 “(B) any bond to which paragraph (1)
11 does not apply by reason of paragraph (3).

12 “(3) EXCEPTIONS FOR CERTAIN PROPERTY.—

13 “(A) IN GENERAL.—Paragraph (1) shall
14 not apply to any bond issued to provide prop-
15 erty owned by a governmental unit if such prop-
16 erty is—

17 “(i) any qualifying transmission facil-
18 ity,

19 “(ii) any qualifying distribution facil-
20 ity,

21 “(iii) any facility necessary to meet
22 Federal or State environmental require-
23 ments applicable to an existing generation
24 facility owned by the governmental unit as
25 of the date of the election,

1 “(iv) any property to repair any exist-
2 ing generation facility owned by the gov-
3 ernmental unit as of the date of the elec-
4 tion,

5 “(v) any qualified facility (as defined
6 in section 45(c)(3)) producing electricity
7 from any qualified energy resource (as de-
8 fined in section 45(c)(1)), and

9 “(vi) any energy property (as defined
10 in section 48(a)(3)) placed in service dur-
11 ing a period that the energy percentage
12 under section 48(a) is greater than zero.

13 “(B) LIMITATION ON USE BY NONGOVERN-
14 MENTAL PERSONS.—Subparagraph (A) shall
15 not apply to any property constructed, acquired
16 or financed for a principal purpose of providing
17 the facility (or the output thereof) to non-
18 governmental persons.

19 “(4) DEFINITIONS.—For purposes of this
20 subsection—

21 “(A) QUALIFYING DISTRIBUTION FACIL-
22 ITY.—The term ‘qualifying distribution facility’
23 means a distribution facility meeting the open
24 access requirements of subsection (a)(2)(A)(ii).

1 “(B) QUALIFYING TRANSMISSION FACIL-
2 ITY.—The term ‘qualifying transmission facil-
3 ity’ means a local transmission facility (as de-
4 fined in subsection (b)(3)) meeting the open ac-
5 cess requirements of subsection (a)(2)(A)(i).

6 “(5) EFFECT OF ELECTION.—

7 “(A) IN GENERAL.—An election under
8 paragraph (1) shall be binding on any successor
9 in interest to, or any related party with respect
10 to, the electing governmental unit. For purposes
11 of this paragraph, a governmental unit shall be
12 treated as related to another governmental unit
13 if it is a member of the same controlled group
14 (as determined under regulations).

15 “(B) TREATMENT OF ELECTING GOVERN-
16 MENTAL UNIT.—A governmental unit which
17 makes an election under paragraph (1) shall be
18 treated for purposes of section 141 as a
19 person—

20 “(i) which is not a governmental unit,

21 and

22 “(ii) which is engaged in a trade or

23 business,

24 with respect to its purchase of electricity gen-
25 erated by an electric output facility placed in

1 service after the date of such election if such
2 purchase is under a contract executed after
3 such date.”

4 (b) WAIVER OF CERTAIN LIMITATIONS NOT TO
5 APPLY TO DISTRIBUTION FACILITIES.—Section 141(d)(5)
6 is amended by inserting “(except in the case of an electric
7 output facility that is a distribution facility)” after “this
8 subsection”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for subpart A of part IV of subchapter B of chapter 1
11 is amended by inserting after the item relating to section
12 141 the following new item:

“Sec. 141A. Treatment of government-owned electric output fa-
cilities.”

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall take effect on the date of the en-
16 actment of this Act, except that a governmental unit
17 may elect to have section 141A(a)(1) of the Internal
18 Revenue Code of 1986, as added by subsection (a),
19 take effect on April 14, 1996.

20 (2) BINDING CONTRACTS.—The amendment
21 made by subsection (b) (relating to waiver of certain
22 limitations not to apply to distribution facilities)
23 shall not apply to facilities acquired pursuant to a
24 contract which was entered into before the date of

1 the enactment of this Act and which was binding on
2 such date and at all times thereafter before such ac-
3 quisition.

4 (3) COMPARABLE TREATMENT TO BONDS
5 UNDER 1954 CODE RULES.—References in the
6 amendments made by this Act to sections of the In-
7 ternal Revenue Code of 1986 shall be deemed to in-
8 clude references to comparable sections of the Inter-
9 nal Revenue Code of 1954.

10 **SEC. 3208. SALES OR DISPOSITIONS TO IMPLEMENT FED-**
11 **ERAL ENERGY REGULATORY COMMISSION**
12 **OR STATE ELECTRIC RESTRUCTURING POL-**
13 **ICY.**

14 (a) IN GENERAL.—Section 1033 (relating to involun-
15 tary conversions) is amended by redesignating subsection
16 (k) as subsection (l) and by inserting after subsection (j)
17 the following new subsection:

18 “(k) SALES OR DISPOSITIONS TO IMPLEMENT FED-
19 ERAL ENERGY REGULATORY COMMISSION OR STATE
20 ELECTRIC RESTRUCTURING POLICY.—

21 “(1) IN GENERAL.—For purposes of this sub-
22 title, if a taxpayer elects the application of this sub-
23 section to a qualifying electric transmission
24 transaction—

1 “(A) such transaction shall be treated as
2 an involuntary conversion to which this section
3 applies, and

4 “(B) exempt utility property shall be treat-
5 ed as property which is similar or related in
6 service or use to the property disposed of in
7 such transaction.

8 “(2) EXTENSION OF REPLACEMENT PERIOD.—
9 In the case of any involuntary conversion described
10 in paragraph (1), subsection (a)(2)(B) shall be ap-
11 plied by substituting ‘4 years’ for ‘2 years’ in clause
12 (i) thereof.

13 “(3) QUALIFYING ELECTRIC TRANSMISSION
14 TRANSACTION.—For purposes of this subsection, the
15 term ‘qualifying electric transmission transaction’
16 means any sale or other disposition before January
17 1, 2009, of—

18 “(A) property used in the trade or business
19 of providing electric transmission services, or

20 “(B) any stock or partnership interest in a
21 corporation or partnership, as the case may be,
22 whose principal trade or business consists of
23 providing electric transmission services,
24 but only if such sale or disposition is to an inde-
25 pendent transmission company.

1 “(4) INDEPENDENT TRANSMISSION COM-
2 PANY.—For purposes of this subsection, the term
3 ‘independent transmission company’ means—

4 “(A) a regional transmission organization
5 approved by the Federal Energy Regulatory
6 Commission,

7 “(B) a person—

8 “(i) who the Federal Energy Regu-
9 latory Commission determines in its au-
10 thorization of the transaction under section
11 203 of the Federal Power Act (16 U.S.C.
12 823b) is not a market participant within
13 the meaning of such Commission’s rules
14 applicable to regional transmission organi-
15 zations, and

16 “(ii) whose transmission facilities to
17 which the election under this subsection
18 applies are under the operational control of
19 a Federal Energy Regulatory Commission-
20 approved regional transmission organiza-
21 tion before the close of the period specified
22 in such authorization, but not later than
23 the close of the period applicable under
24 subsection (a)(2)(B) as extended under
25 paragraph (2), or

1 “(C) in the case of facilities subject to the
2 exclusive jurisdiction of the Public Utility Com-
3 mission of Texas, a person which is approved by
4 that Commission as consistent with Texas State
5 law regarding an independent transmission or-
6 ganization.

7 “(5) EXEMPT UTILITY PROPERTY.—For pur-
8 poses of this subsection—

9 “(A) IN GENERAL.—The term ‘exempt
10 utility property’ means property used in the
11 trade or business of—

12 “(i) generating, transmitting, distrib-
13 uting, or selling electricity, or

14 “(ii) producing, transmitting, distrib-
15 uting, or selling natural gas.

16 “(B) NONRECOGNITION OF GAIN BY REA-
17 SON OF ACQUISITION OF STOCK.—Acquisition of
18 control of a corporation shall be taken into ac-
19 count under this section with respect to a quali-
20 fying electric transmission transaction only if
21 the principal trade or business of such corpora-
22 tion is a trade or business referred to in sub-
23 paragraph (A).

24 “(6) SPECIAL RULE FOR CONSOLIDATED
25 GROUPS.—In the case of a corporation which is a

1 member of an affiliated group filing a consolidated
2 return, such corporation shall be treated as satis-
3 fying the purchase requirement of subsection (a)(2)
4 with respect to any qualifying electric transmission
5 transaction engaged in by such corporation to the
6 extent such requirement is satisfied by another
7 member of such group.

8 “(7) ELECTION.—An election under paragraph
9 (1), once made, shall be irrevocable.”

10 (b) EXCEPTION FROM GAIN RECOGNITION UNDER
11 SECTION 1245.—Subsection (b) of section 1245 is amend-
12 ed by adding at the end the following new paragraph:

13 “(9) DISPOSITIONS TO IMPLEMENT FEDERAL
14 ENERGY REGULATORY COMMISSION OR STATE ELEC-
15 TRIC RESTRUCTURING POLICY.—At the election of
16 the taxpayer, the amount of gain which would (but
17 for this paragraph) be recognized under this section
18 on any qualified electric transmission transaction (as
19 defined in section 1033(k)) for which an election
20 under section 1033 is made shall be reduced by the
21 aggregate reduction in the basis of section 1245
22 property held by the taxpayer or, if insufficient, by
23 a member of an affiliated group which includes the
24 taxpayer at any time during the taxable year in
25 which such transaction occurred. The manner and

1 amount of such reduction shall be determined under
2 regulations prescribed by the Secretary.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to transactions occurring after the
5 date of the enactment of this Act.

6 **SEC. 3209. DISTRIBUTIONS OF STOCK TO IMPLEMENT FED-**
7 **ERAL ENERGY REGULATORY COMMISSION**
8 **OR STATE ELECTRIC RESTRUCTURING POL-**
9 **ICY.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 355(e)(3) (relating to special rules relating to acquisi-
12 tions) is amended by inserting after clause (iv) the fol-
13 lowing new clause:

14 “(v) The acquisition of stock in any
15 controlled corporation in a qualifying elec-
16 tric transmission transaction (as defined in
17 section 1033(k)).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to distributions after the date
20 of the enactment of this Act.

21 **SEC. 3210. MODIFICATIONS TO SPECIAL RULES FOR NU-**
22 **CLEAR DECOMMISSIONING COSTS.**

23 (a) REPEAL OF LIMITATION ON DEPOSITS INTO
24 FUND BASED ON COST OF SERVICE; CONTRIBUTIONS

1 AFTER FUNDING PERIOD.—Subsection (b) of section
2 468A is amended to read as follows:

3 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

4 “(1) IN GENERAL.—The amount which a tax-
5 payer may pay into the Fund for any taxable year
6 shall not exceed the ruling amount applicable to
7 such taxable year.

8 “(2) CONTRIBUTIONS AFTER FUNDING PE-
9 RIOD.—Notwithstanding any other provision of this
10 section, a taxpayer may pay into the Fund in any
11 taxable year after the last taxable year to which the
12 ruling amount applies. Payments may not be made
13 under the preceding sentence to the extent such pay-
14 ments would cause the assets of the Fund to exceed
15 the nuclear decommissioning costs allocable to the
16 taxpayer’s current or former interest in the nuclear
17 powerplant to which the Fund relates. The limita-
18 tion under the preceding sentence shall be deter-
19 mined by taking into account a reasonable rate of
20 inflation for the nuclear decommissioning costs and
21 a reasonable after-tax rate of return on the assets
22 of the Fund until such assets are anticipated to be
23 expended.”.

1 (b) CLARIFICATION OF TREATMENT OF FUND
2 TRANSFERS.—Subsection (e) of section 468A is amended
3 by adding at the end the following new paragraph:

4 “(8) TREATMENT OF FUND TRANSFERS.—If, in
5 connection with the transfer of the taxpayer’s inter-
6 est in a nuclear powerplant, the taxpayer transfers
7 the Fund with respect to such powerplant to the
8 transferee of such interest and the transferee elects
9 to continue the application of this section to such
10 Fund—

11 “(A) the transfer of such Fund shall not
12 cause such Fund to be disqualified from the ap-
13 plication of this section, and

14 “(B) no amount shall be treated as distrib-
15 uted from such Fund, or be includible in gross
16 income, by reason of such transfer.”.

17 (c) TREATMENT OF CERTAIN DECOMMISSIONING
18 COSTS.—

19 (1) IN GENERAL.—Section 468A is amended by
20 redesignating subsections (f) and (g) as subsections
21 (g) and (h), respectively, and by inserting after sub-
22 section (e) the following new subsection:

23 “(f) TRANSFERS INTO QUALIFIED FUNDS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (b), any taxpayer maintaining a Fund to which this

1 section applies with respect to a nuclear powerplant
2 may transfer into such Fund up to an amount equal
3 to the excess of the total nuclear decommissioning
4 costs with respect to such nuclear powerplant over
5 the portion of such costs taken into account in de-
6 termining the ruling amount in effect immediately
7 before the transfer.

8 “(2) DEDUCTION FOR AMOUNTS TRANS-
9 FERRED.—

10 “(A) IN GENERAL.—The deduction allowed
11 by subsection (a) for any transfer permitted by
12 this subsection shall be allowed ratably over the
13 remaining estimated useful life (within the
14 meaning of subsection (d)(2)(A)) of the nuclear
15 powerplant beginning with the taxable year dur-
16 ing which the transfer is made.

17 “(B) DENIAL OF DEDUCTION FOR PRE-
18 VIOUSLY DEDUCTED AMOUNTS.—No deduction
19 shall be allowed for any transfer under this sub-
20 section of an amount for which a deduction was
21 previously allowed or a corresponding amount
22 was not included in gross income. For purposes
23 of the preceding sentence, a ratable portion of
24 each transfer shall be treated as being from

1 previously deducted or excluded amounts to the
2 extent thereof.

3 “(C) TRANSFERS OF QUALIFIED FUNDS.—

4 If—

5 “(i) any transfer permitted by this
6 subsection is made to any Fund to which
7 this section applies, and

8 “(ii) such Fund is transferred there-
9 after,

10 any deduction under this subsection for taxable
11 years ending after the date that such Fund is
12 transferred shall be allowed to the transferee
13 and not to the transferor. The preceding sen-
14 tence shall not apply if the transferor is an or-
15 ganization exempt from tax imposed by this
16 chapter.

17 “(D) SPECIAL RULES.—

18 “(i) GAIN OR LOSS NOT RECOG-
19 NIZED.—No gain or loss shall be recog-
20 nized on any transfer permitted by this
21 subsection.

22 “(ii) TRANSFERS OF APPRECIATED
23 PROPERTY.—If appreciated property is
24 transferred in a transfer permitted by this
25 subsection, the amount of the deduction

1 shall be the adjusted basis of such prop-
2 erty.

3 “(3) NEW RULING AMOUNT REQUIRED.—Para-
4 graph (1) shall not apply to any transfer unless the
5 taxpayer requests from the Secretary a new schedule
6 of ruling amounts in connection with such transfer.

7 “(4) NO BASIS IN QUALIFIED FUNDS.—Not-
8 withstanding any other provision of law, the tax-
9 payer’s basis in any Fund to which this section ap-
10 plies shall not be increased by reason of any transfer
11 permitted by this subsection.”.

12 (2) NEW RULING AMOUNT TO TAKE INTO AC-
13 COUNT TOTAL COSTS.—Subparagraph (A) of section
14 468A(d)(2) is amended to read as follows:

15 “(A) fund the total nuclear decommis-
16 sioning costs with respect to such powerplant
17 over the estimated useful life of such power-
18 plant, and”.

19 (d) DEDUCTION FOR NUCLEAR DECOMMISSIONING
20 COSTS WHEN PAID.—Paragraph (2) of section 468A(c)
21 is amended to read as follows:

22 “(2) DEDUCTION OF NUCLEAR DECOMMIS-
23 SIONING COSTS.—In addition to any deduction under
24 subsection (a), nuclear decommissioning costs paid
25 or incurred by the taxpayer during any taxable year

1 shall constitute ordinary and necessary expenses in
2 carrying on a trade or business under section 162.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2001.

6 **SEC. 3211. TREATMENT OF CERTAIN INCOME OF COOPERA-**
7 **TIVES.**

8 (a) INCOME FROM OPEN ACCESS AND NUCLEAR DE-
9 COMMISSIONING TRANSACTIONS.—

10 (1) IN GENERAL.—Subparagraph (C) of section
11 501(c)(12) is amended by striking “or” at the end
12 of clause (i), by striking the period at the end of
13 clause (ii) and inserting a comma, and by adding at
14 the end the following new clauses:

15 “(iii) from any open access trans-
16 action (other than income received or ac-
17 crued directly or indirectly from a mem-
18 ber), or

19 “(iv) from any nuclear decommis-
20 sioning transaction.”

21 (2) DEFINITIONS.—Paragraph (12) of section
22 501(c) is amended by adding at the end the fol-
23 lowing new subparagraph:

24 “(E) For purposes of subparagraph (C)—

1 “(i) The term ‘open access trans-
2 action’ means any activity which would be
3 a permitted open access activity (as de-
4 fined in section 141A(a)(2)) if the coopera-
5 tive were a governmental unit.

6 “(ii) The term ‘nuclear decommis-
7 sioning transaction’ means—

8 “(I) any transfer into a trust,
9 fund, or instrument established to pay
10 any nuclear decommissioning costs if
11 the transfer is in connection with the
12 transfer of the cooperative’s interest
13 in a nuclear powerplant or nuclear
14 powerplant unit,

15 “(II) any distribution from such
16 a trust, fund, or instrument, or

17 “(III) any earnings from such a
18 trust, fund, or instrument.”

19 (b) INCOME FROM LOAD LOSS TRANSACTIONS
20 TREATED AS MEMBER INCOME.—Paragraph (12) of sec-
21 tion 501(c) is amended by adding after subparagraph (E)
22 the following new subparagraph:

23 “(F)(i) In the case of a mutual or coopera-
24 tive electric company, income received or ac-
25 crued from a load loss transaction shall be

1 treated as an amount collected from members
2 for the sole purpose of meeting losses and ex-
3 penses.

4 “(ii) For purposes of clause (i), the term
5 ‘load loss transaction’ means any sale (whether
6 at wholesale or at retail) which would be a load
7 loss sale under rules similar to the rules of sec-
8 tion 141A(a)(3)(C).

9 “(iii) A company shall not fail to be treat-
10 ed as a mutual cooperative company for pur-
11 poses of this paragraph by reason of the treat-
12 ment under clause (i).

13 “(iv) A rule similar to the rule of this sub-
14 paragraph shall apply to an organization to
15 which section 1381 does not apply by reason of
16 section 1381(a)(2)(C).”

17 (c) EXCEPTION FROM UNRELATED BUSINESS TAX-
18 ABLE INCOME.—Subsection (b) of section 512 (relating to
19 modifications) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(18) TREATMENT OF LOAD LOSS SALES OF
22 MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—
23 In the case of a mutual or cooperative electric com-
24 pany described in section 501(c)(12), there shall be

1 excluded income which is treated as member income
2 under subparagraph (F) thereof.”

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

6 **SEC. 3212. REPEAL OF REQUIREMENT OF CERTAIN AP-**
7 **PROVED TERMINALS TO OFFER DYED DIESEL**
8 **FUEL AND KEROSENE FOR NONTAXABLE**
9 **PURPOSES.**

10 Section 4101 (relating to certain approved terminals
11 of registered persons required to offer dyed diesel fuel and
12 kerosene for nontaxable purposes) is amended by striking
13 subsection (e).

14 **SEC. 3213. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**
15 **MENTS FOR NATURAL GAS.**

16 (a) IN GENERAL.—Subsection (b) of section 148 (de-
17 fining higher yielding investments) is amended by adding
18 at the end the following new paragraph:

19 “(4) EXCEPTION FOR CERTAIN PREPAYMENTS
20 TO ENSURE NATURAL GAS SUPPLY.—The term ‘in-
21 vestment property’ shall not include any prepayment
22 for the purpose of obtaining a supply of a natural
23 gas—

1 “(A) at least 85 percent of which is to be
2 used in the State in which the issuer is located,
3 and

4 “(B) which is to be used in a business of
5 one or more utilities each of which is owned and
6 operated by a State or local government, any
7 political subdivision or instrumentality thereof,
8 or any governmental unit acting for or on be-
9 half of such a utility.”.

10 (b) PRIVATE LOAN FINANCING TEST NOT TO APPLY
11 TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of
12 section 141(c) (providing exceptions to the private loan fi-
13 nancing test) is amended by striking “or” at the end of
14 subparagraph (A), by striking the period at the end of
15 subparagraph (B) and inserting “, or”, and by adding at
16 the end the following new subparagraph:

17 “(C) arises from a transaction described in
18 section 148(b)(4).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to obligations issued after October
21 22, 1986; except that section 148(b)(4)(A) of the Internal
22 Revenue Code of 1986, as added by this section, shall
23 apply only to obligations issued after the date of the enact-
24 ment of this Act.

1 **TITLE III—PRODUCTION**

2 **SEC. 3301. OIL AND GAS FROM MARGINAL WELLS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business credits) is
5 amended by adding at the end the following:

6 **“SEC. 45J. CREDIT FOR PRODUCING OIL AND GAS FROM**
7 **MARGINAL WELLS.**

8 “(a) GENERAL RULE.—For purposes of section 38,
9 the marginal well production credit for any taxable year
10 is an amount equal to the product of—

11 “(1) the credit amount, and

12 “(2) the qualified credit oil production and the
13 qualified natural gas production which is attrib-
14 utable to the taxpayer.

15 “(b) CREDIT AMOUNT.—For purposes of this
16 section—

17 “(1) IN GENERAL.—The credit amount is—

18 “(A) \$3 per barrel of qualified crude oil
19 production, and

20 “(B) 50 cents per 1,000 cubic feet of
21 qualified natural gas production.

22 “(2) REDUCTION AS OIL AND GAS PRICES IN-
23 CREASE.—

24 “(A) IN GENERAL.—The \$3 and 50 cents
25 amounts under paragraph (1) shall each be re-

1 duced (but not below zero) by an amount which
2 bears the same ratio to such amount (deter-
3 mined without regard to this paragraph) as—

4 “(i) the excess (if any) of the applica-
5 ble reference price over \$15 (\$1.67 for
6 qualified natural gas production), bears to

7 “(ii) \$3 (\$0.33 for qualified natural
8 gas production).

9 The applicable reference price for a taxable
10 year is the reference price of the calendar year
11 preceding the calendar year in which the tax-
12 able year begins.

13 “(B) INFLATION ADJUSTMENT.—In the
14 case of any taxable year beginning in a calendar
15 year after 2001, each of the dollar amounts
16 contained in subparagraph (A) shall be in-
17 creased to an amount equal to such dollar
18 amount multiplied by the inflation adjustment
19 factor for such calendar year (determined under
20 section 43(b)(3)(B) by substituting ‘2000’ for
21 ‘1990’).

22 “(C) REFERENCE PRICE.—For purposes of
23 this paragraph, the term ‘reference price’
24 means, with respect to any calendar year—

1 “(i) in the case of qualified crude oil
2 production, the reference price determined
3 under section 29(d)(2)(C), and

4 “(ii) in the case of qualified natural
5 gas production, the Secretary’s estimate of
6 the annual average wellhead price per
7 1,000 cubic feet for all domestic natural
8 gas.

9 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
10 PRODUCTION.—For purposes of this section—

11 “(1) IN GENERAL.—The terms ‘qualified crude
12 oil production’ and ‘qualified natural gas production’
13 mean domestic crude oil or natural gas which is pro-
14 duced from a qualified marginal well.

15 “(2) LIMITATION ON AMOUNT OF PRODUCTION
16 WHICH MAY QUALIFY.—

17 “(A) IN GENERAL.—Crude oil or natural
18 gas produced during any taxable year from any
19 well shall not be treated or qualified crude oil
20 production or qualified natural gas production
21 to the extent production from the well during
22 the taxable year exceeds 1,095 barrels or barrel
23 equivalents.

24 “(B) PROPORTIONATE REDUCTIONS.—

1 “(i) SHORT TAXABLE YEARS.—In the
2 case of a short taxable year, the limitations
3 under this paragraph shall be proportion-
4 ately reduced to reflect the ratio which the
5 number of days in such taxable year bears
6 to 365.

7 “(ii) WELLS NOT IN PRODUCTION EN-
8 TIRE YEAR.—In the case of a well which is
9 not capable of production during each day
10 of a taxable year, the limitations under
11 this paragraph applicable to the well shall
12 be proportionately reduced to reflect the
13 ratio which the number of days of produc-
14 tion bears to the total number of days in
15 the taxable year.

16 “(3) DEFINITIONS.—

17 “(A) QUALIFIED MARGINAL WELL.—The
18 term ‘qualified marginal well’ means a domestic
19 well—

20 “(i) the production from which during
21 the taxable year is treated as marginal
22 production under section 613A(c)(6), or

23 “(ii) which, during the taxable year—

1 “(I) has average daily production
2 of not more than 25 barrel equiva-
3 lents, and

4 “(II) produces water at a rate
5 not less than 95 percent of total well
6 effluent.

7 “(B) CRUDE OIL, ETC.—The terms ‘crude
8 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have
9 the meanings given such terms by section
10 613A(e).

11 “(C) BARREL EQUIVALENT.—The term
12 ‘barrel equivalent’ means, with respect to nat-
13 ural gas, a conversion ratio of 6,000 cubic
14 feet of natural gas to 1 barrel of crude oil.

15 “(d) OTHER RULES.—

16 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
17 PAYER.—In the case of a qualified marginal well in
18 which there is more than one owner of operating in-
19 terests in the well and the crude oil or natural gas
20 production exceeds the limitation under subsection
21 (c)(2), qualifying crude oil production or qualifying
22 natural gas production attributable to the taxpayer
23 shall be determined on the basis of the ratio which
24 taxpayer’s revenue interest in the production bears

1 to the aggregate of the revenue interests of all oper-
2 ating interest owners in the production.

3 “(2) OPERATING INTEREST REQUIRED.—Any
4 credit under this section may be claimed only on
5 production which is attributable to the holder of an
6 operating interest.

7 “(3) PRODUCTION FROM NONCONVENTIONAL
8 SOURCES EXCLUDED.—In the case of production
9 from a qualified marginal well which is eligible for
10 the credit allowed under section 29 for the taxable
11 year, no credit shall be allowable under this section
12 unless the taxpayer elects not to claim the credit
13 under section 29 with respect to the well.

14 “(4) NONCOMPLIANCE WITH POLLUTION
15 LAWS.—For purposes of subsection (c)(3)(A), a
16 marginal well which is not in compliance with the
17 applicable State and Federal pollution prevention,
18 control, and permit requirements for any period of
19 time shall not be considered to be a qualified mar-
20 ginal well during such period.”.

21 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
22 tion 38(b) is amended by striking “plus” at the end of
23 paragraph (17), by striking the period at the end of para-
24 graph (18) and inserting “, plus”, and by adding at the
25 end the following:

1 “(19) the marginal oil and gas well production
2 credit determined under section 45J(a).”.

3 (c) CARRYBACK.—Subsection (a) of section 39 (relat-
4 ing to carryback and carryforward of unused credits gen-
5 erally) is amended by adding at the end the following:

6 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
7 AND GAS WELL PRODUCTION CREDIT.—In the case
8 of the marginal oil and gas well production credit—

9 “(A) this section shall be applied sepa-
10 rately from the business credit (other than the
11 marginal oil and gas well production credit),

12 “(B) paragraph (1) shall be applied by
13 substituting ‘10 taxable years’ for ‘1 taxable
14 years’ in subparagraph (A) thereof, and

15 “(C) paragraph (2) shall be applied—

16 “(i) by substituting ‘31 taxable years’
17 for ‘21 taxable years’ in subparagraph (A)
18 thereof, and

19 “(ii) by substituting ‘30 taxable years’
20 for ‘20 taxable years’ in subparagraph (A)
21 thereof.”.

22 (d) COORDINATION WITH SECTION 29.—Section
23 29(a) is amended by striking “There” and inserting “At
24 the election of the taxpayer, there”.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter I
 3 is amended by adding at the end the following:

“Sec. 45J. Credit for producing oil and gas from marginal wells.”.

4 (f) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to production in taxable years be-
 6 ginning after December 31, 2001.

7 **SEC. 3302. TEMPORARY SUSPENSION OF LIMITATION**
 8 **BASED ON 65 PERCENT OF TAXABLE INCOME**
 9 **AND EXTENSION OF SUSPENSION OF TAX-**
 10 **ABLE INCOME LIMIT WITH RESPECT TO MAR-**
 11 **GINAL PRODUCTION.**

12 (a) LIMITATION BASED ON 65 PERCENT OF TAX-
 13 ABLE INCOME.—Subsection (d) of section 613A (relating
 14 to limitation on percentage depletion in case of oil and
 15 gas wells) is amended by adding at the end the following
 16 new paragraph:

17 “(6) TEMPORARY SUSPENSION OF TAXABLE IN-
 18 COME LIMIT.—Paragraph (1) shall not apply to tax-
 19 able years beginning after December 31, 2001, and
 20 before January 1, 2007, including with respect to
 21 amounts carried under the second sentence of para-
 22 graph (1) to such taxable years.”.

23 (b) EXTENSION OF SUSPENSION OF TAXABLE IN-
 24 COME LIMIT WITH RESPECT TO MARGINAL PRODUC-
 25 TION.—Subparagraph (H) of section 613A(c)(6) (relating

1 to temporary suspension of taxable income limit with re-
2 spect to marginal production) is amended by striking
3 “2002” and inserting “2007”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years beginning after
6 December 31, 2001.

7 **SEC. 3303. DEDUCTION FOR DELAY RENTAL PAYMENTS.**

8 (a) IN GENERAL.—Section 263 (relating to capital
9 expenditures) is amended by adding after subsection (i)
10 the following:

11 “(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
12 AND GAS WELLS.—

13 “(1) IN GENERAL.—Notwithstanding subsection
14 (a), a taxpayer may elect to treat delay rental pay-
15 ments incurred in connection with the development
16 of oil or gas within the United States (as defined in
17 section 638) as payments which are not chargeable
18 to capital account. Any payments so treated shall be
19 allowed as a deduction in the taxable year in which
20 paid or incurred.

21 “(2) DELAY RENTAL PAYMENTS.—For purposes
22 of paragraph (1), the term ‘delay rental payment’
23 means an amount paid for the privilege of deferring
24 development of an oil or gas well under an oil or gas
25 lease.”.

1 (b) CONFORMING AMENDMENT.—Section 263A(c)(3)
2 is amended by inserting “263(j),” after “263(i),”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to amounts paid or incurred in tax-
5 able years beginning after December 31, 2001.

6 **SEC. 3304. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
7 **PHYSICAL EXPENDITURES.**

8 (a) IN GENERAL.—Section 263 (relating to capital
9 expenditures) is amended by adding after subsection (j)
10 the following:

11 “(k) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
12 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-
13 standing subsection (a), a taxpayer may elect to treat geo-
14 logical and geophysical expenses incurred in connection
15 with the exploration for, or development of, oil or gas with-
16 in the United States (as defined in section 638) as ex-
17 penses which are not chargeable to capital account. Any
18 expenses so treated shall be allowed as a deduction in the
19 taxable year in which paid or incurred.”.

20 (b) CONFORMING AMENDMENT.—Section
21 263A(c)(3), as amended by section 3303(b), is amended
22 by inserting “263(k),” after “263(j),”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to costs paid or incurred in taxable
25 years beginning after December 31, 2001.

1 **SEC. 3305. 5-YEAR NET OPERATING LOSS CARRYBACK FOR**
2 **LOSSES ATTRIBUTABLE TO OPERATING MIN-**
3 **ERAL INTERESTS OF OIL AND GAS PRO-**
4 **DUCERS.**

5 (a) IN GENERAL.—Paragraph (1) of section 172(b)
6 (relating to years to which loss may be carried) is amended
7 by adding at the end the following new subparagraph:

8 “(H) LOSSES ON OPERATING MINERAL IN-
9 TERESTS OF OIL AND GAS PRODUCERS.—In the
10 case of a taxpayer which has an eligible oil and
11 gas loss (as defined in subsection (j)) for a tax-
12 able year, such eligible oil and gas loss shall be
13 a net operating loss carryback to each of the 5
14 taxable years preceding the taxable year of such
15 loss.”.

16 (b) ELIGIBLE OIL AND GAS LOSS.—Section 172 is
17 amended by redesignating subsection (j) as subsection (k)
18 and by inserting after subsection (i) the following new sub-
19 section:

20 “(j) ELIGIBLE OIL AND GAS LOSS.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘eligible oil and
23 gas loss’ means the lesser of—

24 “(A) the amount which would be the net
25 operating loss for the taxable year if only in-
26 come and deductions attributable to operating

1 mineral interests (as defined in section 614(d))
2 in oil and gas wells are taken into account, or

3 “(B) the amount of the net operating loss
4 for such taxable year.

5 “(2) COORDINATION WITH SUBSECTION
6 (b)(2).—For purposes of applying subsection (b)(2),
7 an eligible oil and gas loss for any taxable year shall
8 be treated in a manner similar to the manner in
9 which a specified liability loss is treated.

10 “(3) ELECTION.—Any taxpayer entitled to a 5-
11 year carryback under subsection (b)(1)(H) from any
12 loss year may elect to have the carryback period
13 with respect to such loss year determined without re-
14 gard to subsection (b)(1)(H).”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to net operating losses for taxable
17 years beginning after December 31, 2001.

18 **SEC. 3306. EXTENSION AND MODIFICATION OF CREDIT FOR**
19 **PRODUCING FUEL FROM A NONCONVEN-**
20 **TIONAL SOURCE.**

21 (a) IN GENERAL.—Section 29 is amended by adding
22 at the end the following new subsection:

23 “(h) EXTENSION FOR OTHER FACILITIES.—

24 “(1) EXTENSION FOR OIL AND CERTAIN GAS.—

25 In the case of a well for producing qualified fuels de-

1 scribed in subparagraph (A) or (B)(i) of subsection
2 (c)(1)—

3 “(A) APPLICATION OF CREDIT FOR NEW
4 WELLS.—Notwithstanding subsection (f), this
5 section shall apply with respect to such fuels—

6 “(i) which are produced from a well
7 drilled after the date of the enactment of
8 this subsection and before January 1,
9 2007, and

10 “(ii) which are sold not later than the
11 close of the 4-year period beginning on the
12 date that such well is drilled, or, if earlier,
13 January 1, 2010.

14 “(B) EXTENSION OF CREDIT FOR OLD
15 WELLS.—Subsection (f)(2) shall be applied by
16 substituting ‘2007’ for ‘2003’ with respect to
17 wells described in subsection (f)(1)(A) with re-
18 spect to such fuels.

19 “(2) EXTENSION FOR FACILITIES PRODUCING
20 QUALIFIED FUEL FROM LANDFILL GAS.—

21 “(A) IN GENERAL.—In the case of a facil-
22 ity for producing qualified fuel from landfill gas
23 which was placed in service after June 30,
24 1998, and before January 1, 2007, this section
25 shall apply to fuel produced at such facility dur-

1 ing the 5-year period beginning on the later
2 of—

3 “(i) the date such facility was placed
4 in service, or

5 “(ii) the date of the enactment of this
6 subsection.

7 “(B) REDUCTION OF CREDIT FOR CERTAIN
8 LANDFILL FACILITIES.—In the case of a facility
9 to which paragraph (1) applies and which is
10 subject to the 1996 New Source Performance
11 Standards/Emmissions Guidelines of the Envi-
12 ronmental Protection Agency, subsection (a)(1)
13 shall be applied by substituting ‘\$2’ for ‘\$3’.

14 “(3) SPECIAL RULES.—In determining the
15 amount of credit allowable under this section solely
16 by reason of this subsection—

17 “(A) DAILY LIMIT.—The amount of quali-
18 fied fuels sold during any taxable year which
19 may be taken into account by reason of this
20 subsection with respect to any project shall not
21 exceed an average barrel-of-oil equivalent of
22 200,000 cubic feet of natural gas per day. Days
23 before the date the project is placed in service
24 shall not be taken into account in determining
25 such average.

1 “(B) EXTENSION PERIOD TO COMMENCE
2 WITH UNADJUSTED CREDIT AMOUNT.—In the
3 case of fuels sold during 2001 and 2002, the
4 dollar amount applicable under subsection
5 (a)(1) shall be \$3 (without regard to subsection
6 (b)(2)). In the case of fuels sold after 2002,
7 subparagraph (B) of subsection (d)(2) shall be
8 applied by substituting ‘2002’ for ‘1979’.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to fuel sold after the date of the
11 enactment of this Act.

12 **SEC. 3307. BUSINESS RELATED ENERGY CREDITS ALLOWED**
13 **AGAINST REGULAR AND MINIMUM TAX.**

14 (a) IN GENERAL.—Subsection (c) of section 38 (re-
15 lating to limitation based on amount of tax) is amended
16 by redesignating paragraph (3) as paragraph (4) and by
17 inserting after paragraph (2) the following new paragraph:

18 “(3) SPECIAL RULES FOR SPECIFIED ENERGY
19 CREDITS.—

20 “(A) IN GENERAL.—In the case of speci-
21 fied energy credits—

22 “(i) this section and section 39 shall
23 be applied separately with respect to such
24 credits, and

1 “(ii) in applying paragraph (1) to
2 such credits—

3 “(I) the tentative minimum tax
4 shall be treated as being zero, and

5 “(II) the limitation under para-
6 graph (1) (as modified by subclause
7 (I)) shall be reduced by the credit al-
8 lowed under subsection (a) for the
9 taxable year (other than the specified
10 energy credits).

11 “(B) SPECIFIED ENERGY CREDITS.—For
12 purposes of this subsection, the term ‘specified
13 energy credits’ means the credits determined
14 under sections 45G, 45H, 45I, 45J, and 45K.”.

15 (b) CONFORMING AMENDMENT.—Subclause (II) of
16 section 38(c)(2)(A)(ii) is amended by inserting “or the
17 specified energy credits” after “employment credit”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years ending after the
20 date of enactment of this Act.

21 **SEC. 3308. TEMPORARY REPEAL OF ALTERNATIVE MIN-**
22 **IMUM TAX PREFERENCE FOR INTANGIBLE**
23 **DRILLING COSTS.**

24 (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)
25 is amended by adding at the end the following new sen-

1 tence: “The preceding sentence shall not apply to taxable
2 years beginning after December 31, 2001, and before Jan-
3 uary 1, 2005.”.

4 (b) EFFECTIVE DATES.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2001.

7 **SEC. 3309. ALLOWANCE OF ENHANCED RECOVERY CREDIT**
8 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 38(c)(3), as amended by section 3307, is amended by add-
11 ing at the end the following new sentence: “For taxable
12 years beginning before January 1, 2005, such term in-
13 cludes the credit determined under section 43.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2001.

17 **SEC. 3310. EXTENSION OF CERTAIN BENEFITS FOR EN-**
18 **ERGY-RELATED BUSINESSES ON INDIAN RES-**
19 **ERVATIONS.**

20 (a) DEPRECIATION FOR PROPERTY ON INDIAN RES-
21 ERVATIONS.—Paragraph (8) of section 168(j) (relating to
22 termination) is amended by adding at the end the fol-
23 lowing new sentence: “The preceding sentence shall be ap-
24 plied by substituting ‘December 31, 2006’ for ‘December

1 31, 2003' in the case of property placed in service as part
2 of a facility for—

3 “(A) the generation or transmission of
4 electricity (including from any qualified energy
5 resource, as defined in section 45(e)),

6 “(B) an oil or gas well,

7 “(C) the transmission or refining of oil or
8 gas, or

9 “(D) the production of any qualified fuel
10 (as defined in section 29(c)).”

11 (b) EMPLOYMENT OF INDIANS.—Subsection (f) of
12 section 45A (relating to termination) is amended by add-
13 ing at the end the following new sentence: “The preceding
14 sentence shall be applied by substituting ‘December 31,
15 2006’ for ‘December 31, 2003’ in the case of wages paid
16 for services performed at a facility described in section
17 168(j)(8).”

DIVISION D

1
2 **SEC. 4101. CAPACITY BUILDING FOR ENERGY-EFFICIENT,**
3 **AFFORDABLE HOUSING.**

4 Section 4(b) of the HUD Demonstration Act of 1993
5 (42 U.S.C. 9816 note) is amended—

6 (1) in paragraph (1), by inserting before the
7 semicolon at the end the following: “, including ca-
8 pabilities regarding the provision of energy efficient,
9 affordable housing and residential energy conserva-
10 tion measures”; and

11 (2) in paragraph (2), by inserting before the
12 semicolon the following: “, including such activities
13 relating to the provision of energy efficient, afford-
14 able housing and residential energy conservation
15 measures that benefit low-income families”.

16 **SEC. 4102. INCREASE OF CDBG PUBLIC SERVICES CAP FOR**
17 **ENERGY CONSERVATION AND EFFICIENCY**
18 **ACTIVITIES.**

19 Section 105(a)(8) of the Housing and Community
20 Development Act of 1974 (42 U.S.C. 5305(a)(8)) is
21 amended—

22 (1) by inserting “or efficiency” after “energy
23 conservation”;

24 (2) by striking “, and except that” and insert-
25 ing “; except that”; and

1 (3) by inserting before the period at the end the
2 following: “; and except that each percentage limita-
3 tion under this paragraph on the amount of assist-
4 ance provided under this title that may be used for
5 the provision of public services is hereby increased
6 by 10 percent, but such percentage increase may be
7 used only for the provision of public services con-
8 cerning energy conservation or efficiency”.

9 **SEC. 4103. FHA MORTGAGE INSURANCE INCENTIVES FOR**
10 **ENERGY EFFICIENT HOUSING.**

11 (a) SINGLE FAMILY HOUSING MORTGAGE INSUR-
12 ANCE.—Section 203(b)(2) of the National Housing Act
13 (12 U.S.C. 1709(b)(2)) is amended, in the first undesig-
14 nated paragraph beginning after subparagraph (B)(iii)
15 (relating to solar energy systems)—

16 (1) by inserting “or paragraph (10)”; and

17 (2) by striking “20 percent” and inserting “30
18 percent”.

19 (b) MULTIFAMILY HOUSING MORTGAGE INSUR-
20 ANCE.—Section 207(c) of the National Housing Act (12
21 U.S.C. 1713(c)) is amended, in the second undesignated
22 paragraph beginning after paragraph (3) (relating to solar
23 energy systems and residential energy conservation meas-
24 ures), by striking “20 percent” and inserting “30 per-
25 cent”.

1 (c) COOPERATIVE HOUSING MORTGAGE INSUR-
2 ANCE.—Section 213(p) of the National Housing Act (12
3 U.S.C. 1715e(p)) is amended by striking “20 per centum”
4 and inserting “30 percent”.

5 (d) REHABILITATION AND NEIGHBORHOOD CON-
6 SERVATION HOUSING MORTGAGE INSURANCE.—Section
7 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C.
8 1715k(d)(3)(B)(iii)) is amended by striking “20 per cen-
9 tum” and inserting “30 percent”.

10 (e) LOW-INCOME MULTIFAMILY HOUSING MORT-
11 GAGE INSURANCE.—Section 221(k) of the National Hous-
12 ing Act (12 U.S.C. 1715l(k)) is amended by striking “20
13 per centum” and inserting “30 percent”.

14 (f) ELDERLY HOUSING MORTGAGE INSURANCE.—
15 The proviso at the end of section 213(c)(2) of the National
16 Housing Act (12 U.S.C. 1715v(c)(2)) is amended by strik-
17 ing “20 per centum” and inserting “30 percent”.

18 (g) CONDOMINIUM HOUSING MORTGAGE INSUR-
19 ANCE.—Section 234(j) of the National Housing Act (12
20 U.S.C. 1715y(j)) is amended by striking “20 per centum”
21 and inserting “30 percent”.

22 **SEC. 4104. PUBLIC HOUSING CAPITAL FUND.**

23 Section 9(d)(1) of the United States Housing Act of
24 1937 (42 U.S.C. 1437g(d)(1)) is amended—

1 (1) in subparagraph (I), by striking “and” at
2 the end;

3 (2) in subparagraph (K), by striking the period
4 at the end and inserting “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(L) improvement of energy and water-use
8 efficiency by installing fixtures and fittings that
9 conform to the American Society of Mechanical
10 Engineers/American National Standards Insti-
11 tute standards A112.19.2-1998 and A112.18.1-
12 2000, or any revision thereto, applicable at the
13 time of installation, and by increasing energy
14 efficiency and water conservation by such other
15 means as the Secretary determines are appro-
16 priate.”.

17 **SEC. 4105. GRANTS FOR ENERGY-CONSERVING IMPROVE-**
18 **MENTS FOR ASSISTED HOUSING.**

19 Section 251(b)(1) of the National Energy Conserva-
20 tion Policy Act (42 U.S.C. 8231(1)) is amended—

21 (1) by striking “financed with loans” and in-
22 sserting “assisted”;

23 (2) by inserting after “1959,” the following:
24 “which are eligible multifamily housing projects (as
25 such term is defined in section 512 of the Multi-

1 family Assisted Housing Reform and Affordability
2 Act of 1997 (42 U.S.C. 1437f note)) and are subject
3 to a mortgage restructuring and rental assistance
4 sufficiency plans under such Act,”; and

5 (3) by inserting after the period at the end of
6 the first sentence the following new sentence: “Such
7 improvements may also include the installation of
8 energy and water conserving fixtures and fittings
9 that conform to the American Society of Mechanical
10 Engineers/American National Standards Institute
11 standards A112.19.2-1998 and A112.18.1-2000, or
12 any revision thereto, applicable at the time of instal-
13 lation.”.

14 **SEC. 4106. NORTH AMERICAN DEVELOPMENT BANK.**

15 Part 2 of subtitle D of title V of the North American
16 Free Trade Agreement Implementation Act (22 U.S.C.
17 290m–290m-3) is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.**

20 “Consistent with the focus of the Bank’s Charter on
21 environmental infrastructure projects, the Board members
22 representing the United States should use their voice and
23 vote to encourage the Bank to finance projects related to
24 clean and efficient energy, including energy conservation,

1 that prevent, control, or reduce environmental pollutants
2 or contaminants.”.

3 **DIVISION E**

4 **SEC. 5000. SHORT TITLE.**

5 This division may be cited as the “Clean Coal Power
6 Initiative Act of 2001”.

7 **SEC. 5001. FINDINGS.**

8 Congress finds that—

9 (1) reliable, affordable, increasingly clean elec-
10 tricity will continue to power the growing United
11 States economy;

12 (2) an increasing use of electrotechnologies, the
13 desire for continuous environmental improvement, a
14 more competitive electricity market, and concerns
15 about rising energy prices add importance to the
16 need for reliable, affordable, increasingly clean elec-
17 tricity;

18 (3) coal, which, as of the date of enactment of
19 this Act, accounts for more than ½ of all electricity
20 generated in the United States, is the most abun-
21 dant fossil energy resource of the United States;

22 (4) coal comprises more than 85 percent of all
23 fossil resources in the United States and exists in
24 quantities sufficient to supply the United States for
25 250 years at current usage rates;

1 (5) investments in electricity generating facility
2 emissions control technology over the past 30 years
3 have reduced the aggregate emissions of pollutants
4 from coal-based generating facilities by 21 percent,
5 even as coal use for electricity generation has nearly
6 tripled;

7 (6) continuous improvement in efficiency and
8 environmental performance from electricity gener-
9 ating facilities would allow continued use of coal and
10 preserve less abundant energy resources for other
11 energy uses;

12 (7) new ways to convert coal into electricity can
13 effectively eliminate health-threatening emissions
14 and improve efficiency by as much as 50 percent,
15 but initial deployment of new coal generation meth-
16 ods and equipment entails significant risk that gen-
17 erators may be unable to accept in a newly competi-
18 tive electricity market; and

19 (8) continued environmental improvement in
20 coal-based generation and increasing the production
21 and supply of power generation facilities with less
22 air emissions, with the ultimate goal of near-zero
23 emissions, is important and desirable.

24 **SEC. 5002. DEFINITIONS.**

25 In this division:

1 (1) COST AND PERFORMANCE GOALS.—The
2 term “cost and performance goals” means the cost
3 and performance goals established under section
4 5004.

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

7 **SEC. 5003. CLEAN COAL POWER INITIATIVE.**

8 (a) IN GENERAL.—The Secretary shall carry out a
9 program under—

10 (1) this division;

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

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

16 (4) title XIII of the Energy Policy Act of 1992
17 (42 U.S.C. 13331 et seq.),

18 to achieve cost and performance goals established by the
19 Secretary under section 5004.

20 **SEC. 5004. COST AND PERFORMANCE GOALS.**

21 (a) REVIEW AND ASSESSMENT.—The Secretary shall
22 perform an assessment that establishes measurable cost
23 and performance goals for 2005, 2010, 2015, and 2020
24 for the programs authorized by this division. Such assess-

1 ment shall be based on the latest scientific, economic, and
2 technical knowledge.

3 (b) CONSULTATION.—In establishing the cost and
4 performance goals, the Secretary shall consult with rep-
5 resentatives of—

6 (1) the United States coal industry;

7 (2) State coal development agencies;

8 (3) the electric utility industry;

9 (4) railroads and other transportation indus-
10 tries;

11 (5) manufacturers of advanced coal-based
12 equipment;

13 (6) institutions of higher learning, national lab-
14 oratories, and professional and technical societies;

15 (7) organizations representing workers;

16 (8) organizations formed to—

17 (A) promote the use of coal;

18 (B) further the goals of environmental pro-
19 tection; and

20 (C) promote the production and generation
21 of coal-based power from advanced facilities;

22 and

23 (9) other appropriate Federal and State agen-
24 cies.

25 (c) TIMING.—The Secretary shall—

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

4 (2) not later than 180 days after the date of
5 enactment of this Act, after taking into consider-
6 ation any public comments received, submit to the
7 Committee on Energy and Commerce and the Com-
8 mittee on Science of the House of Representatives,
9 and to the Senate, the final cost and performance
10 goals.

11 **SEC. 5005. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) CLEAN COAL POWER INITIATIVE.—Except as
13 provided in subsection (c), there are authorized to be ap-
14 propriated to the Secretary to carry out the Clean Coal
15 Power Initiative under section 5003 \$200,000,000 for
16 each of the fiscal years 2002 through 2011, to remain
17 available until expended.

18 (b) LIMIT ON USE OF FUNDS.—Notwithstanding sub-
19 section (a), no funds may be used to carry out the activi-
20 ties authorized by this Act after September 30, 2002, un-
21 less the Secretary has transmitted to the Committee on
22 Energy and Commerce and the Committee on Science of
23 the House of Representatives, and to the Senate, the re-
24 port required by this subsection and 1 month has elapsed

1 since that transmission. The report shall include, with re-
2 spect to subsection (a), a 10-year plan containing—

3 (1) a detailed assessment of whether the aggre-
4 gate funding levels provided under subsection (a) are
5 the appropriate funding levels for that program;

6 (2) a detailed description of how proposals will
7 be solicited and evaluated, including a list of all ac-
8 tivities expected to be undertaken;

9 (3) a detailed list of technical milestones for
10 each coal and related technology that will be pur-
11 sued;

12 (4) recommendations for a mechanism for
13 recoupment of Federal funding for successful com-
14 mercial projects; and

15 (5) a detailed description of how the program
16 will avoid problems enumerated in General Account-
17 ing Office reports on the Clean Coal Technology
18 Program, including problems that have resulted in
19 unspent funds and projects that failed either finan-
20 cially or scientifically.

21 (c) APPLICABILITY.—Subsection (b) shall not apply
22 to any project begun before September 30, 2002.

23 **SEC. 5006. PROJECT CRITERIA.**

24 (a) IN GENERAL.—The Secretary shall not provide
25 funding under this division for any project that does not

1 advance efficiency, environmental performance, and cost
2 competitiveness well beyond the level of technologies that
3 are in operation or have been demonstrated as of the date
4 of the enactment of this Act.

5 (b) TECHNICAL CRITERIA FOR CLEAN COAL POWER
6 INITIATIVE.—

7 (1) GASIFICATION.—(A) In allocating the funds
8 authorized under section 5005(a), the Secretary
9 shall ensure that at least 80 percent of the funds are
10 used only for projects on coal-based gasification
11 technologies, including gasification combined cycle,
12 gasification fuel cells, gasification coproduction and
13 hybrid gasification/combustion.

14 (B) The Secretary shall set technical milestones
15 specifying emissions levels that coal gasification
16 projects must be designed to and reasonably ex-
17 pected to achieve. The milestones shall get more re-
18 strictive through the life of the program. The mile-
19 stones shall be designed to achieve by 2020 coal gas-
20 ification projects able—

21 (i) to remove 99 percent of sulfur dioxide;

22 (ii) to emit no more than .05 lbs of NOx
23 per million BTU;

24 (iii) to achieve substantial reductions in
25 mercury emissions; and

1 (iv) to achieve a thermal efficiency of 60
2 percent (higher heating value).

3 (2) OTHER PROJECTS.—For projects not de-
4 scribed in paragraph (1), the Secretary shall set
5 technical milestones specifying emissions levels that
6 the projects must be designed to and reasonably ex-
7 pected to achieve. The milestones shall get more re-
8 strictive through the life of the program. The mile-
9 stones shall be designed to achieve by 2010 projects
10 able—

11 (A) to remove 97 percent of sulfur dioxide;

12 (B) to emit no more than .08 lbs of NO_x
13 per million BTU;

14 (C) to achieve substantial reductions in
15 mercury emissions; and

16 (D) to achieve a thermal efficiency of 45
17 percent (higher heating value).

18 (c) FINANCIAL CRITERIA.—The Secretary shall not
19 provide a funding award under this division unless the re-
20 cipient has documented to the satisfaction of the Secretary
21 that—

22 (1) the award recipient is financially viable
23 without the receipt of additional Federal funding;

24 (2) the recipient will provide sufficient informa-
25 tion to the Secretary for the Secretary to ensure

1 that the award funds are spent efficiently and effec-
2 tively; and

3 (3) a market exists for the technology being
4 demonstrated or applied, as evidenced by statements
5 of interest in writing from potential purchasers of
6 the technology.

7 (d) FEDERAL SHARE.—The Federal share of the cost
8 of a coal or related technology project funded by the Sec-
9 retary shall not exceed 50 percent.

10 (e) APPLICABILITY.—Neither the use of any par-
11 ticular technology, nor the achievement of any emission
12 reduction, by any facility receiving assistance under this
13 title shall be taken into account for purposes of making
14 any determination under the Clean Air Act in applying
15 the provisions of that Act to a facility not receiving assist-
16 ance under this title, including any determination con-
17 cerning new source performance standards, lowest achiev-
18 able emission rate, best available control technology, or
19 any other standard, requirement, or limitation.

20 **SEC. 5007. STUDY.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, and once every 2 years
23 thereafter through 2016, the Secretary, in cooperation
24 with other appropriate Federal agencies, shall transmit to
25 the Committee on Energy and Commerce and the Com-

1 mittee on Science of the House of Representatives, and
2 to the Senate, a report containing the results of a study
3 to—

4 (1) identify efforts (and the costs and periods
5 of time associated with those efforts) that, by them-
6 selves or in combination with other efforts, may be
7 capable of achieving the cost and performance goals;

8 (2) develop recommendations for the Depart-
9 ment of Energy to promote the efforts identified
10 under paragraph (1); and

11 (3) develop recommendations for additional au-
12 thorities required to achieve the cost and perform-
13 ance goals.

14 (b) EXPERT ADVICE.—In carrying out this section,
15 the Secretary shall give due weight to the expert advice
16 of representatives of the entities described in section
17 5004(b).

18 **DIVISION F**

19 **SEC. 6001. SHORT TITLE.**

20 This division may be cited as the “Energy Security
21 Act”.

1 **TITLE I—GENERAL PROTEC-**
2 **TIONS FOR ENERGY SUPPLY**
3 **AND SECURITY**

4 **SEC. 6101. STUDY OF EXISTING RIGHTS-OF-WAY ON FED-**
5 **ERAL LANDS TO DETERMINE CAPABILITY TO**
6 **SUPPORT NEW PIPELINES OR OTHER TRANS-**
7 **MISSION FACILITIES.**

8 (a) IN GENERAL.—Within one year after the date of
9 enactment of this Act, the head of each Federal agency
10 that has authorized a right-of-way across Federal lands
11 for transportation of energy supplies or transmission of
12 electricity shall review each such right-of-way and submit
13 a report to the Secretary of Energy and the Chairman
14 of the Federal Energy Regulatory Commission
15 regarding—

16 (1) whether the right-of-way can be used to
17 support new or additional capacity; and

18 (2) what modifications or other changes, if any,
19 would be necessary to accommodate such additional
20 capacity.

21 (b) CONSULTATIONS AND CONSIDERATIONS.—In per-
22 forming the review, the head of each agency shall—

23 (1) consult with agencies of State, tribal, or
24 local units of government as appropriate; and

1 (2) consider whether safety or other concerns
2 related to current uses might preclude the avail-
3 ability of a right-of-way for additional or new trans-
4 portation or transmission facilities, and set forth
5 those considerations in the report.

6 **SEC. 6102. INVENTORY OF ENERGY PRODUCTION POTEN-**
7 **TIAL OF ALL FEDERAL PUBLIC LANDS.**

8 (a) INVENTORY REQUIREMENT.—The Secretary of
9 the Interior, in consultation with the Secretary of Agri-
10 culture and the Secretary of Energy, shall conduct an in-
11 ventory of the energy production potential of all Federal
12 public lands other than national park lands and lands in
13 any wilderness area, with respect to wind, solar, coal, and
14 geothermal power production.

15 (b) LIMITATIONS.—

16 (1) IN GENERAL.—The Secretary shall not in-
17 clude in the inventory under this section the matters
18 to be identified in the inventory under section 604
19 of the Energy Act of 2000 (42 U.S.C. 6217).

20 (2) WIND AND SOLAR POWER.—The inventory
21 under this section—

22 (A) with respect to wind power production
23 shall be limited to sites having a mean average
24 wind speed—

1 (i) exceeding 12.5 miles per hour at a
2 height of 33 feet; and

3 (ii) exceeding 15.7 miles per hour at
4 a height of 164 feet; and

5 (B) with respect to solar power production
6 shall be limited to areas rated as receiving 450
7 watts per square meter or greater.

8 (c) EXAMINATION OF RESTRICTIONS AND IMPEDI-
9 MENTS.—The inventory shall identify the extent and na-
10 ture of any restrictions or impediments to the development
11 of such energy production potential.

12 (d) GEOTHERMAL POWER.—The inventory shall in-
13 clude an update of the 1978 Assessment of Geothermal
14 Resources by the United States Geological Survey.

15 (e) COMPLETION AND UPDATING.—The Secretary—

16 (1) shall complete the inventory by not later
17 than 2 years after the date of the enactment of this
18 Act; and

19 (2) shall update the inventory regularly there-
20 after.

21 (f) REPORTS.—The Secretary shall submit to the
22 Committee on Resources of the House of Representatives
23 and to the Committee on Energy and Natural Resources
24 of the Senate and make publicly available—

1 (1) a report containing the inventory under this
2 section, by not later than 2 years after the effective
3 date of this section; and

4 (2) each update of such inventory.

5 **SEC. 6103. REVIEW OF REGULATIONS TO ELIMINATE BAR-**
6 **RIERS TO EMERGING ENERGY TECHNOLOGY.**

7 (a) IN GENERAL.—Each Federal agency shall carry
8 out a review of its regulations and standards to determine
9 those that act as a barrier to market entry for emerging
10 energy-efficient technologies, including fuel cells, combined
11 heat and power, and distributed generation (including
12 small-scale renewable energy).

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

19 (c) PERIODIC REVIEW.—Each agency shall subse-
20 quently review its regulations and standards in this man-
21 ner no less frequently than every 5 years, and report their
22 findings to the Congress and the President. Such reviews
23 shall include a detailed analysis of all agency actions taken
24 to remove existing barriers to emerging energy tech-
25 nologies.

1 **SEC. 6104. INTERAGENCY AGREEMENT ON ENVIRON-**
2 **MENTAL REVIEW OF INTERSTATE NATURAL**
3 **GAS PIPELINE PROJECTS.**

4 (a) **IN GENERAL.**—The Secretary of Energy, in co-
5 ordination with the Federal Energy Regulatory Commis-
6 sion, shall establish an administrative interagency task
7 force to develop an interagency agreement to expedite and
8 facilitate the environmental review and permitting of
9 interstate natural gas pipeline projects.

10 (b) **TASK FORCE MEMBERS.**—The task force shall in-
11 clude a representative of each of the Bureau of Land Man-
12 agement, the United States Fish and Wildlife Service, the
13 Army Corps of Engineers, the Forest Service, the Envi-
14 ronmental Protection Agency, the Advisory Council on
15 Historic Preservation, and such other agencies as the Sec-
16 retary of Energy and the Federal Energy Regulatory
17 Commission consider appropriate.

18 (c) **TERMS OF AGREEMENT.**—The interagency agree-
19 ment shall require that agencies complete their review of
20 interstate pipeline projects within a specific period of time
21 after referral of the matter by the Federal Energy Regu-
22 latory Commission.

23 (d) **SUBMITTAL OF AGREEMENT.**—The Secretary of
24 Energy shall submit a final interagency agreement under
25 this section to the Congress by not later than 6 months
26 after the effective date of this section.

1 **SEC. 6105. ENHANCING ENERGY EFFICIENCY IN MANAGE-**
2 **MENT OF FEDERAL LANDS.**

3 (a) SENSE OF THE CONGRESS.—It is the sense of
4 Congress that Federal land managing agencies should en-
5 hance the use of energy efficient technologies in the man-
6 agement of natural resources.

7 (b) ENERGY EFFICIENT BUILDINGS.—To the extent
8 economically practicable, the Secretary of the Interior and
9 the Secretary of Agriculture shall seek to incorporate en-
10 ergy efficient technologies in public and administrative
11 buildings associated with management of the National
12 Park System, National Wildlife Refuge System, National
13 Forest System, and other public lands and resources man-
14 aged by such Secretaries.

15 (c) ENERGY EFFICIENT VEHICLES.—To the extent
16 economically practicable, the Secretary of the Interior and
17 the Secretary of Agriculture shall seek to use energy effi-
18 cient motor vehicles, including vehicles equipped with bio-
19 diesel or hybrid engine technologies, in the management
20 of the National Park System, National Wildlife Refuge
21 System, and other public lands and managed by the Secre-
22 taries.

1 **TITLE II—OIL AND GAS**
2 **DEVELOPMENT**
3 **Subtitle A—Offshore Oil and Gas**

4 **SEC. 6201. SHORT TITLE.**

5 This subtitle may be referred to as the “Royalty Re-
6 lief Extension Act of 2001”.

7 **SEC. 6202. LEASE SALES IN WESTERN AND CENTRAL PLAN-**
8 **NING AREA OF THE GULF OF MEXICO.**

9 (a) **IN GENERAL.**—For all tracts located in water
10 depths of greater than 200 meters in the Western and
11 Central Planning Area of the Gulf of Mexico, including
12 that portion of the Eastern Planning Area of the Gulf of
13 Mexico encompassing whole lease blocks lying west of 87
14 degrees, 30 minutes West longitude, any oil or gas lease
15 sale under the Outer Continental Shelf Lands Act occur-
16 ring within 2 years after the date of enactment of this
17 Act shall use the bidding system authorized in section
18 8(a)(1)(H) of the Outer Continental Shelf Lands Act (30
19 U.S.C. 1337(a)(1)(H)), except that the suspension of roy-
20 alties shall be set at a volume of not less than the fol-
21 lowing:

22 (1) 5 million barrels of oil equivalent for each
23 lease in water depths of 400 to 800 meters.

24 (2) 9 million barrels of oil equivalent for each
25 lease in water depths of 800 to 1,600 meters.

1 (3) 12 million barrels of oil equivalent for each
2 lease in water depths greater than 1,600 meters.

3 (b) RELATIONSHIP TO EXISTING AUTHORITY.—Ex-
4 cept as expressly provided in this section, nothing in this
5 section is intended to limit the authority of the Secretary
6 of the Interior under the Outer Continental Shelf Lands
7 Act (43 U.S.C. 1301 et seq.) to provide royalty suspen-
8 sion.

9 **SEC. 6203. SAVINGS CLAUSE.**

10 Nothing in this subtitle shall be construed to affect
11 any offshore pre-leasing, leasing, or development morato-
12 rium, including any moratorium applicable to the Eastern
13 Planning Area of the Gulf of Mexico located off the Gulf
14 Coast of Florida.

15 **SEC. 6204. ANALYSIS OF GULF OF MEXICO FIELD SIZE DIS-**
16 **TRIBUTION, INTERNATIONAL COMPETITIVE-**
17 **NESS, AND INCENTIVES FOR DEVELOPMENT.**

18 (a) IN GENERAL.—The Secretary of the Interior and
19 the Secretary of Energy shall enter into appropriate ar-
20 rangements with the National Academy of Sciences to
21 commission the Academy to perform the following:

22 (1) Conduct an analysis and review of existing
23 Gulf of Mexico oil and natural gas resource assess-
24 ments, including—

1 (A) analysis and review of assessments re-
2 cently performed by the Minerals Management
3 Service, the 1999 National Petroleum Council
4 Gas Study, the Department of Energy's Off-
5 shore Marginal Property Study, and the Ad-
6 vanced Resources International, Inc. Deepwater
7 Gulf of Mexico model; and

8 (B) evaluation and comparison of the accu-
9 racy of assumptions of the existing assessments
10 with respect to resource field size distribution,
11 hydrocarbon potential, and scenarios for leas-
12 ing, exploration, and development.

13 (2) Evaluate the lease terms and conditions of-
14 fered by the Minerals Management Service for Lease
15 Sale 178, and compare the financial incentives of-
16 fered by such terms and conditions to financial in-
17 centives offered by the terms and conditions that
18 apply under leases for other offshore areas that are
19 competing for the same limited offshore oil and gas
20 exploration and development capital, including off-
21 shore areas of West Africa and Brazil.

22 (3) Recommend what level of incentives for all
23 water depths are appropriate in order to ensure that
24 the United States optimizes the domestic supply of
25 oil and natural gas from the offshore areas of the

1 Gulf of Mexico that are not subject to current leas-
2 ing moratoria. Recommendations under this para-
3 graph should be made in the context of the impor-
4 tance of the oil and natural gas resources of the
5 Gulf of Mexico to the future energy and economic
6 needs of the United States.

7 (b) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Secretary of the Interior
9 shall submit a report to the Committee on Resources in
10 the House of Representatives and the Committee on En-
11 ergy and Natural Resources in the Senate, summarizing
12 the findings of the National Academy of Sciences pursuant
13 to subsection (a) and providing recommendations of the
14 Secretary for new policies or other actions that could help
15 to further increase oil and natural gas production from
16 the Gulf of Mexico.

17 **Subtitle B—Improvements to**
18 **Federal Oil and Gas Management**

19 **SEC. 6221. SHORT TITLE.**

20 This subtitle may be cited as the “Federal Oil and
21 Gas Lease Management Improvement Demonstration Pro-
22 gram Act of 2001”.

1 **SEC. 6222. STUDY OF IMPEDIMENTS TO EFFICIENT LEASE**
2 **OPERATIONS.**

3 (a) IN GENERAL.—The Secretary of the Interior and
4 the Secretary of Agriculture shall jointly undertake a
5 study of the impediments to efficient oil and gas leasing
6 and operations on Federal onshore lands in order to iden-
7 tify means by which unnecessary impediments to the expe-
8 ditious exploration and production of oil and natural gas
9 on such lands can be removed.

10 (b) CONTENTS.—The study under subsection (a)
11 shall include the following:

12 (1) A review of the process by which Federal
13 land managers accept or reject an offer to lease, in-
14 cluding the timeframes in which such offers are
15 acted upon, the reasons for any delays in acting
16 upon such offers, and any recommendations for ex-
17 pediting the response to such offers.

18 (2) A review of the approval process for appli-
19 cations for permits to drill, including the timeframes
20 in which such applications are approved, the impact
21 of compliance with other Federal laws on such time-
22 frames, any other reasons for delays in making such
23 approvals, and any recommendations for expediting
24 such approvals.

25 (3) A review of the approval process for surface
26 use plans of operation, including the timeframes in

1 which such applications are approved, the impact of
2 compliance with other Federal laws on such time-
3 frames, any other reasons for delays in making such
4 approvals, and any recommendations for expediting
5 such approvals.

6 (4) A review of the process for administrative
7 appeal of decisions or orders of officers or employees
8 of the Bureau of Land Management with respect to
9 a Federal oil or gas lease, including the timeframes
10 in which such appeals are heard and decided, any
11 reasons for delays in hearing or deciding such ap-
12 peals, and any recommendations for expediting the
13 appeals process.

14 (c) REPORT.—The Secretaries shall report the find-
15 ings and recommendations resulting from the study re-
16 quired by this section to the Committee on Resources of
17 the House of Representatives and to the Committee on
18 Energy and Natural Resources of the Senate no later than
19 6 months after the date of the enactment of this Act.

20 **SEC. 6223. ELIMINATION OF UNWARRANTED DENIALS AND**
21 **STAYS.**

22 (a) IN GENERAL.—The Secretary shall ensure that
23 unwarranted denials and stays of lease issuance and un-
24 warranted restrictions on lease operations are eliminated

1 from the administration of oil and natural gas leasing on
2 Federal land.

3 (b) LAND DESIGNATED FOR MULTIPLE USE.—Fed-
4 eral land available for oil and natural gas leasing under
5 any Bureau of Land Management resource management
6 plan or Forest Service leasing analysis shall be available
7 without lease stipulations more stringent than restrictions
8 on surface use and operations imposed under the laws (in-
9 cluding regulations) of the oil and natural gas conserva-
10 tion authority of the State in which the lands are located,
11 unless the Secretary includes in the decision approving the
12 management plan or leasing analysis or in the Secretary's
13 acceptance of an offer to lease a written explanation why
14 more stringent stipulations are warranted.

15 (c) REJECTION OF OFFER TO LEASE.—

16 (1) IN GENERAL.—If the Secretary rejects an
17 offer to lease Federal lands for oil or natural gas de-
18 velopment on the ground that the land is unavailable
19 for oil and natural gas leasing, the Secretary shall
20 provide a written, detailed explanation of the reasons
21 the land is unavailable for leasing.

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

1 with respect to applications and other documents relating
2 to oil and gas leases.

3 **SEC. 6225. CONSULTATION WITH SECRETARY OF AGRICULTURE.**
4

5 Section 17(h) of the Mineral Leasing Act (30 U.S.C.
6 226(h)) is amended to read as follows:

7 “(h)(1) In issuing any lease on National Forest Sys-
8 tem lands reserved from the public domain, the Secretary
9 of the Interior shall consult with the Secretary of Agri-
10 culture in determining stipulations on surface use under
11 the lease.

12 “(2)(A) A lease on lands referred to in paragraph (1)
13 may not be issued if the Secretary of Agriculture deter-
14 mines, after consultation under paragraph (1), that the
15 terms and conditions of the lease, including any prohibi-
16 tion on surface occupancy for lease operations, will not
17 be sufficient to adequately protect such lands under the
18 National Forest Management Act of 1976 (16 U.S.C.
19 1600 et seq.).

20 “(B) The authority of the Secretary of Agriculture
21 under this paragraph may be delegated only to the Under-
22 secretary of Agriculture for Natural Resources and Envi-
23 ronment.”.

1 **Subtitle C—Miscellaneous**

2 **SEC. 6231. OFFSHORE SUBSALT DEVELOPMENT.**

3 Section 5 of the Outer Continental Shelf Lands Act
4 of 1953 (43 U.S.C. 1334) is amended by adding at the
5 end the following:

6 “(k) **SUSPENSION OF OPERATIONS FOR SUBSALT**
7 **EXPLORATION.**—Notwithstanding any other provision of
8 law or regulation, to prevent waste caused by the drilling
9 of unnecessary wells and to facilitate the discovery of addi-
10 tional hydrocarbon reserves, the Secretary may grant a re-
11 quest for a suspension of operations under any lease to
12 allow the reprocessing and reinterpretation of geophysical
13 data to identify and define drilling objectives beneath
14 allocthonous salt sheets.”.

15 **SEC. 6232. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.**

16 (a) **APPLICABILITY OF SECTION.**—Notwithstanding
17 any other provision of law, the provisions of this section
18 shall apply to all royalty in kind accepted by the Secretary
19 of the Interior under any Federal oil or gas lease or permit
20 under section 36 of the Mineral Leasing Act (30 U.S.C.
21 192), section 27 of the Outer Continental Shelf Lands Act
22 (43 U.S.C. 1353), or any other mineral leasing law, in
23 the period beginning on the date of enactment of this Act
24 through September 30, 2006.

1 (b) TERMS AND CONDITIONS.—All royalty accruing
2 to the United States under any Federal oil or gas lease
3 or permit under the Mineral Leasing Act (30 U.S.C. 181
4 et seq.) or the Outer Continental Shelf Lands Act (43
5 U.S.C. 1331 et seq.) shall, on the demand of the Secretary
6 of the Interior, be paid in oil or gas. If the Secretary of
7 the Interior makes such a demand, the following provi-
8 sions apply to such payment:

9 (1) Delivery by, or on behalf of, the lessee of
10 the royalty amount and quality due under the lease
11 satisfies the lessee's royalty obligation for the
12 amount delivered, except that transportation and
13 processing reimbursements paid to, or deductions
14 claimed by, the lessee shall be subject to review and
15 audit.

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

19 (3) The Secretary of the Interior may—
20 (A) sell or otherwise dispose of any royalty
21 oil or gas taken in kind (other than oil or gas
22 taken under section 27(a)(3) of the Outer Con-
23 tinental Shlef Lands Act (43 U.S.C.
24 1353(a)(3)) for not less than the market price;
25 and

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

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

10 (A) transporting the oil or gas,

11 (B) processing the gas, or

12 (C) disposing of the oil or gas.

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

17 (c) REIMBURSEMENT OF COST.—If the lessee, pursu-
18 ant to an agreement with the United States or as provided
19 in the lease, processes the royalty gas or delivers the roy-
20 alty oil or gas at a point not on or adjacent to the lease
21 area, the Secretary of the Interior shall—

22 (1) reimburse the lessee for the reasonable costs
23 of transportation (not including gathering) from the
24 lease to the point of delivery or for processing costs;
25 or

1 (2) at the discretion of the Secretary of the In-
2 terior, allow the lessee to deduct such transportation
3 or processing costs in reporting and paying royalties
4 in value for other Federal oil and gas leases.

5 (d) BENEFIT TO THE UNITED STATES REQUIRED.—
6 The Secretary may receive oil or gas royalties in kind only
7 if the Secretary determines that receiving such royalties
8 provides benefits to the United States greater than or
9 equal to those that would be realized under a comparable
10 royalty in value program.

11 (e) REPORT TO CONGRESS.—For each of the fiscal
12 years 2002 through 2006 in which the United States takes
13 oil or gas royalties in kind from production in any State
14 or from the Outer Continental Shelf, excluding royalties
15 taken in kind and sold to refineries under subsection (h),
16 the Secretary of the Interior shall provide a report to the
17 Congress describing—

18 (1) the methodology or methodologies used by
19 the Secretary to determine compliance with sub-
20 section (d), including performance standards for
21 comparing amounts received by the United States
22 derived from such royalties in kind to amounts likely
23 to have been received had royalties been taken in
24 value;

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

5 (3) actual amounts received by the United
6 States derived from taking royalties in kind, and
7 costs and savings incurred by the United States as-
8 sociated with taking royalties in kind; and

9 (4) an evaluation of other relevant public bene-
10 fits or detriments associated with taking royalties in
11 kind.

12 (f) DEDUCTION OF EXPENSES.—

13 (1) IN GENERAL.—Before making payments
14 under section 35 of the Mineral Leasing Act (30
15 U.S.C. 191) or section 8(g) of the Outer Continental
16 Shelf Lands Act (30 U.S.C. 1337(g)) of revenues
17 derived from the sale of royalty production taken in
18 kind from a lease, the Secretary of the Interior shall
19 deduct amounts paid or deducted under subsections
20 (b)(4) and (c), and shall deposit such amounts to
21 miscellaneous receipts.

22 (2) ACCOUNTING FOR DEDUCTIONS.—If the
23 Secretary of the Interior allows the lessee to deduct
24 transportation or processing costs under subsection
25 (c), the Secretary may not reduce any payments to

1 recipients of revenues derived from any other Fed-
2 eral oil and gas lease as a consequence of that de-
3 duction.

4 (g) CONSULTATION WITH STATES.—The Secretary
5 of the Interior—

6 (1) shall consult with a State before conducting
7 a royalty in kind program under this title within the
8 State, and may delegate management of any portion
9 of the Federal royalty in kind program to such State
10 except as otherwise prohibited by Federal law; and

11 (2) shall consult annually with any State from
12 which Federal oil or gas royalty is being taken in
13 kind to ensure to the maximum extent practicable
14 that the royalty in kind program provides revenues
15 to the State greater than or equal to those which
16 would be realized under a comparable royalty in
17 value program.

18 (h) PROVISIONS FOR SMALL REFINERIES.—

19 (1) PREFERENCE.—If the Secretary of the In-
20 terior determines that sufficient supplies of crude oil
21 are not available in the open market to refineries not
22 having their own source of supply for crude oil, the
23 Secretary may grant preference to such refineries in
24 the sale of any royalty oil accruing or reserved to the
25 United States under Federal oil and gas leases

1 issued under any mineral leasing law, for processing
2 or use in such refineries at private sale at not less
3 than the market price.

4 (2) PRORATION AMONG REFINERIES IN PRO-
5 Duction AREA.—In disposing of oil under this sub-
6 section, the Secretary of the Interior may, at the
7 discretion of the Secretary, prorate such oil among
8 such refineries in the area in which the oil is pro-
9 duced.

10 (i) DISPOSITION TO FEDERAL AGENCIES.—

11 (1) ONSHORE ROYALTY.—Any royalty oil or gas
12 taken by the Secretary in kind from onshore oil and
13 gas leases may be sold at not less than the market
14 price to any department or agency of the United
15 States.

16 (2) OFFSHORE ROYALTY.—Any royalty oil or
17 gas taken in kind from Federal oil and gas leases on
18 the Outer Continental Shelf may be disposed of only
19 under section 27 of the Outer Continental Shelf
20 Lands Act (43 U.S.C. 1353).

21 (j) PREFERENCE FOR FEDERAL LOW-INCOME EN-
22 ERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil
23 or gas taken in kind under this section, the Secretary may
24 grant a preference to any person, including any State or
25 Federal agency, for the purpose of providing additional re-

1 sources to any Federal low-income energy assistance pro-
2 gram.

3 **SEC. 6233. MARGINAL WELL PRODUCTION INCENTIVES.**

4 To enhance the economics of marginal oil and gas
5 production by increasing the ultimate recovery from mar-
6 ginal wells when the cash price of West Texas Inter-
7 mediate crude oil, as posted on the Dow Jones Commod-
8 ities Index chart, is less than \$15 per barrel for 180 con-
9 secutive pricing days or when the price of natural gas de-
10 livered at Henry Hub, Louisiana, is less than \$2.00 per
11 million British thermal units for 180 consecutive days, the
12 Secretary shall reduce the royalty rate as production de-
13 clines for—

14 (1) onshore oil wells producing less than 30
15 barrels per day;

16 (2) onshore gas wells producing less than 120
17 million British thermal units per day;

18 (3) offshore oil wells producing less than 300
19 barrels of oil per day; and

20 (4) offshore gas wells producing less than 1,200
21 million British thermal units per day.

22 **SEC. 6234. REIMBURSEMENT FOR COSTS OF NEPA ANAL-**
23 **YSES, DOCUMENTATION, AND STUDIES.**

24 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
25 amended by inserting after section 37 the following:

1 “REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES,
2 DOCUMENTATION, AND STUDIES

3 “SEC. 38. (a) IN GENERAL.—The Secretary of the
4 Interior may reimburse a person who is a lessee, operator,
5 operating rights owner, or applicant for an oil or gas lease
6 under this Act for costs incurred by the person in pre-
7 paring any project-level analysis, documentation, or re-
8 lated study required under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect
10 to the lease, through royalty credits attributable to the
11 lease, unit agreement, or project area for which the anal-
12 ysis, documentation, or related study is prepared.

13 “(b) CONDITIONS.—The Secretary may provide reim-
14 bursement under subsection (b) only if—

15 “(1) adequate funding to enable the Secretary
16 to timely prepare the analysis, documentation, or re-
17 lated study is not appropriated;

18 “(2) the person paid the costs voluntarily; and

19 “(3) the person maintains records of its costs
20 in accordance with regulations prescribed by the
21 Secretary.”.

22 (c) APPLICATION.—The amendments made by this
23 section shall apply with respect to any lease entered into
24 before, on, or after the date of the enactment of this Act.

1 (d) DEADLINE FOR REGULATIONS.—The Secretary
2 shall issue regulations implementing the amendments
3 made by this section by not later than 90 days after the
4 date of the enactment of this Act.

5 **TITLE III—GEOTHERMAL**
6 **ENERGY DEVELOPMENT**

7 **SEC. 6301. ROYALTY REDUCTION AND RELIEF.**

8 (a) ROYALTY REDUCTION.—Section 5(a) of the Geo-
9 thermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amend-
10 ed by striking “not less than 10 per centum or more than
11 15 per centum” and inserting “not more than 8 per cen-
12 tum”.

13 (b) ROYALTY RELIEF.—

14 (1) IN GENERAL.—Notwithstanding section 5 of
15 the Geothermal Steam Act of 1970 (30 U.S.C.
16 1004(a)) and any provision of any lease under that
17 Act, no royalty is required to be paid—

18 (A) under any qualified geothermal energy
19 lease with respect to commercial production of
20 heat or energy from a facility that begins such
21 production in the 5-year period beginning on
22 the date of the enactment of this Act; or

23 (B) on qualified expansion geothermal en-
24 ergy.

1 (2) 3-YEAR APPLICATION.—Paragraph (1) ap-
2 plies only to commercial production of heat or en-
3 ergy from a facility in the first 3 years of such pro-
4 duction.

5 (c) DEFINITIONS.—In this section:

6 (1) QUALIFIED EXPANSION GEOTHERMAL EN-
7 ERGY.—The term “qualified expansion geothermal
8 energy”—

9 (A) subject to subparagraph (B), means
10 geothermal energy produced from a generation
11 facility for which the rated capacity is increased
12 by more than 10 percent as a result of expan-
13 sion of the facility carried out in the 5-year pe-
14 riod beginning on the date of enactment of this
15 Act; and

16 (B) does not include the rated capacity of
17 the generation facility on the date of enactment
18 of this Act.

19 (2) QUALIFIED GEOTHERMAL ENERGY
20 LEASE.—The term “qualified geothermal energy
21 lease” means a lease under the Geothermal Steam
22 Act of 1970 (30 U.S.C. 1001 et seq.)—

23 (A) that was executed before the end of
24 the 5-year period beginning on the date of the
25 enactment of this Act; and

1 (B) under which no commercial production
2 of any form of heat or energy occurred before
3 the date of the enactment of this Act.

4 **SEC. 6302. EXEMPTION FROM ROYALTIES FOR DIRECT USE**
5 **OF LOW TEMPERATURE GEOTHERMAL EN-**
6 **ERGY RESOURCES.**

7 Section 5 of the Geothermal Steam Act of 1970 (30
8 U.S.C. 1004) is amended—

9 (1) in paragraph (c) by redesignating subpara-
10 graphs (1) and (2) as subparagraphs (A) and (B);

11 (2) by redesignating paragraphs (a) through (d)
12 in order as paragraphs (1) through (4);

13 (3) by inserting “(a) IN GENERAL.—” after
14 “SEC. 5.”; and

15 (4) by adding at the end the following new sub-
16 section:

17 “(b) EXEMPTION FOR USE OF LOW TEMPERATURE
18 RESOURCES.—

19 “(1) IN GENERAL.—In lieu of any royalty or
20 rental under subsection (a), a lease for qualified de-
21 velopment and direct utilization of low temperature
22 geothermal resources shall provide for payment by
23 the lessee of an annual fee of not less than \$100,
24 and not more than \$1,000, in accordance with the
25 schedule issued under paragraph (2).

1 “(2) SCHEDULE.—The Secretary shall issue a
2 schedule of fees under this section under which a fee
3 is based on the scale of development and utilization
4 to which the fee applies.

5 “(3) DEFINITIONS.—In this subsection:

6 “(A) LOW TEMPERATURE GEOTHERMAL
7 RESOURCES.—The term ‘low temperature geo-
8 thermal resources’ means geothermal steam and
9 associated geothermal resources having a tem-
10 perature of less than 195 degrees Fahrenheit.

11 “(B) QUALIFIED DEVELOPMENT AND DI-
12 RECT UTILIZATION.—The term ‘qualified devel-
13 opment and direct utilization’ means develop-
14 ment and utilization in which all products of
15 geothermal resources, other than any heat uti-
16 lized, are returned to the geothermal formation
17 from which they are produced.”.

18 **SEC. 6303. AMENDMENTS RELATING TO LEASING ON FOR-**

19 **EST SERVICE LANDS.**

20 The Geothermal Steam Act of 1970 is amended—

21 (1) in section 15(b) (30 U.S.C. 1014(b))—

22 (A) by inserting “(1)” after “(b)”; and

23 (B) in paragraph (1) (as designated by
24 subparagraph (A) of this paragraph) in the
25 first sentence—

1 (i) by striking “with the consent of,
2 and” and inserting “after consultation
3 with the Secretary of Agriculture and”;
4 and

5 (ii) by striking “the head of that De-
6 partment” and inserting “the Secretary of
7 Agriculture”; and

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

9 “(2)(A) A geothermal lease for lands withdrawn or
10 acquired in aid of functions of the Department of Agri-
11 culture may not be issued if the Secretary of Agriculture,
12 after the consultation required by paragraph (1), deter-
13 mines that no terms or conditions, including a prohibition
14 on surface occupancy for lease operations, would be suffi-
15 cient to adequately protect such lands under the National
16 Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

17 “(B) The authority of the Secretary of Agriculture
18 under this paragraph may be delegated only to the Under-
19 secretary of Agriculture for Natural Resources and Envi-
20 ronment.”.

21 **SEC. 6304. DEADLINE FOR DETERMINATION ON PENDING**
22 **NONCOMPETITIVE LEASE APPLICATIONS.**

23 Not later than 90 days after the date of the enact-
24 ment of this Act, the Secretary of the Interior shall, with
25 respect to each application pending on the date of the en-

1 actment of this Act for a lease under the Geothermal
2 Steam Act of 1970 (30 U.S.C. 1001 et seq.), issue a final
3 determination of—

4 (1) whether or not to conduct a lease sale by
5 competitive bidding; and

6 (2) whether or not to award a lease without
7 competitive bidding.

8 **SEC. 6305. OPENING OF PUBLIC LANDS UNDER MILITARY**
9 **JURISDICTION.**

10 (a) IN GENERAL.—Except as otherwise provided in
11 the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et
12 seq.) and other provisions of Federal law applicable to de-
13 velopment of geothermal energy resources within public
14 lands, all public lands under the jurisdiction of a Secretary
15 of a military department shall be open to the operation
16 of such laws and development and utilization of geo-
17 thermal steam and associated geothermal resources, as
18 that term is defined in section 2 of the Geothermal Steam
19 Act of 1970 (30 U.S.C. 1001), without the necessity for
20 further action by the Secretary or the Congress.

21 (b) CONFORMING AMENDMENT.—Section 2689 of
22 title 10, United States Code, is amended by striking “in-
23 cluding public lands,” and inserting “other than public
24 lands,”.

1 (c) TREATMENT OF EXISTING LEASES.—Upon the
2 expiration of any lease in effect on the date of the enact-
3 ment of this Act of public lands under the jurisdiction of
4 a military department for the development of any geo-
5 thermal resource, such lease may, at the option of the
6 lessee—

7 (1) be treated as a lease under the Geothermal
8 Steam Act of 1970 (30 U.S.C. 1001 et seq.), and be
9 renewed in accordance with such Act; or

10 (2) be renewed in accordance with the terms of
11 the lease, if such renewal is authorized by such
12 terms.

13 (d) REGULATIONS.—The Secretary of the Interior,
14 with the advice and concurrence of the Secretary of the
15 military department concerned, shall prescribe such regu-
16 lations to carry out this section as may be necessary. Such
17 regulations shall contain guidelines to assist in deter-
18 mining how much, if any, of the surface of any lands
19 opened pursuant to this section may be used for purposes
20 incident to geothermal energy resources development and
21 utilization.

22 (e) CLOSURE FOR PURPOSES OF NATIONAL DE-
23 FENSE OR SECURITY.—In the event of a national emer-
24 gency or for purposes of national defense or security, the
25 Secretary of the Interior, at the request of the Secretary

1 of the military department concerned, shall close any lands
2 that have been opened to geothermal energy resources
3 leasing pursuant to this section.

4 **SEC. 6306. APPLICATION OF AMENDMENTS.**

5 The amendments made by this title apply with re-
6 spect to any lease executed before, on, or after the date
7 of the enactment of this Act.

8 **SEC. 6307. REVIEW AND REPORT TO CONGRESS.**

9 The Secretary of the Interior shall promptly review
10 and report to the Congress regarding the status of all mor-
11 atoriam on and withdrawals from leasing under the Geo-
12 thermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of
13 known geothermal resources areas (as that term is defined
14 in section 2 of that Act (30 U.S.C. 1001), specifying for
15 each such area whether the basis for such moratoria or
16 withdrawal still applies.

17 **SEC. 6308. REIMBURSEMENT FOR COSTS OF NEPA ANAL-**
18 **YSES, DOCUMENTATION, AND STUDIES.**

19 (a) IN GENERAL.—The Geothermal Steam Act of
20 1970 (30 U.S.C. 1001 et seq.) is amended by adding at
21 the end the following:

22 “REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES,
23 DOCUMENTATION, AND STUDIES

24 “SEC. 30. (a) IN GENERAL.—The Secretary of the
25 Interior may reimburse a person who is a lessee, operator,
26 operating rights owner, or applicant for a lease under this

1 Act for costs incurred by the person in preparing any
2 project-level analysis, documentation, or related study re-
3 quired under the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) with respect to the lease,
5 through royalty credits attributable to the lease, unit
6 agreement, or project area for which the analysis, docu-
7 mentation, or related study is prepared.

8 “(b) CONDITIONS.—The Secretary shall may provide
9 reimbursement under subsection (a) only if—

10 “(1) adequate funding to enable the Secretary
11 to timely prepare the analysis, documentation, or re-
12 lated study is not appropriated;

13 “(2) the person paid the costs voluntarily; and

14 “(3) the person maintains records of its costs
15 in accordance with regulations prescribed by the
16 Secretary.”.

17 (b) APPLICATION.—The amendments made by this
18 section shall apply with respect to any lease entered into
19 before, on, or after the date of the enactment of this Act.

20 (c) DEADLINE FOR REGULATIONS.—The Secretary
21 shall issue regulations implementing the amendments
22 made by this section by not later than 90 days after the
23 date of the enactment of this Act.

TITLE IV—HYDROPOWER

SEC. 6401. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXIST- ING 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 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.

1 (3) A summary of action that has already been
2 taken by the Secretary to produce additional hydro-
3 electric power from each identified facility.

4 (4) The costs to install, upgrade, or modify
5 equipment or take other actions to produce addi-
6 tional hydroelectric power from each identified facil-
7 ity.

8 (5) The benefits that would be achieved by such
9 installation, upgrade, modification, or other action,
10 including quantified estimates of any additional en-
11 ergy or capacity from each facility identified under
12 subsection (b).

13 (6) A description of actions that are planned,
14 underway, or might reasonably be considered to in-
15 crease hydroelectric power production by replacing
16 turbine runners.

17 (7) A description of actions that are planned,
18 underway, or might reasonably be considered to in-
19 crease hydroelectric power production by performing
20 generator uprates and rewinds.

21 (8) The impact of increased hydroelectric power
22 production on irrigation, fish, wildlife, Indian tribes,
23 river health, water quality, navigation, recreation,
24 fishing, and flood control.

1 **SEC. 6403. STUDY AND IMPLEMENTATION OF INCREASED**
2 **OPERATIONAL EFFICIENCIES IN HYDRO-**
3 **ELECTRIC POWER PROJECTS.**

4 (a) IN GENERAL.—The Secretary of Interior shall
5 conduct a study of operational methods and water sched-
6 uling techniques at all hydroelectric power plants under
7 the administrative jurisdiction of the Secretary that have
8 an electric power production capacity greater than 50
9 megawatts, to—

10 (1) determine whether such power plants and
11 associated river systems are operated so as to maxi-
12 mize energy and capacity capabilities; and

13 (2) identify measures that can be taken to im-
14 prove operational flexibility at such plants to achieve
15 such maximization.

16 (b) REPORT.—The Secretary shall submit a report on
17 the findings, conclusions, and recommendations of the
18 study under this section by not later than 18 months after
19 the date of the enactment of this Act, including a sum-
20 mary of the determinations and identifications under
21 paragraphs (1) and (2) of subsection (a).

22 (c) COOPERATION BY FEDERAL POWER MARKETING
23 ADMINISTRATIONS.—The Secretary shall coordinate with
24 the Administrator of each Federal power marketing ad-
25 ministration in—

1 (1) determining how the value of electric power
2 produced by each hydroelectric power facility that
3 produces power marketed by the administration can
4 be maximized; and

5 (2) implementing measures identified under
6 subsection (a)(2).

7 (d) LIMITATION ON IMPLEMENTATION OF MEAS-
8 URES.—Implementation under subsections (a)(2) and
9 (b)(2) shall be limited to those measures that can be im-
10 plemented within the constraints imposed on Department
11 of the Interior facilities by other uses required by law.

12 **SEC. 6404. SHIFT OF PROJECT LOADS TO OFF-PEAK PERI-**
13 **ODS.**

14 (a) IN GENERAL.—The Secretary of the Interior
15 shall—

16 (1) review electric power consumption by Bu-
17 reau of Reclamation facilities for water pumping
18 purposes; and

19 (2) make such adjustments in such pumping as
20 possible to minimize the amount of electric power
21 consumed for such pumping during periods of peak
22 electric power consumption, including by performing
23 as much of such pumping as possible during off-
24 peak hours at night.

1 (b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS
2 REQUIRED.—The Secretary may not under this section
3 make any adjustment in pumping at a facility without the
4 consent of each person that has contracted with the
5 United States for delivery of water from the facility for
6 use for irrigation and that would be affected by such ad-
7 justment.

8 (c) EXISTING OBLIGATIONS NOT AFFECTED.—This
9 section shall not be construed to affect any existing obliga-
10 tion of the Secretary to provide electric power, water, or
11 other benefits from Bureau of Reclamation facilities.

12 **TITLE V—ARCTIC COASTAL**
13 **PLAIN DOMESTIC ENERGY**

14 **SEC. 6501. SHORT TITLE.**

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

17 **SEC. 6502. DEFINITIONS.**

18 In this title:

19 (1) COASTAL PLAIN.—The term “Coastal
20 Plain” means that area identified as such in the
21 map entitled “Arctic National Wildlife Refuge”,
22 dated August 1980, as referenced in section 1002(b)
23 of the Alaska National Interest Lands Conservation
24 Act of 1980 (16 U.S.C. 3142(b)(1)), comprising ap-
25 proximately 1,549,000 acres.

1 (2) SECRETARY.—The term “Secretary”, except
2 as otherwise provided, means the Secretary of the
3 Interior or the Secretary’s designee.

4 **SEC. 6503. LEASING PROGRAM FOR LANDS WITHIN THE**
5 **COASTAL PLAIN.**

6 (a) IN GENERAL.—The Secretary shall take such ac-
7 tions as are necessary—

8 (1) to establish and implement in accordance
9 with this title a competitive oil and gas leasing pro-
10 gram under the Mineral Leasing Act (30 U.S.C. 181
11 et seq.) that will result in an environmentally sound
12 program for the exploration, development, and pro-
13 duction of the oil and gas resources of the Coastal
14 Plain; and

15 (2) to administer the provisions of this title
16 through regulations, lease terms, conditions, restric-
17 tions, prohibitions, stipulations, and other provisions
18 that ensure the oil and gas exploration, development,
19 and production activities on the Coastal Plain will
20 result in no significant adverse effect on fish and
21 wildlife, their habitat, subsistence resources, and the
22 environment, and including, in furtherance of this
23 goal, by requiring the application of the best com-
24 mercially available technology for oil and gas explo-
25 ration, development, and production to all explo-

1 ration, development, and production operations
2 under this title in a manner that ensures the receipt
3 of fair market value by the public for the mineral re-
4 sources to be leased.

5 (b) REPEAL.—Section 1003 of the Alaska National
6 Interest Lands Conservation Act of 1980 (16 U.S.C.
7 3143) is repealed.

8 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
9 TAIN OTHER LAWS.—

10 (1) COMPATIBILITY.—For purposes of the Na-
11 tional Wildlife Refuge System Administration Act of
12 1966, the oil and gas leasing program and activities
13 authorized by this section in the Coastal Plain are
14 deemed to be compatible with the purposes for which
15 the Arctic National Wildlife Refuge was established,
16 and that no further findings or decisions are re-
17 quired to implement this determination.

18 (2) ADEQUACY OF THE DEPARTMENT OF THE
19 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
20 STATEMENT.—The “Final Legislative Environ-
21 mental Impact Statement” (April 1987) on the
22 Coastal Plain prepared pursuant to section 1002 of
23 the Alaska National Interest Lands Conservation
24 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
25 of the National Environmental Policy Act of 1969

1 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
2 quirements under the National Environmental Policy
3 Act of 1969 that apply with respect to actions au-
4 thorized to be taken by the Secretary to develop and
5 promulgate the regulations for the establishment of
6 a leasing program authorized by this title before the
7 conduct of the first lease sale.

8 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
9 TIONS.—Before conducting the first lease sale under
10 this title, the Secretary shall prepare an environ-
11 mental impact statement under the National Envi-
12 ronmental Policy Act of 1969 with respect to the ac-
13 tions authorized by this title that are not referred to
14 in paragraph (2). Notwithstanding any other law,
15 the Secretary is not required to identify nonleasing
16 alternative courses of action or to analyze the envi-
17 ronmental effects of such courses of action. The Sec-
18 retary shall only identify a preferred action for such
19 leasing and a single leasing alternative, and analyze
20 the environmental effects and potential mitigation
21 measures for those two alternatives. The identifica-
22 tion of the preferred action and related analysis for
23 the first lease sale under this title shall be completed
24 within 18 months after the date of enactment of this
25 Act. The Secretary shall only consider public com-

1 ments that specifically address the Secretary's pre-
2 ferred action and that are filed within 20 days after
3 publication of an environmental analysis. Notwith-
4 standing any other law, compliance with this para-
5 graph is deemed to satisfy all requirements for the
6 analysis and consideration of the environmental ef-
7 fects of proposed leasing under this title.

8 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
9 ITY.—Nothing in this title shall be considered to expand
10 or limit State and local regulatory authority.

11 (e) SPECIAL AREAS.—

12 (1) IN GENERAL.—The Secretary, after con-
13 sultation with the State of Alaska, the city of
14 Kaktovik, and the North Slope Borough, may des-
15 ignate up to a total of 45,000 acres of the Coastal
16 Plain as a Special Area if the Secretary determines
17 that the Special Area is of such unique character
18 and interest so as to require special management
19 and regulatory protection. The Secretary shall des-
20 ignate as such a Special Area the Sadlerochit Spring
21 area, comprising approximately 4,000 acres as de-
22 picted on the map referred to in section 6502(1).

23 (2) MANAGEMENT.—Each such Special Area
24 shall be managed so as to protect and preserve the

1 area's unique and diverse character including its
2 fish, wildlife, and subsistence resource values.

3 (3) EXCLUSION FROM LEASING OR SURFACE
4 OCCUPANCY.—The Secretary may exclude any Spe-
5 cial Area from leasing. If the Secretary leases a Spe-
6 cial Area, or any part thereof, for purposes of oil
7 and gas exploration, development, production, and
8 related activities, there shall be no surface occu-
9 pancy of the lands comprising the Special Area.

10 (4) DIRECTIONAL DRILLING.—Notwithstanding
11 the other provisions of this subsection, the Secretary
12 may lease all or a portion of a Special Area under
13 terms that permit the use of horizontal drilling tech-
14 nology from sites on leases located outside the area.

15 (f) LIMITATION ON CLOSED AREAS.—The Sec-
16 retary's sole authority to close lands within the Coastal
17 Plain to oil and gas leasing and to exploration, develop-
18 ment, and production is that set forth in this title.

19 (g) REGULATIONS.—

20 (1) IN GENERAL.—The Secretary shall pre-
21 scribe such regulations as may be necessary to carry
22 out this title, including rules and regulations relating
23 to protection of the fish and wildlife, their habitat,
24 subsistence resources, and environment of the Coast-

1 al Plain, by no later than 15 months after the date
2 of enactment of this Act.

3 (2) REVISION OF REGULATIONS.—The Sec-
4 retary shall periodically review and, if appropriate,
5 revise the rules and regulations issued under sub-
6 section (a) to reflect any significant biological, envi-
7 ronmental, or engineering data that come to the Sec-
8 retary's attention.

9 **SEC. 6504. LEASE SALES.**

10 (a) IN GENERAL.—Lands may be leased pursuant to
11 this title to any person qualified to obtain a lease for de-
12 posits of oil and gas under the Mineral Leasing Act (30
13 U.S.C. 181 et seq.).

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

16 (1) receipt and consideration of sealed nomina-
17 tions for any area in the Coastal Plain for inclusion
18 in, or exclusion (as provided in subsection (c)) from,
19 a lease sale;

20 (2) the holding of lease sales after such nomina-
21 tion process; and

22 (3) public notice of and comment on designa-
23 tion of areas to be included in, or excluded from, a
24 lease sale.

1 (c) LEASE SALE BIDS.—Bidding for leases under
2 this title shall be by sealed competitive cash bonus bids.

3 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
4 lease sale under this title, the Secretary shall offer for
5 lease those tracts the Secretary considers to have the
6 greatest potential for the discovery of hydrocarbons, tak-
7 ing into consideration nominations received pursuant to
8 subsection (b)(1), but in no case less than 200,000 acres.

9 (e) TIMING OF LEASE SALES.—The Secretary
10 shall—

11 (1) conduct the first lease sale under this title
12 within 22 months after the date of enactment of this
13 title; and

14 (2) conduct additional sales so long as sufficient
15 interest in development exists to warrant, in the Sec-
16 retary's judgment, the conduct of such sales.

17 **SEC. 6505. GRANT OF LEASES BY THE SECRETARY.**

18 (a) IN GENERAL.—The Secretary may grant to the
19 highest responsible qualified bidder in a lease sale con-
20 ducted pursuant to section 6504 any lands to be leased
21 on the Coastal Plain upon payment by the lessee of such
22 bonus as may be accepted by the Secretary.

23 (b) SUBSEQUENT TRANSFERS.—No lease issued
24 under this title may be sold, exchanged, assigned, sublet,
25 or otherwise transferred except with the approval of the

1 Secretary. Prior to any such approval the Secretary shall
2 consult with, and give due consideration to the views of,
3 the Attorney General.

4 **SEC. 6506. LEASE TERMS AND CONDITIONS.**

5 (a) IN GENERAL.—An oil or gas lease issued pursu-
6 ant to this title shall—

7 (1) provide for the payment of a royalty of not
8 less than 12½ percent in amount or value of the
9 production removed or sold from the lease, as deter-
10 mined by the Secretary under the regulations appli-
11 cable to other Federal oil and gas leases;

12 (2) provide that the Secretary may close, on a
13 seasonal basis, portions of the Coastal Plain to ex-
14 ploratory drilling activities as necessary to protect
15 caribou calving areas and other species of fish and
16 wildlife;

17 (3) require that the lessee of lands within the
18 Coastal Plain shall be fully responsible and liable for
19 the reclamation of lands within the Coastal Plain
20 and any other Federal lands that are adversely af-
21 fected in connection with exploration, development,
22 production, or transportation activities conducted
23 under the lease and within the Coastal Plain by the
24 lessee or by any of the subcontractors or agents of
25 the lessee;

1 (4) provide that the lessee may not delegate or
2 convey, by contract or otherwise, the reclamation re-
3 sponsibility and liability to another person without
4 the express written approval of the Secretary;

5 (5) provide that the standard of reclamation for
6 lands required to be reclaimed under this title shall
7 be, as nearly as practicable, a condition capable of
8 supporting the uses which the lands were capable of
9 supporting prior to any exploration, development, or
10 production activities, or upon application by the les-
11 see, to a higher or better use as approved by the
12 Secretary;

13 (6) contain terms and conditions relating to
14 protection of fish and wildlife, their habitat, and the
15 environment as required pursuant to section
16 6503(a)(2);

17 (7) provide that the lessee, its agents, and its
18 contractors use best efforts to provide a fair share,
19 as determined by the level of obligation previously
20 agreed to in the 1974 agreement implementing sec-
21 tion 29 of the Federal Agreement and Grant of
22 Right of Way for the Operation of the Trans-Alaska
23 Pipeline, of employment and contracting for Alaska
24 Natives and Alaska Native Corporations from
25 throughout the State;

1 (8) prohibit the export of oil produced under
2 the lease; and

3 (9) contain such other provisions as the Sec-
4 retary determines necessary to ensure compliance
5 with the provisions of this title and the regulations
6 issued under this title.

7 (b) **PROJECT LABOR AGREEMENTS.**—The Secretary,
8 as a term and condition of each lease under this title and
9 in recognizing the Government’s proprietary interest in
10 labor stability and in the ability of construction labor and
11 management to meet the particular needs and conditions
12 of projects to be developed under the leases issued pursu-
13 ant to this title and the special concerns of the parties
14 to such leases, shall require that the lessee and its agents
15 and contractors negotiate to obtain a project labor agree-
16 ment for the employment of laborers and mechanics on
17 production, maintenance, and construction under the
18 lease.

19 **SEC. 6507. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

20 (a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD**
21 **TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—
22 The Secretary shall, consistent with the requirements of
23 section 6503, administer the provisions of this title
24 through regulations, lease terms, conditions, restrictions,
25 prohibitions, stipulations, and other provisions that—

1 (1) ensure the oil and gas exploration, develop-
2 ment, and production activities on the Coastal Plain
3 will result in no significant adverse effect on fish
4 and wildlife, their habitat, and the environment; and

5 (2) require the application of the best commer-
6 cially available technology for oil and gas explo-
7 ration, development, and production on all new ex-
8 ploration, development, and production operations.

9 (b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—

10 The Secretary shall also require, with respect to any pro-
11 posed drilling and related activities, that—

12 (1) a site-specific analysis be made of the prob-
13 able effects, if any, that the drilling or related activi-
14 ties will have on fish and wildlife, their habitat, and
15 the environment;

16 (2) a plan be implemented to avoid, minimize,
17 and mitigate (in that order and to the extent prac-
18 ticable) any significant adverse effect identified
19 under paragraph (1); and

20 (3) the development of the plan shall occur
21 after consultation with the agency or agencies hav-
22 ing jurisdiction over matters mitigated by the plan.

23 (c) **REGULATIONS TO PROTECT COASTAL PLAIN**
24 **FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,**
25 **AND THE ENVIRONMENT.**—Before implementing the leas-

1 ing program authorized by this title, the Secretary shall
2 prepare and promulgate regulations, lease terms, condi-
3 tions, restrictions, prohibitions, stipulations, and other
4 measures designed to ensure that the activities undertaken
5 on the Coastal Plain under this title are conducted in a
6 manner consistent with the purposes and environmental
7 requirements of this title.

8 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
9 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
10 proposed regulations, lease terms, conditions, restrictions,
11 prohibitions, and stipulations for the leasing program
12 under this title shall require compliance with all applicable
13 provisions of Federal and State environmental law and
14 shall also require the following:

15 (1) Standards at least as effective as the safety
16 and environmental mitigation measures set forth in
17 items 1 through 29 at pages 167 through 169 of the
18 “Final Legislative Environmental Impact State-
19 ment” (April 1987) on the Coastal Plain.

20 (2) Seasonal limitations on exploration, develop-
21 ment, and related activities, where necessary, to
22 avoid significant adverse effects during periods of
23 concentrated fish and wildlife breeding, denning,
24 nesting, spawning, and migration.

1 (3) That exploration activities, except for sur-
2 face geological studies, be limited to the period be-
3 tween approximately November 1 and May 1 each
4 year and that exploration activities shall be sup-
5 ported by ice roads, winter trails with adequate snow
6 cover, ice pads, ice airstrips, and air transport meth-
7 ods, except that such exploration activities may
8 occur at other times, if—

9 (A) the Secretary determines, after afford-
10 ing an opportunity for public comment and re-
11 view, that special circumstances exist necessi-
12 tating that exploration activities be conducted
13 at other times of the year; and

14 (B) the Secretary finds that such explo-
15 ration will have no significant adverse effect on
16 the fish and wildlife, their habitat, and the envi-
17 ronment of the Coastal Plain.

18 (4) Design safety and construction standards
19 for all pipelines and any access and service roads,
20 that—

21 (A) minimize, to the maximum extent pos-
22 sible, adverse effects upon the passage of mi-
23 gratory species such as caribou; and

1 (B) minimize adverse effects upon the flow
2 of surface water by requiring the use of cul-
3 verts, bridges, and other structural devices.

4 (5) Prohibitions on public access and use on all
5 pipeline access and service roads.

6 (6) Stringent reclamation and rehabilitation re-
7 quirements, consistent with the standards set forth
8 in this title, requiring the removal from the Coastal
9 Plain of all oil and gas development and production
10 facilities, structures, and equipment upon completion
11 of oil and gas production operations, except that the
12 Secretary may exempt from the requirements of this
13 paragraph those facilities, structures, or equipment
14 that the Secretary determines would assist in the
15 management of the Arctic National Wildlife Refuge
16 and that are donated to the United States for that
17 purpose.

18 (7) Appropriate prohibitions or restrictions on
19 access by all modes of transportation.

20 (8) Appropriate prohibitions or restrictions on
21 sand and gravel extraction.

22 (9) Consolidation of facility siting.

23 (10) Appropriate prohibitions or restrictions on
24 use of explosives.

1 (11) Avoidance, to the extent practicable, of
2 springs, streams, and river system; the protection of
3 natural surface drainage patterns, wetlands, and ri-
4 parian habitats; and the regulation of methods or
5 techniques for developing or transporting adequate
6 supplies of water for exploratory drilling.

7 (12) Avoidance or reduction of air traffic-re-
8 lated disturbance to fish and wildlife.

9 (13) Treatment and disposal of hazardous and
10 toxic wastes, solid wastes, reserve pit fluids, drilling
11 muds and cuttings, and domestic wastewater, includ-
12 ing an annual waste management report, a haz-
13 ardous materials tracking system, and a prohibition
14 on chlorinated solvents, in accordance with applica-
15 ble Federal and State environmental law.

16 (14) Fuel storage and oil spill contingency plan-
17 ning.

18 (15) Research, monitoring, and reporting re-
19 quirements.

20 (16) Field crew environmental briefings.

21 (17) Avoidance of significant adverse effects
22 upon subsistence hunting, fishing, and trapping by
23 subsistence users.

24 (18) Compliance with applicable air and water
25 quality standards.

1 (19) Appropriate seasonal and safety zone des-
2 ignations around well sites, within which subsistence
3 hunting and trapping shall be limited.

4 (20) Reasonable stipulations for protection of
5 cultural and archeological resources.

6 (21) All other protective environmental stipula-
7 tions, restrictions, terms, and conditions deemed
8 necessary by the Secretary.

9 (e) CONSIDERATIONS.—In preparing and promul-
10 gating regulations, lease terms, conditions, restrictions,
11 prohibitions, and stipulations under this section, the Sec-
12 retary shall consider the following:

13 (1) The stipulations and conditions that govern
14 the National Petroleum Reserve-Alaska leasing pro-
15 gram, as set forth in the 1999 Northeast National
16 Petroleum Reserve-Alaska Final Integrated Activity
17 Plan/Environmental Impact Statement.

18 (2) The environmental protection standards
19 that governed the initial Coastal Plain seismic explo-
20 ration program under parts 37.31 to 37.33 of title
21 50, Code of Federal Regulations.

22 (3) The land use stipulations for exploratory
23 drilling on the KIC–ASRC private lands that are set
24 forth in Appendix 2 of the August 9, 1983, agree-

1 ment between Arctic Slope Regional Corporation and
2 the United States.

3 (f) FACILITY CONSOLIDATION PLANNING.—

4 (1) IN GENERAL.—The Secretary shall, after
5 providing for public notice and comment, prepare
6 and update periodically a plan to govern, guide, and
7 direct the siting and construction of facilities for the
8 exploration, development, production, and transpor-
9 tation of Coastal Plain oil and gas resources.

10 (2) OBJECTIVES.—The plan shall have the fol-
11 lowing objectives:

12 (A) Avoiding unnecessary duplication of fa-
13 cilities and activities.

14 (B) Encouraging consolidation of common
15 facilities and activities.

16 (C) Locating or confining facilities and ac-
17 tivities to areas that will minimize impact on
18 fish and wildlife, their habitat, and the environ-
19 ment.

20 (D) Utilizing existing facilities wherever
21 practicable.

22 (E) Enhancing compatibility between wild-
23 life values and development activities.

24 **SEC. 6508. EXPEDITED JUDICIAL REVIEW.**

25 (a) FILING OF COMPLAINT.—

1 (1) DEADLINE.—Subject to paragraph (2), any
2 complaint seeking judicial review of any provision of
3 this title or any action of the Secretary under this
4 title shall be filed in any appropriate district court
5 of the United States—

6 (A) except as provided in subparagraph
7 (B), within the 90-day period beginning on the
8 date of the action being challenged; or

9 (B) in the case of a complaint based solely
10 on grounds arising after such period, within 90
11 days after the complainant knew or reasonably
12 should have known of the grounds for the com-
13 plaint.

14 (2) VENUE.—Any complaint seeking judicial re-
15 view of an action of the Secretary under this title
16 may be filed only in the United States Court of Ap-
17 peals for the District of Columbia.

18 (3) LIMITATION ON SCOPE OF CERTAIN RE-
19 VIEW.—Judicial review of a Secretarial decision to
20 conduct a lease sale under this title, including the
21 environmental analysis thereof, shall be limited to
22 whether the Secretary has complied with the terms
23 of this division and shall be based upon the adminis-
24 trative record of that decision. The Secretary's iden-
25 tification of a preferred course of action to enable

1 leasing to proceed and the Secretary's analysis of
2 environmental effects under this division shall be
3 presumed to be correct unless shown otherwise by
4 clear and convincing evidence to the contrary.

5 (b) LIMITATION ON OTHER REVIEW.—Actions of the
6 Secretary with respect to which review could have been
7 obtained under this section shall not be subject to judicial
8 review in any civil or criminal proceeding for enforcement.

9 **SEC. 6509. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

10 (a) EXEMPTION.—Title XI of the Alaska National In-
11 terest Lands Conservation Act of 1980 (16 U.S.C. 3161
12 et seq.) shall not apply to the issuance by the Secretary
13 under section 28 of the Mineral Leasing Act (30 U.S.C.
14 185) of rights-of-way and easements across the Coastal
15 Plain for the transportation of oil and gas.

16 (b) TERMS AND CONDITIONS.—The Secretary shall
17 include in any right-of-way or easement referred to in sub-
18 section (a) such terms and conditions as may be necessary
19 to ensure that transportation of oil and gas does not result
20 in a significant adverse effect on the fish and wildlife, sub-
21 sistence resources, their habitat, and the environment of
22 the Coastal Plain, including requirements that facilities be
23 sited or designed so as to avoid unnecessary duplication
24 of roads and pipelines.

1 (c) REGULATIONS.—The Secretary shall include in
2 regulations under section 6503(g) provisions granting
3 rights-of-way and easements described in subsection (a)
4 of this section.

5 **SEC. 6510. CONVEYANCE.**

6 In order to maximize Federal revenues by removing
7 clouds on title to lands and clarifying land ownership pat-
8 terns within the Coastal Plain, the Secretary, notwith-
9 standing the provisions of section 1302(h)(2) of the Alas-
10 ka National Interest Lands Conservation Act (16 U.S.C.
11 3192(h)(2)), shall convey—

12 (1) to the Kaktovik Inupiat Corporation the
13 surface estate of the lands described in paragraph 2
14 of Public Land Order 6959, to the extent necessary
15 to fulfill the Corporation's entitlement under section
16 12 of the Alaska Native Claims Settlement Act (43
17 U.S.C. 1611); and

18 (2) to the Arctic Slope Regional Corporation
19 the subsurface estate beneath such surface estate
20 pursuant to the August 9, 1983, agreement between
21 the Arctic Slope Regional Corporation and the
22 United States of America.

23 **SEC. 6511. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
24 **NITY SERVICE ASSISTANCE.**

25 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

1 (1) IN GENERAL.—The Secretary may use
2 amounts available from the Coastal Plain Local Gov-
3 ernment Impact Aid Assistance Fund established by
4 subsection (d) to provide timely financial assistance
5 to entities that are eligible under paragraph (2) and
6 that are directly impacted by the exploration for or
7 production of oil and gas on the Coastal Plain under
8 this title.

9 (2) ELIGIBLE ENTITIES.—The North Slope
10 Borough, Kaktovik, and other boroughs, municipal
11 subdivisions, villages, and any other community or-
12 ganized under Alaska State law shall be eligible for
13 financial assistance under this section.

14 (b) USE OF ASSISTANCE.—Financial assistance
15 under this section may be used only for—

16 (1) planning for mitigation of the potential ef-
17 fects of oil and gas exploration and development on
18 environmental, social, cultural, recreational and sub-
19 sistence values;

20 (2) implementing mitigation plans and main-
21 taining mitigation projects; and

22 (3) developing, carrying out, and maintaining
23 projects and programs that provide new or expanded
24 public facilities and services to address needs and
25 problems associated with such effects, including fire-

1 fighting, police, water, waste treatment, medivac,
2 and medical services.

3 (c) APPLICATION.—

4 (1) IN GENERAL.—Any community that is eligi-
5 ble for assistance under this section may submit an
6 application for such assistance to the Secretary, in
7 such form and under such procedures as the Sec-
8 retary may prescribe by regulation.

9 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
10 community located in the North Slope Borough may
11 apply for assistance under this section either directly
12 to the Secretary or through the North Slope Bor-
13 ough.

14 (3) APPLICATION ASSISTANCE.—The Secretary
15 shall work closely with and assist the North Slope
16 Borough and other communities eligible for assist-
17 ance under this section in developing and submitting
18 applications for assistance under this section.

19 (d) ESTABLISHMENT OF FUND.—

20 (1) IN GENERAL.—There is established in the
21 Treasury the Coastal Plain Local Government Im-
22 pact Aid Assistance Fund.

23 (2) USE.—Amounts in the fund may be used
24 only for providing financial assistance under this
25 section.

1 (3) DEPOSITS.—Subject to paragraph (4), there
2 shall be deposited into the fund amounts received by
3 the United States as revenues derived from rents,
4 bonuses, and royalties under on leases and lease
5 sales authorized under this title.

6 (4) LIMITATION ON DEPOSITS.—The total
7 amount in the fund may not exceed \$10,000,000.

8 (5) INVESTMENT OF BALANCES.—The Sec-
9 retary of the Treasury shall invest amounts in the
10 fund in interest bearing government securities.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
12 vide financial assistance under this section there is author-
13 ized to be appropriated to the Secretary from the Coastal
14 Plain Local Government Impact Aid Assistance Fund
15 \$5,000,000 for each fiscal year.

16 **SEC. 6512. REVENUE ALLOCATION.**

17 (a) IN GENERAL.—Notwithstanding section 6504,
18 the Mineral Leasing Act (30 U.S.C. 181 et seq.), or any
19 other law—

20 (1) 50 percent of the adjusted bonus, rental,
21 and royalty revenues from oil and gas leasing and
22 operations authorized under this title shall be paid
23 to the State of Alaska; and

24 (2) the balance of such revenues shall be depos-
25 ited into the Treasury as miscellaneous receipts.

1 (b) ADJUSTMENTS.—Adjustments to bonus, rental,
2 and royalty amounts from oil and gas leasing and oper-
3 ations authorized under this title shall be made as nec-
4 essary for overpayments and refunds from lease revenues
5 received in current or subsequent periods, prior to dis-
6 tribution of such revenues pursuant to this section.

7 (c) PAYMENTS TO STATE.—Payments to the State of
8 Alaska under this section shall be made quarterly.

9 **TITLE VI—CONSERVATION OF**
10 **ENERGY BY THE DEPART-**
11 **MENT OF THE INTERIOR**

12 **SEC. 6601. ENERGY CONSERVATION BY THE DEPARTMENT**
13 **OF THE INTERIOR.**

14 (a) IN GENERAL.—The Secretary of the Interior
15 shall—

16 (1) conduct a study to identify, evaluate, and
17 recommend opportunities for conserving energy by
18 reducing the amount of energy used by facilities of
19 the Department of the Interior; and

20 (2) wherever feasible and appropriate, reduce
21 the use of energy from traditional sources by encour-
22 aging use of alternative energy sources, including
23 solar power and power from fuel cells, throughout
24 such facilities and the public lands of the United
25 States.

1 (b) REPORTS.—The Secretary shall submit to the
2 Congress—

3 (1) by not later than 90 days after the date of
4 the enactment of this Act, a report containing the
5 findings, conclusions, and recommendations of the
6 study under subsection (a)(1); and

7 (2) by not later than December 31 each year,
8 an annual report describing progress made in—

9 (A) conserving energy through opportuni-
10 ties recommended in the report under para-
11 graph (1); and

12 (B) encouraging use of alternative energy
13 sources under subsection (a)(2).

14 **TITLE VII—COAL**

15 **SEC. 6701. LIMITATION ON FEES WITH RESPECT TO COAL**

16 **LEASE APPLICATIONS AND DOCUMENTS.**

17 Notwithstanding sections 304 and 504 of the Federal
18 Land Policy and Management Act of 1976 (43 U.S.C.
19 1734, 1764) and section 9701 of title 31, United States
20 Code, the Secretary shall not recover the Secretary's costs
21 with respect to applications and other documents relating
22 coal leases.

23 **SEC. 6702. MINING PLANS.**

24 Section 2(d)(2) of the Mineral Leasing Act (30
25 U.S.C. 202a(2)) is amended—

1 (1) by inserting “(A)” after “(2)”; and

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

3 “(B) The Secretary may establish a period of more
4 than 40 years if the Secretary determines that the longer
5 period—

6 “(i) will ensure the maximum economic recovery
7 of a coal deposit; or

8 “(ii) the longer period is in the interest of the
9 orderly, efficient, or economic development of a coal
10 resources.”.

11 **SEC. 6703. PAYMENT OF ADVANCE ROYALTIES UNDER COAL**
12 **LEASES.**

13 (a) IN GENERAL.—Section 7(b) of the Mineral Leas-
14 ing Act of 1920 (30 U.S.C. 207(b)) is amended to read
15 as follows:

16 “(b)(1) Each lease shall be subjected to the condition
17 of diligent development and continued operation of the
18 mine or mines, except where operations under the lease
19 are interrupted by strikes, the elements, or casualties not
20 attributable to the lessee.

21 “(2)(A) The Secretary of the Interior, upon deter-
22 mining that the public interest will be served thereby, may
23 suspend the condition of continued operation upon the
24 payment of advance royalties.

1 “(B) Such advance royalties shall be computed based
2 on the average price for coal sold in the spot market from
3 the same region during the last month of each applicable
4 continued operation year.

5 “(C) The aggregate number of years during the ini-
6 tial and any extended term of any lease for which advance
7 royalties may be accepted in lieu of the condition of contin-
8 ued operation shall not exceed 20.

9 “(3) The amount of any production royalty paid for
10 any year shall be reduced (but not below zero) by the
11 amount of any advance royalties paid under such lease to
12 the extent that such advance royalties have not been used
13 to reduce production royalties for a prior year.

14 “(4) This subsection shall be applicable to any lease
15 or logical mining unit in existence on the date of the enact-
16 ment of this paragraph or issued or approved after such
17 date.

18 “(5) Nothing in this subsection shall be construed to
19 affect the requirement contained in the second sentence
20 of subsection (a) relating to commencement of production
21 at the end of 10 years.”.

22 (b) **AUTHORITY TO WAIVE, SUSPEND, OR REDUCE**
23 **ADVANCE ROYALTIES.**—Section 39 of the Mineral Leas-
24 ing Act (30 U.S.C. 209) is amended by striking the last
25 sentence.

1 **SEC. 6704. ELIMINATION OF DEADLINE FOR SUBMISSION**
2 **OF COAL LEASE OPERATION AND RECLAMA-**
3 **TION PLAN.**

4 Section 7(c) of the Mineral Leasing Act (30 U.S.C.
5 207(c)) is amended by striking “and not later than three
6 years after a lease is issued,”.

7 **TITLE VIII—INSULAR AREAS**
8 **ENERGY SECURITY**

9 **SEC. 6801. INSULAR AREAS ENERGY SECURITY.**

10 Section 604 of the Act entitled “An Act to authorize
11 appropriations for certain insular areas of the United
12 States, and for other purposes”, approved December 24,
13 1980 (Public Law 96–597; 94 Stat. 3480–3481), is
14 amended—

15 (1) in subsection (a)(4) by striking the period
16 and inserting a semicolon;

17 (2) by adding at the end of subsection (a) the
18 following new paragraphs:

19 “(5) electric power transmission and distribu-
20 tion lines in insular areas are inadequate to with-
21 stand damage caused by the hurricanes and ty-
22 phoons which frequently occur in insular areas and
23 such damage often costs millions of dollars to repair;
24 and

25 “(6) the refinement of renewable energy tech-
26 nologies since the publication of the 1982 Territorial

1 Energy Assessment prepared pursuant to subsection
2 (c) reveals the need to reassess the state of energy
3 production, consumption, infrastructure, reliance on
4 imported energy, and indigenous sources in regard
5 to the insular areas.”;

6 (3) by amending subsection (e) to read as fol-
7 lows:

8 “(e)(1) The Secretary of the Interior, in consultation
9 with the Secretary of Energy and the chief executive offi-
10 cer of each insular area, shall update the plans required
11 under subsection (c) by—

12 “(A) updating the contents required by sub-
13 section (c);

14 “(B) drafting long-term energy plans for such
15 insular areas with the objective of reducing, to the
16 extent feasible, their reliance on energy imports by
17 the year 2010 and maximizing, to the extent fea-
18 sible, use of indigenous energy sources; and

19 “(C) drafting long-term energy transmission
20 line plans for such insular areas with the objective
21 that the maximum percentage feasible of electric
22 power transmission and distribution lines in each in-
23 sular area be protected from damage caused by hur-
24 ricanes and typhoons.

1 “(2) Not later than May 31, 2003, the Secretary of
2 the Interior shall submit to Congress the updated plans
3 for each insular area required by this subsection.”; and

4 (4) by amending subsection (g)(4) to read as
5 follows:

6 “(4) POWER LINE GRANTS FOR TERRI-
7 TORIES.—

8 “(A) IN GENERAL.—The Secretary of the
9 Interior is authorized to make grants to govern-
10 ments of territories of the United States to
11 carry out eligible projects to protect electric
12 power transmission and distribution lines in
13 such territories from damage caused by hurri-
14 canes and typhoons.

15 “(B) ELIGIBLE PROJECTS.—The Secretary
16 may award grants under subparagraph (A) only
17 to governments of territories of the United
18 States that submit written project plans to the
19 Secretary for projects that meet the following
20 criteria:

21 “(i) The project is designed to protect
22 electric power transmission and distribu-
23 tion lines located in one or more of the ter-
24 ritories of the United States from damage
25 caused by hurricanes and typhoons.

1 “(ii) The project is likely to substan-
2 tially reduce the risk of future damage,
3 hardship, loss, or suffering.

4 “(iii) The project addresses one or
5 more problems that have been repetitive or
6 that pose a significant risk to public health
7 and safety.

8 “(iv) The project is not likely to cost
9 more than the value of the reduction in di-
10 rect damage and other negative impacts
11 that the project is designed to prevent or
12 mitigate. The cost benefit analysis required
13 by this criterion shall be computed on a
14 net present value basis.

15 “(v) The project design has taken into
16 consideration long-term changes to the
17 areas and persons it is designed to protect
18 and has manageable future maintenance
19 and modification requirements.

20 “(vi) The project plan includes an
21 analysis of a range of options to address
22 the problem it is designed to prevent or
23 mitigate and a justification for the selec-
24 tion of the project in light of that analysis.

1 “(vii) The applicant has demonstrated
2 to the Secretary that the matching funds
3 required by subparagraph (D) are avail-
4 able.

5 “(C) PRIORITY.—When making grants
6 under this paragraph, the Secretary shall give
7 priority to grants for projects which are likely
8 to—

9 “(i) have the greatest impact on re-
10 ducing future disaster losses; and

11 “(ii) best conform with plans that
12 have been approved by the Federal Govern-
13 ment or the government of the territory
14 where the project is to be carried out for
15 development or hazard mitigation for that
16 territory.

17 “(D) MATCHING REQUIREMENT.—The
18 Federal share of the cost for a project for which
19 a grant is provided under this paragraph shall
20 not exceed 75 percent of the total cost of that
21 project. The non-Federal share of the cost may
22 be provided in the form of cash or services.

23 “(E) TREATMENT OF FUNDS FOR CERTAIN
24 PURPOSES.—Grants provided under this para-
25 graph shall not be considered as income, a re-

1 source, or a duplicative program when deter-
2 mining eligibility or benefit levels for Federal
3 major disaster and emergency assistance.

4 “(F) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this paragraph \$5,000,000 for each
7 fiscal year beginning after the date of the en-
8 actment of this paragraph.”

○