

Calendar No. _____

109TH CONGRESS
1ST SESSION

S. _____

[Report No. 109-____]

IN THE SENATE OF THE UNITED STATES

JUNE ____ (legislative day, _____), 2005

Mr. DOMENICI, from the Committee on Energy and Natural Resources, reported the following original bill; which was read twice and placed on the calendar

A BILL

To enhance the energy security of the United States, and
for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy Policy Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

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TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

- Sec. 101. Energy and water saving measures in congressional buildings.
- Sec. 102. Energy management requirements.
- Sec. 103. Energy use measurement and accountability.
- Sec. 104. Procurement of energy efficient products.
- Sec. 105. Energy savings performance contracts.
- Sec. 106. Voluntary commitments to reduce industrial energy intensity.
- Sec. 107. Federal building performance standards.
- Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

Subtitle B—Energy Assistance and State Programs

- Sec. 121. Weatherization assistance.
- Sec. 122. State energy programs.
- Sec. 123. Energy efficient appliance rebate programs.
- Sec. 124. Energy efficient public buildings.
- Sec. 125. Low income community energy efficiency pilot program.
- Sec. 126. State technologies advancement collaborative.
- Sec. 127. Model building energy code compliance grant program.

Subtitle C—Energy Efficient Products

- Sec. 131. Energy Star program.
- Sec. 132. HVAC maintenance consumer education program.
- Sec. 133. Public energy education program.
- Sec. 134. Energy efficiency public information initiative.
- Sec. 135. Energy conservation standards for additional products.
- Sec. 136. Energy conservation standards for commercial equipment.
- Sec. 137. Expedited rulemaking.
- Sec. 138. Energy labeling.
- Sec. 139. Energy efficient electric and natural gas utilities study.
- Sec. 140. Energy efficiency pilot program.
- Sec. 141. Energy efficiency resource programs.

Subtitle D—Measures to Conserve Petroleum

- Sec. 151. Reduction of dependence on imported petroleum.

Subtitle E—Energy Efficiency in Housing

- Sec. 161. Public Housing Capital Fund.
- Sec. 162. Energy efficient appliances.
- Sec. 163. Energy efficiency standards.
- Sec. 164. Energy strategy for the Department of Housing and Urban Development.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

- Sec. 201. Assessment of renewable energy resources.
- Sec. 202. Renewable energy production incentive.
- Sec. 203. Federal purchase requirement.
- Sec. 204. Renewable content of motor vehicle fuel.

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- Sec. 205. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.
- Sec. 206. Data collection.
- Sec. 207. Sugar cane ethanol program.
- Sec. 208. Modification of Commodity Credit Corporation bioenergy program.
- Sec. 209. Advanced biofuel technologies program.
- Sec. 210. Assistance for rural communities with high energy costs.

Subtitle B—Insular Energy

- Sec. 221. Definitions.
- Sec. 222. Assessment.
- Sec. 223. Project feasibility studies.
- Sec. 224. Implementation.
- Sec. 225. Authorization of appropriations.

Subtitle C—Biomass Energy

- Sec. 231. Definitions.
- Sec. 232. Biomass commercial utilization grant program.
- Sec. 233. Improved biomass utilization program.
- Sec. 234. Report.

Subtitle D—Geothermal Energy

- Sec. 241. Competitive lease sale requirements.
- Sec. 242. Direct use.
- Sec. 243. Royalties.
- Sec. 244. Geothermal leasing and permitting on Federal land.
- Sec. 245. Assessment of geothermal energy potential.
- Sec. 246. Cooperative or unit plans.
- Sec. 247. Royalty on byproducts.
- Sec. 248. Lease duration and work commitment requirements.
- Sec. 249. Annual rental.
- Sec. 250. Advanced royalties required for cessation of production.
- Sec. 251. Leasing and permitting on Federal land withdrawn for military purposes.
- Sec. 252. Technical amendments.

Subtitle E—Hydroelectric

- Sec. 261. Alternative conditions and fishways.
- Sec. 262. Alaska State jurisdiction over small hydroelectric projects.
- Sec. 263. Flint Creek hydroelectric project.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

- Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
- Sec. 302. National Oilheat Research Alliance.

Subtitle B—Production Incentives

- Sec. 311. Definition of Secretary.
- Sec. 312. Program on oil and gas royalties in-kind.
- Sec. 313. Marginal property production incentives.

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- Sec. 314. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
- Sec. 315. Royalty relief for deep water production.
- Sec. 316. Alaska offshore royalty suspension.
- Sec. 317. Oil and gas leasing in the National Petroleum Reserve in Alaska.
- Sec. 318. North slope science initiative.
- Sec. 319. Orphaned, abandoned, or idled wells on Federal land.
- Sec. 320. Combined hydrocarbon leasing.
- Sec. 321. Alternate energy-related uses on the outer Continental Shelf.
- Sec. 322. Preservation of geological and geophysical data.
- Sec. 323. Oil and gas lease acreage limitations.
- Sec. 324. Assessment of dependence of State of Hawaii on oil.
- Sec. 325. Denali Commission.
- Sec. 326. Comprehensive inventory of OCS oil and natural gas resources.
- Sec. 327. Review and demonstration program for oil and natural gas production.

Subtitle C—Access to Federal Land

- Sec. 341. Federal onshore oil and gas leasing practices.
- Sec. 342. Management of Federal oil and gas leasing programs.
- Sec. 343. Consultation regarding oil and gas leasing on public land.
- Sec. 344. Pilot project to improve Federal permit coordination.
- Sec. 345. Energy facility rights-of-ways and corridors on Federal land.
- Sec. 346. Oil shale leasing.

Subtitle D—Coastal Programs

- Sec. 371. Coastal impact assistance program.

Subtitle E—Natural Gas

- Sec. 381. Exportation or importation of natural gas.
- Sec. 382. New natural gas storage facilities.
- Sec. 383. Process coordination; hearings; rules of procedures.
- Sec. 384. Penalties.
- Sec. 385. Market manipulation.
- Sec. 386. Natural gas market transparency rules.
- Sec. 387. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
- Sec. 388. Federal-State liquefied natural gas forums.
- Sec. 389. Prohibition of trading and serving by certain persons.

Subtitle F—Federal Coalbed Methane Regulation

- Sec. 391. Federal coalbed methane regulation.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

- Sec. 401. Authorization of appropriations.
- Sec. 402. Project criteria.
- Sec. 403. Report.
- Sec. 404. Clean coal centers of excellence.
- Sec. 405. Integrated coal/renewable energy system.
- Sec. 406. Loan to place Alaska clean coal technology facility in service.
- Sec. 407. Western integrated coal gasification demonstration project.

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Subtitle B—Federal Coal Leases

- Sec. 411. Repeal of the 160-acre limitation for coal leases.
- Sec. 412. Mining plans.
- Sec. 413. Payment of advance royalties under coal leases.
- Sec. 414. Elimination of deadline for submission of coal lease operation and reclamation plan.
- Sec. 415. Application of amendments.

TITLE V—INDIAN ENERGY

- Sec. 501. Short title.
- Sec. 502. Office of Indian Energy Policy and Programs.
- Sec. 503. Indian energy.
- Sec. 504. Four Corners transmission line project and electrification.
- Sec. 505. Energy efficiency in federally assisted housing.
- Sec. 506. Consultation with Indian tribes.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

- Sec. 601. Short title.
- Sec. 602. Extension of indemnification authority.
- Sec. 603. Maximum assessment.
- Sec. 604. Department of Energy liability limit.
- Sec. 605. Incidents outside the United States.
- Sec. 606. Reports.
- Sec. 607. Inflation adjustment.
- Sec. 608. Treatment of modular reactors.
- Sec. 609. Applicability.
- Sec. 610. Civil penalties.

Subtitle B—General Nuclear Matters

- Sec. 621. Medical isotope production.
- Sec. 622. Safe disposal of greater-than-class C radioactive waste.
- Sec. 623. Prohibition on nuclear exports to countries that sponsor terrorism.
- Sec. 624. Decommissioning pilot program.

Subtitle C—Next Generation Nuclear Plant Project

- Sec. 631. Project establishment.
- Sec. 632. Project management.
- Sec. 633. Project organization.
- Sec. 634. Nuclear regulatory commission.
- Sec. 635. Project timelines and authorization of appropriations.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

- Sec. 701. Use of alternative fuels by dual-fueled vehicles.
- Sec. 702. Alternative fuel use by light duty vehicles.
- Sec. 703. Incremental cost allocation.
- Sec. 704. Alternative compliance and flexibility.
- Sec. 705. Report concerning compliance with alternative fueled vehicle purchasing requirements.

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Subtitle B—Automobile Efficiency

- Sec. 711. Authorization of appropriations for implementation and enforcement of fuel economy standards.

Subtitle C—Miscellaneous

- Sec. 721. Railroad efficiency.
Sec. 722. Conserve by bicycling program.
Sec. 723. Reduction of engine idling of heavy-duty vehicles.
Sec. 724. Biodiesel engine testing project.

Subtitle D—Federal and State Procurement

- Sec. 731. Definitions.
Sec. 732. Federal and State procurement of fuel cell vehicles and hydrogen energy systems.
Sec. 733. Federal procurement of stationary, portable, and micro fuel cells.

TITLE VIII—HYDROGEN

- Sec. 801. Hydrogen research, development, and demonstration.

TITLE IX—RESEARCH AND DEVELOPMENT

- Sec. 901. Short title.
Sec. 902. Goals.
Sec. 903. Definitions.

Subtitle A—Energy Efficiency

- Sec. 911. Energy efficiency.
Sec. 912. Next Generation Lighting Initiative.
Sec. 913. National Building Performance Initiative.
Sec. 914. Secondary electric vehicle battery use program.
Sec. 915. Energy Efficiency Science Initiative.

Subtitle B—Distributed Energy and Electric Energy Systems

- Sec. 921. Distributed energy and electric energy systems.
Sec. 922. High power density industry program.
Sec. 923. Micro-cogeneration energy technology.
Sec. 924. Distributed energy technology demonstration program.
Sec. 925. Electric transmission and distribution programs.

Subtitle C—Renewable Energy

- Sec. 931. Renewable energy.
Sec. 932. Bioenergy program.
Sec. 933. Concentrating solar power research program.
Sec. 934. Hybrid solar lighting research and development program.
Sec. 935. Miscellaneous projects.

Subtitle D—Nuclear Energy

- Sec. 941. Nuclear energy.
Sec. 942. Nuclear energy research programs.
Sec. 943. Advanced fuel cycle initiative.

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- Sec. 944. Nuclear science and engineering support for institutions of higher education.
- Sec. 945. Security of nuclear facilities.
- Sec. 946. Alternatives to industrial radioactive sources.

Subtitle E—Fossil Energy

- Sec. 951. Fossil energy.
- Sec. 952. Oil and gas research programs.
- Sec. 953. Methane hydrate research.
- Sec. 954. Research and development for coal mining technologies.
- Sec. 955. Coal and related technologies program.
- Sec. 956. Carbon dioxide capture research and development.
- Sec. 957. Complex well technology testing facility.

Subtitle F—Science

- Sec. 961. Science.
- Sec. 962. Fusion energy sciences program.
- Sec. 963. Support for science and energy facilities and infrastructure.
- Sec. 964. Catalysis research program.
- Sec. 965. Hydrogen.
- Sec. 966. Solid state lighting.
- Sec. 967. Advanced scientific computing for energy missions.
- Sec. 968. Genomes to Life Program.
- Sec. 969. Fission and fusion energy materials research program.
- Sec. 970. Energy-Water Supply Technologies Program.
- Sec. 971. Spallation neutron source.

Subtitle G—International Cooperation

- Sec. 981. Western Hemisphere energy cooperation.
- Sec. 982. Cooperation between United States and Israel.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

- Sec. 1001. Availability of funds.
- Sec. 1002. Cost sharing.
- Sec. 1003. Merit review of proposals.
- Sec. 1004. External technical review of Departmental programs.
- Sec. 1005. Improved technology transfer of energy technologies.
- Sec. 1006. Technology Infrastructure Program.
- Sec. 1007. Small business advocacy and assistance.
- Sec. 1008. Outreach.
- Sec. 1009. Relationship to other laws.
- Sec. 1010. Improved coordination and management of civilian science and technology programs.
- Sec. 1011. Other transactions authority.
- Sec. 1012. Prizes for achievement in grand challenges of science and technology.
- Sec. 1013. Technical corrections.

TITLE XI—PERSONNEL AND TRAINING

- Sec. 1101. Workforce trends and traineeship grants.
- Sec. 1102. Energy research fellowships.
- Sec. 1103. Educational programs in science and mathematics.

- Sec. 1104. Training guidelines for electric energy industry personnel.
- Sec. 1105. National Center for Energy Management and Building Technologies.
- Sec. 1106. Improved access to energy-related scientific and technical careers.
- Sec. 1107. National Power Plant Operations Technology and Education Center.

TITLE XII—ELECTRICITY

- Sec. 1201. Short title.

Subtitle A—Reliability Standards

- Sec. 1211. Electric reliability standards.

Subtitle B—Transmission Infrastructure Modernization

- Sec. 1221. Siting of interstate electric transmission facilities.
- Sec. 1222. Third-party finance.
- Sec. 1223. Advanced transmission technologies.
- Sec. 1224. Advanced power system technology incentive program.

Subtitle C—Transmission Operation Improvements

- Sec. 1231. Open nondiscriminatory access.
- Sec. 1232. Regional Transmission Organizations.
- Sec. 1233. Federal utility participation in Transmission Organizations.
- Sec. 1234. Standard market design.
- Sec. 1235. Native load service obligation.
- Sec. 1236. Protection of transmission contracts in the Pacific Northwest.

Subtitle D—Transmission Rate Reform

- Sec. 1241. Transmission infrastructure investment.
- Sec. 1242. Funding new interconnection and transmission upgrades.

Subtitle E—Amendments to PURPA

- Sec. 1251. Net metering and additional standards.
- Sec. 1252. Smart metering.
- Sec. 1253. Cogeneration and small power production purchase and sale requirements.
- Sec. 1254. Interconnection.

Subtitle F—Market Transparency, Enforcement, and Consumer Protection

- Sec. 1261. Market transparency rules.
- Sec. 1262. False Statements.
- Sec. 1263. Market manipulation.
- Sec. 1264. Enforcement.
- Sec. 1265. Refund effective date.
- Sec. 1266. Refund authority.
- Sec. 1267. Consumer privacy and unfair trade practices.
- Sec. 1268. Office of Consumer Advocacy.
- Sec. 1269. Authority of court to prohibit persons from serving as officers, directors, and energy traders.
- Sec. 1270. Relief for extraordinary violations.

Subtitle G—Repeal of PUHCA and Merger Reform

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- Sec. 1271. Short title.
- Sec. 1272. Definitions.
- Sec. 1273. Repeal of the Public Utility Holding Company Act of 1935.
- Sec. 1274. Federal access to books and records.
- Sec. 1275. State access to books and records.
- Sec. 1276. Exemption authority.
- Sec. 1277. Affiliate transactions.
- Sec. 1278. Applicability.
- Sec. 1279. Effect on other regulations.
- Sec. 1280. Enforcement.
- Sec. 1281. Savings provisions.
- Sec. 1282. Implementation.
- Sec. 1283. Transfer of resources.
- Sec. 1284. Effective date.
- Sec. 1285. Service allocation.
- Sec. 1286. Authorization of appropriations.
- Sec. 1287. Conforming amendments to the Federal Power Act.
- Sec. 1288. Merger review reform.

Subtitle H—Definitions

- Sec. 1291. Definitions.

Subtitle I—Technical and Conforming Amendments

- Sec. 1295. Conforming amendments.

TITLE XIII—STUDIES

- Sec. 1301. Energy and water saving measures in congressional buildings.
- Sec. 1302. Increased hydroelectric generation at existing Federal facilities.
- Sec. 1303. Alaska Natural Gas Pipeline.
- Sec. 1304. Renewable energy on Federal land.
- Sec. 1305. Coal bed methane study.
- Sec. 1306. Backup fuel capability study.
- Sec. 1307. Indian land rights-of-way.
- Sec. 1308. Review of Energy Policy Act of 1992 programs.
- Sec. 1309. Study of feasibility and effects of reducing use of fuel for automobiles.
- Sec. 1310. Hybrid distributed power systems.
- Sec. 1311. Mobility of scientific and technical personnel.
- Sec. 1312. National Academy of Sciences report.
- Sec. 1313. Report on research and development program evaluation methodologies.
- Sec. 1314. Transmission system monitoring study.
- Sec. 1315. Interagency review of competition in the wholesale and retail markets for electric energy.
- Sec. 1316. Study on the benefits of economic dispatch.
- Sec. 1317. Study of rapid electrical grid restoration.
- Sec. 1318. Study of distributed generation.
- Sec. 1319. Study on inventory of petroleum and natural gas storage.
- Sec. 1320. Natural gas supply shortage report.
- Sec. 1321. Split-estate Federal oil and gas leasing and development practices.
- Sec. 1322. Resolution of Federal resource development conflicts in the Powder River Basin.
- Sec. 1323. Study of energy efficiency standards.

- Sec. 1324. Telecommuting study.
- Sec. 1325. Oil bypass filtration technology.
- Sec. 1326. Total integrated thermal systems.
- Sec. 1327. University collaboration.
- Sec. 1328. Hydrogen participation study.

TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

- Sec. 1401. Definitions.
- Sec. 1402. Terms and conditions.
- Sec. 1403. Eligible projects.
- Sec. 1404. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—The term “Department”
4 means the Department of Energy.

5 (2) INSTITUTION OF HIGHER EDUCATION.—The
6 term “institution of higher education” has the
7 meaning given the term in section 101(a) of the
8 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

9 (3) NATIONAL LABORATORY.—The term “Na-
10 tional Laboratory” means any of the following lab-
11 oratories owned by the Department:

12 (A) Ames Laboratory.

13 (B) Argonne National Laboratory.

14 (C) Brookhaven National Laboratory.

15 (D) Fermi National Accelerator Labora-
16 tory.

17 (E) Idaho National Laboratory.

18 (F) Lawrence Berkeley National Labora-
19 tory.

1 (G) Lawrence Livermore National Labora-
2 tory.

3 (H) Los Alamos National Laboratory.

4 (I) National Energy Technology Labora-
5 tory.

6 (J) National Renewable Energy Labora-
7 tory.

8 (K) Oak Ridge National Laboratory.

9 (L) Pacific Northwest National Labora-
10 tory.

11 (M) Princeton Plasma Physics Laboratory.

12 (N) Sandia National Laboratories.

13 (O) Stanford Linear Accelerator Center.

14 (P) Thomas Jefferson National Accelerator
15 Facility.

16 (4) SECRETARY.—The term “Secretary” means
17 the Secretary of Energy.

18 (5) SMALL BUSINESS CONCERN.—The term
19 “small business concern” has the meaning given the
20 term in section 3 of the Small Business Act (15
21 U.S.C. 632).

1 **TITLE I—ENERGY EFFICIENCY**

2 **Subtitle A—Federal Programs**

3 **SEC. 101. ENERGY AND WATER SAVING MEASURES IN CON-**
4 **GRESSIONAL BUILDINGS.**

5 (a) IN GENERAL.—Part 3 of title V of the National
6 Energy Conservation Policy Act (42 U.S.C. 8251 et seq.)
7 is amended—

8 (1) by redesignating section 551 (42 U.S.C.
9 8259) as section 553; and

10 (2) by inserting after section 550 (42 U.S.C.
11 8258b) the following:

12 **“SEC. 551. ENERGY AND WATER SAVINGS MEASURES IN**
13 **CONGRESSIONAL BUILDINGS.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CONGRESSIONAL BUILDING.—The term
16 ‘congressional building’ means a facility adminis-
17 tered by Congress.

18 “(2) PLAN.—The term ‘plan’ means an energy
19 conservation and management plan developed under
20 subsection (b)(1).

21 “(b) PLAN.—

22 “(1) IN GENERAL.—The Architect of the Cap-
23 itol shall develop, update, and implement a cost-ef-
24 fective energy conservation and management plan
25 for congressional buildings to meet the energy per-

1 performance requirements for Federal buildings estab-
2 lished under section 543(a)(1).

3 “(2) REQUIREMENTS.—The plan shall
4 include—

5 “(A) a description of the life-cycle cost
6 analysis used to determine the cost-effectiveness
7 of proposed energy efficiency projects;

8 “(B) a schedule that ensures that complete
9 energy surveys of all congressional buildings are
10 conducted every 5 years to determine the cost
11 and payback period of energy and water con-
12 servation measures;

13 “(C) a strategy for installation of life-cycle
14 cost-effective energy and water conservation
15 measures;

16 “(D) the results of a study of the costs
17 and benefits of installation of submetering in
18 congressional buildings; and

19 “(E) information packages and ‘how-to’
20 guides for each Member and employing author-
21 ity of Congress that describe simple and cost-
22 effective methods to save energy and taxpayer
23 dollars in congressional buildings.

24 “(3) SUBMISSION TO CONGRESS.—Not later
25 than 180 days after the date of enactment of the

1 Energy Policy Act of 2005, the Architect of the Cap-
2 itol shall submit to Congress the plan developed
3 under paragraph (1).

4 “(c) ANNUAL REPORT.—

5 “(1) IN GENERAL.—The Architect of the Cap-
6 itol shall annually submit to Congress a report on
7 congressional energy management and conservation
8 programs carried out for congressional buildings
9 under this section.

10 “(2) REQUIREMENTS.—A report submitted
11 under paragraph (1) shall describe in detail—

12 “(A) energy expenditures and savings esti-
13 mates for each congressional building;

14 “(B) any energy management and con-
15 servation projects for congressional buildings;
16 and

17 “(C) future priorities to ensure compliance
18 with this section.”.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents of the National Energy Conservation Policy Act is
21 amended—

22 (1) by redesignating the item relating to section
23 551 as section 553; and

24 (2) by inserting after the item relating to sec-
25 tion 550 the following:

“Sec. 551. Energy and water savings measures in congressional buildings.”.

1 (c) REPEAL.—Section 310 of the Legislative Branch
2 Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

3 (d) ENERGY INFRASTRUCTURE.—

4 (1) IN GENERAL.—The Architect of the Capitol,
5 building on the Master Plan Study for the Capitol
6 complex completed in July 2000, shall commission a
7 study to evaluate the energy infrastructure of the
8 Capitol complex to determine how to augment the
9 infrastructure to become more energy efficient—

10 (A) by using unconventional and renewable
11 energy resources; and

12 (B) in a manner that would enable the
13 Capitol complex to have reliable utility service
14 in the event of power fluctuations, shortages, or
15 outages.

16 (2) AUTHORIZATION OF APPROPRIATIONS.—

17 There is authorized to be appropriated to the Archi-
18 tect of the Capitol to carry out this section
19 \$2,000,000 for each of fiscal years 2006 through
20 2010.

21 **SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.**

22 (a) ENERGY REDUCTION GOALS.—Section 543(a) of
23 the National Energy Conservation Policy Act (42 U.S.C.
24 8253(a)) is amended—

1 (1) in paragraph (1), by striking “Subject to”
 2 and all that follows and inserting “(A) Subject to
 3 paragraph (2), each agency shall apply energy con-
 4 servation measures to, and shall improve the design
 5 for the construction of, the Federal buildings of the
 6 agency (including each industrial or laboratory facil-
 7 ity) so that the energy consumption for each gross
 8 square foot of the Federal buildings of the agency
 9 for fiscal years 2006 through 2015 is reduced, as
 10 compared with the energy consumption for each
 11 gross square foot of the Federal buildings of the
 12 agency for fiscal year 2004, by the percentage speci-
 13 fied in the following table:

“Fiscal Year	Percentage reduction
2006	2
2007	4
2008	6
2009	8
2010	10
2011	12
2012	14
2013	16
2014	18
2015	20.

14 “(B) The energy reduction goals and baseline estab-
 15 lished in subparagraph (A) supersede—

16 “(i) all goals and baselines under this para-
 17 graph in effect on the day before the date of enact-
 18 ment of this subparagraph; and

19 “(ii) any related reporting requirements.”; and

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

1 “(3) Not later than December 31, 2013, the Sec-
2 retary shall—

3 “(A) review the results of the implementation of
4 the energy performance requirement established
5 under paragraph (1); and

6 “(B) submit to Congress recommendations con-
7 cerning energy performance requirements for each of
8 fiscal years 2015 through 2024.”.

9 (b) EXCLUSIONS; REVIEW BY SECRETARY; CRI-
10 TERIA.—Section 543(c) of the National Energy Conserva-
11 tion Policy Act (42 U.S.C. 8253(c)) is amended—

12 (1) in paragraph (1), by striking “An agency
13 may exclude” and all that follows and inserting “(A)
14 An agency may exclude, from the energy perform-
15 ance requirement for a fiscal year established under
16 subsection (a) and the energy management require-
17 ment established under subsection (b), any Federal
18 building or collection of Federal buildings, if the
19 head of the agency finds that—

20 “(i) compliance with those requirements would
21 be impracticable;

22 “(ii) the agency has completed and submitted
23 all federally required energy management reports;

24 “(iii) the agency has achieved compliance with
25 the energy efficiency requirements of this Act, the

1 Energy Policy Act of 1992 (42 U.S.C. 13201 et
2 seq.), Executive orders, and other Federal law; and

3 “(iv) the agency has implemented all prac-
4 ticable, life-cycle cost-effective projects with respect
5 to the Federal building or collection of Federal
6 buildings to be excluded.

7 “(B) A finding of impracticability under subpara-
8 graph (A)(i) shall be based on—

9 “(i) the energy intensiveness of activities car-
10 ried out in the Federal building or collection of Fed-
11 eral buildings; or

12 “(ii) the fact that the Federal building or col-
13 lection of Federal buildings is used in the perform-
14 ance of a national security function.”;

15 (2) in paragraph (2)—

16 (A) in the second sentence—

17 (i) by striking “impracticability stand-
18 ards” and inserting “standards for exclu-
19 sion”; and

20 (ii) by striking “a finding of imprac-
21 ticability” and inserting “the exclusion”;
22 and

23 (B) in the third sentence, by striking “en-
24 ergy consumption requirements” and inserting

1 “requirements of subsections (a) and (b)(1)”;

2 and

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

4 “(3) Not later than 180 days after the date of enact-
5 ment of this paragraph, the Secretary shall issue guide-
6 lines that establish criteria for exclusions under paragraph
7 (1).”.

8 (c) RETENTION OF ENERGY AND WATER SAVINGS.—

9 Section 546 of the National Energy Conservation Policy
10 Act (42 U.S.C. 8256) is amended—

11 (1) in subsection (d)(2)(G), by inserting “of the
12 Energy Policy Act of 1992 (42 U.S.C. 8262e)” after
13 “159”; and

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

15 “(e) RETENTION OF ENERGY AND WATER SAV-
16 INGS.—(1) An agency may retain any funds appropriated
17 to the agency for energy expenditures, water expenditures,
18 or wastewater treatment expenditures, at buildings subject
19 to the requirements of subsections (a) and (b) of section
20 543, that are not expended because of energy savings or
21 water savings.

22 “(2) Except as otherwise provided by law, funds de-
23 scribed in paragraph (1) may be used by an agency only
24 for energy efficiency, water conservation, or unconven-
25 tional and renewable energy resources projects.”.

1 (d) REPORTS.—Section 548(b) of the National En-
2 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is
3 amended—

4 (1) in the subsection heading, by inserting
5 “THE PRESIDENT AND” before “CONGRESS”; and

6 (2) by inserting “President and” before “Con-
7 gress”.

8 (e) CONFORMING AMENDMENT.—Section 550(d) of
9 the National Energy Conservation Policy Act (42 U.S.C.
10 8258b(d)) is amended in the second sentence by striking
11 “the 20 percent reduction goal established under section
12 543(a) of the National Energy Conservation Policy Act
13 (42 U.S.C. 8253(a)).” and inserting “each of the energy
14 reduction goals established under section 543(a).”.

15 **SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNT-**
16 **ABILITY.**

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

20 “(e) METERING OF ENERGY USE.—(1)(A) Not later
21 than October 1, 2012, in accordance with guidelines estab-
22 lished by the Secretary under paragraph (2), each Federal
23 building shall, for the purposes of efficient use of energy
24 and reduction in the cost of electricity used in the build-
25 ing, be metered or submetered.

1 “(B) Each agency shall use, to the maximum extent
2 practicable, advanced meters or advanced metering devices
3 that provide data at least daily on, and that measure at
4 least hourly, consumption of electricity in the Federal
5 buildings of the agency.

6 “(C) The data shall be—

7 “(i) incorporated into Federal energy tracking
8 systems; and

9 “(ii) made available to Federal facility energy
10 managers.

11 “(2)(A) Not later than 180 days after the date of
12 enactment of this subsection, the Secretary (in consulta-
13 tion with the Secretary of Defense, the Administrator of
14 General Services, representatives from the metering indus-
15 try, utility industry, energy services industry, energy effi-
16 ciency industry, energy efficiency advocacy organizations,
17 national laboratories, and universities, and Federal facility
18 energy managers) shall establish guidelines for agencies
19 to carry out paragraph (1).

20 “(B) The guidelines shall—

21 “(i) take into consideration—

22 “(I) the cost of metering and submetering
23 and the reduced cost of operation and mainte-
24 nance expected to result from metering and
25 submetering;

1 “(II) the extent to which metering and
2 submetering are expected to result in increased
3 potential for energy management, increased po-
4 tential for energy savings and energy efficiency
5 improvement, and cost and energy savings be-
6 cause of utility contract aggregation; and

7 “(III) the measurement and verification
8 protocols of the Department of Energy;

9 “(ii) include recommendations concerning the
10 amount of funds and the number of trained per-
11 sonnel necessary to gather and use the metering in-
12 formation to track and reduce energy use;

13 “(iii) establish priorities for types and locations
14 of buildings to be metered and submetered based on
15 cost-effectiveness and a schedule of 1 or more dates,
16 not later than 1 year after the date of issuance of
17 the guidelines, on which paragraph (1) takes effect;
18 and

19 “(iv) establish exclusions from the requirements
20 of paragraph (1) based on the de minimis quantity
21 of energy use of a Federal building, industrial proc-
22 ess, or structure.

23 “(3) Not later than 180 days after the date on which
24 guidelines are established under paragraph (2), in a report
25 submitted by an agency under section 548(a), the agency

1 shall submit to the Secretary a plan describing the manner
2 in which the agency will implement paragraph (1),
3 including—

4 “(A) the manner in which the agency will des-
5 ignate personnel primarily responsible for carrying
6 out that implementation; and

7 “(B) demonstration by the agency, complete
8 with documentation, of any finding that the use of
9 advanced meters or advanced metering devices de-
10 scribed in paragraph (1) is not practicable.”.

11 **SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PROD-**
12 **UCTS.**

13 (a) REQUIREMENTS.—Part 3 of title V of the Na-
14 tional Energy Conservation Policy Act (42 U.S.C. 8251
15 et seq.) (as amended by section 101(a)) is amended by
16 inserting after section 551 the following:

17 **“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFI-**
18 **CIENT PRODUCTS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) The term ‘Energy Star product’ means a
21 product that is rated for energy efficiency under an
22 Energy Star program.

23 “(2) The term ‘Energy Star program’ means
24 the program established by section 324A of the En-
25 ergy Policy and Conservation Act.

1 “(3) The term ‘executive agency’ has the mean-
2 ing given the term in section 4 of the Office of Fed-
3 eral Procurement Policy Act (41 U.S.C. 403).

4 “(4) The term ‘FEMP designated product’
5 means a product that is designated under the Fed-
6 eral Energy Management Program of the Depart-
7 ment of Energy as being among the highest 25 per-
8 cent of equivalent products for energy efficiency.

9 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-
10 UCTS.—(1) Except as provided in paragraph (2), to meet
11 the requirements of an executive agency for an energy con-
12 suming product, the head of the executive agency shall
13 procure—

14 “(A) an Energy Star product; or

15 “(B) a FEMP designated product.

16 “(2) The head of an executive agency shall not be
17 required to comply with paragraph (1) if the head of the
18 executive agency specifies in writing that—

19 “(A) taking into account energy cost savings,
20 an Energy Star product or FEMP designated prod-
21 uct is not cost-effective over the life of the product;
22 or

23 “(B) no Energy Star product or FEMP des-
24 ignated product is reasonably available that meets
25 the functional requirements of the executive agency.

1 “(3) The head of an executive agency shall incor-
2 porate criteria for energy efficiency that are consistent
3 with the criteria used for rating Energy Star products and
4 FEMP designated products into—

5 “(A) the specifications for any procurements in-
6 volving energy consuming products and systems,
7 including—

8 “(i) guide specifications;

9 “(ii) project specifications; and

10 “(iii) construction, renovation, and services
11 contracts that include the provision of energy
12 consuming products and systems; and

13 “(B) the factors for the evaluation of offers re-
14 ceived for the procurement.

15 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN
16 FEDERAL CATALOGS.—(1) Any inventory or listing of
17 products by the General Services Administration or the
18 Defense Logistics Agency shall clearly identify and promi-
19 nently display Energy Star products and FEMP des-
20 ignated products.

21 “(2)(A) Except as provided in subparagraph (B), the
22 General Services Administration or the Defense Logistics
23 Agency shall supply only Energy Star products or FEMP
24 designated products for all product categories covered by

1 the Energy Star program or the Federal Energy Manage-
2 ment Program.

3 “(B) Subparagraph (A) shall not apply if an agency
4 ordering a product specifies in writing that—

5 “(i) taking into account energy cost savings, no
6 Energy Star product or FEMP designated product
7 is cost-effective for the intended application over the
8 life of the product; or

9 “(ii) no Energy Star product or FEMP des-
10 igned product is available to meet the functional
11 requirements of the ordering agency.

12 “(d) SPECIFIC PRODUCTS.—(1) In the case of an
13 electric motor of 1 to 500 horsepower, an executive agency
14 shall select only a premium efficient motor that meets the
15 standard established by the Secretary under paragraph
16 (2).

17 “(2) Not later than 120 days after the date of enact-
18 ment of this subsection and after considering the rec-
19 ommendations of associated electric motor manufacturers
20 and energy efficiency groups, the Secretary shall establish
21 a standard for premium efficient motors.

22 “(3)(A) Each Federal agency is encouraged to take
23 actions (such as appropriate cleaning and maintenance)
24 to maximize the efficiency of air conditioning and refrig-

1 eration equipment, including the use of a system treat-
2 ment or additive that—

3 “(i) would reduce the electricity consumed by
4 air conditioning and refrigeration equipment; and

5 “(ii) meets the criteria specified in subpara-
6 graph (B).

7 “(B) A system treatment or additive referred to in
8 subparagraph (A) shall be—

9 “(i) determined by the Secretary to be effective
10 in increasing the efficiency of air conditioning and
11 refrigeration equipment without having an adverse
12 impact on—

13 “(I) air conditioning and refrigeration per-
14 formance (including cooling capacity); or

15 “(II) the useful life of the equipment;

16 “(ii) determined by the Administrator of the
17 Environmental Protection Agency to be environ-
18 mentally safe; and

19 “(iii) shown, in tests conducted by the National
20 Institute of Standards and Technology, in accord-
21 ance with Department of Energy test procedures, to
22 increase the seasonal energy efficiency ratio (SEER)
23 or energy efficiency ratio (EER) without having any
24 adverse impact on the system, system components,

1 the refrigerant or lubricant, or other materials in the
2 system.

3 “(4) The results of the tests described in paragraph
4 (3)(B)(iii) shall be published in the Federal Register for
5 public review and comment.

6 “(5) For purposes of this subsection, a hardware de-
7 vice or primary refrigerant shall not be considered an ad-
8 ditive.

9 “(e) REGULATIONS.—Not later than 180 days after
10 the date of enactment of this section, the Secretary shall
11 issue guidelines to carry out this section.”.

12 (b) CONFORMING AMENDMENT.—The table of con-
13 tents of the National Energy Conservation Policy Act (as
14 amended by section 101(b)) is amended by inserting after
15 the item relating to section 551 the following:

“Sec. 552. Federal procurement of energy efficient products.”.

16 **SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

17 (a) PERMANENT EXTENSION.—Section 801(c) of the
18 National Energy Conservation Policy Act (42 U.S.C.
19 8287(c)) is amended by striking “2006” and inserting
20 “2016”.

21 (b) EXTENSION OF AUTHORITY.—Any energy sav-
22 ings performance contract entered into under section 801
23 of the National Energy Conservation Policy Act (42
24 U.S.C. 8287) after October 1, 2003, and before the date

1 of enactment of this Act, shall be considered to have been
2 entered into under that section.

3 **SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUS-**
4 **TRIAL ENERGY INTENSITY.**

5 (a) DEFINITION OF ENERGY INTENSITY.—In this
6 section, the term “energy intensity” means the primary
7 energy consumed for each unit of physical output in an
8 industrial process.

9 (b) VOLUNTARY AGREEMENTS.—The Secretary may
10 enter into voluntary agreements with 1 or more persons
11 in industrial sectors that consume significant quantities
12 of primary energy for each unit of physical output to re-
13 duce the energy intensity of the production activities of
14 the persons.

15 (c) GOAL.—Voluntary agreements under this section
16 shall have as a goal the reduction of energy intensity by
17 not less than 2.5 percent each year during the period of
18 calendar years 2007 through 2016.

19 (d) RECOGNITION.—The Secretary, in cooperation
20 with other appropriate Federal agencies, shall develop
21 mechanisms to recognize and publicize the achievements
22 of participants in voluntary agreements under this section.

23 (e) TECHNICAL ASSISTANCE.—A person that enters
24 into an agreement under this section and continues to
25 make a good faith effort to achieve the energy efficiency

1 goals specified in the agreement shall be eligible to receive
2 from the Secretary a grant or technical assistance, as ap-
3 propriate, to assist in the achievement of those goals.

4 (f) REPORT.—Not later than each of June 30, 2012,
5 and June 30, 2017, the Secretary shall submit to Con-
6 gress a report that—

7 (1) evaluates the success of the voluntary agree-
8 ments under this section; and

9 (2) provides independent verification of a sam-
10 ple of the energy savings estimates provided by par-
11 ticipating firms.

12 **SEC. 107. FEDERAL BUILDING PERFORMANCE STANDARDS.**

13 Section 305(a) of the Energy Conservation and Pro-
14 duction Act (42 U.S.C. 6834(a)) is amended—

15 (1) in paragraph (2)(A), by striking “CABO
16 Model Energy Code, 1992 (in the case of residential
17 buildings) or ASHRAE Standard 90.1–1989” and
18 inserting “the 2004 International Energy Conserva-
19 tion Code (in the case of residential buildings) or
20 ASHRAE Standard 90.1–2004”; and

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

22 “(3)(A) Not later than 1 year after the date of enact-
23 ment of this paragraph, the Secretary shall establish, by
24 rule, revised Federal building energy efficiency perform-
25 ance standards that require that—

1 “(i) if life-cycle cost-effective for new Federal
2 buildings—

3 “(I) the buildings be designed to achieve
4 energy consumption levels that are at least 30
5 percent below the levels established in the
6 version of the ASHRAE Standard or the Inter-
7 national Energy Conservation Code, as appro-
8 priate, that is in effect as of the date of enact-
9 ment of this paragraph; and

10 “(II) sustainable design principles are ap-
11 plied to the siting, design, and construction of
12 all new and replacement buildings; and

13 “(ii) if water is used to achieve energy effi-
14 ciency, water conservation technologies shall be ap-
15 plied to the extent that the technologies are life-cycle
16 cost-effective.

17 “(B) Not later than 1 year after the date of approval
18 of each subsequent revision of the ASHRAE Standard or
19 the International Energy Conservation Code, as appro-
20 priate, the Secretary shall determine, based on the cost-
21 effectiveness of the requirements under the amendment,
22 whether the revised standards established under this para-
23 graph should be updated to reflect the amendment.

24 “(C) In the budget request of the Federal agency for
25 each fiscal year and each report submitted by the Federal

1 agency under section 548(a) of the National Energy Con-
2 servation Policy Act (42 U.S.C. 8258(a)), the head of each
3 Federal agency shall include—

4 “(i) a list of all new Federal buildings owned,
5 operated, or controlled by the Federal agency; and

6 “(ii) a statement specifying whether the Federal
7 buildings meet or exceed the revised standards es-
8 tablished under this paragraph.”.

9 **SEC. 108. INCREASED USE OF RECOVERED MINERAL COM-**
10 **PONENT IN FEDERALLY FUNDED PROJECTS**
11 **INVOLVING PROCUREMENT OF CEMENT OR**
12 **CONCRETE.**

13 (a) AMENDMENT.—Subtitle F of the Solid Waste
14 Disposal Act (42 U.S.C. 6961 et seq.) is amended by add-
15 ing at the end the following:

16 “INCREASED USE OF RECOVERED MINERAL COMPONENT
17 IN FEDERALLY FUNDED PROJECTS INVOLVING PRO-
18 CUREMENT OF CEMENT OR CONCRETE

19 “SEC. 6005. (a) DEFINITIONS.—In this section:

20 “(1) AGENCY HEAD.—The term ‘agency head’
21 means—

22 “(A) the Secretary of Transportation; and

23 “(B) the head of any other Federal agency
24 that, on a regular basis, procures, or provides
25 Federal funds to pay or assist in paying the

1 cost of procuring, material for cement or con-
2 crete projects.

3 “(2) CEMENT OR CONCRETE PROJECT.—The
4 term ‘cement or concrete project’ means a project
5 for the construction or maintenance of a highway or
6 other transportation facility or a Federal, State, or
7 local government building or other public facility
8 that—

9 “(A) involves the procurement of cement
10 or concrete; and

11 “(B) is carried out, in whole or in part,
12 using Federal funds.

13 “(3) RECOVERED MINERAL COMPONENT.—The
14 term ‘recovered mineral component’ means—

15 “(A) ground granulated blast furnace slag;

16 “(B) coal combustion fly ash; and

17 “(C) any other waste material or byprod-
18 uct recovered or diverted from solid waste that
19 the Administrator, in consultation with an
20 agency head, determines should be treated as
21 recovered mineral component under this section
22 for use in cement or concrete projects paid for,
23 in whole or in part, by the agency head.

24 “(b) IMPLEMENTATION OF REQUIREMENTS.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this section, the Adminis-
3 trator and each agency head shall take such actions
4 as are necessary to implement fully all procurement
5 requirements and incentives in effect as of the date
6 of enactment of this section (including guidelines
7 under section 6002) that provide for the use of ce-
8 ment and concrete incorporating recovered mineral
9 component in cement or concrete projects.

10 “(2) PRIORITY.—In carrying out paragraph (1),
11 an agency head shall give priority to achieving great-
12 er use of recovered mineral component in cement or
13 concrete projects for which recovered mineral compo-
14 nents historically have not been used or have been
15 used only minimally.

16 “(3) FEDERAL PROCUREMENT REQUIRE-
17 MENTS.—The Administrator and each agency head
18 shall carry out this subsection in accordance with
19 section 6002.

20 “(c) FULL IMPLEMENTATION STUDY.—

21 “(1) IN GENERAL.—The Administrator, in co-
22 operation with the Secretary of Transportation and
23 the Secretary of Energy, shall conduct a study to de-
24 termine the extent to which procurement require-
25 ments, when fully implemented in accordance with

1 subsection (b), may realize energy savings and envi-
2 ronmental benefits attainable with substitution of re-
3 covered mineral component in cement used in ce-
4 ment or concrete projects.

5 “(2) MATTERS TO BE ADDRESSED.—The study
6 shall—

7 “(A) quantify—

8 “(i) the extent to which recovered
9 mineral components are being substituted
10 for Portland cement, particularly as a re-
11 sult of procurement requirements; and

12 “(ii) the energy savings and environ-
13 mental benefits associated with the substi-
14 tution;

15 “(B) identify all barriers in procurement
16 requirements to greater realization of energy
17 savings and environmental benefits, including
18 barriers resulting from exceptions from the law;
19 and

20 “(C)(i) identify potential mechanisms to
21 achieve greater substitution of recovered min-
22 eral component in types of cement or concrete
23 projects for which recovered mineral compo-
24 nents historically have not been used or have
25 been used only minimally;

1 “(ii) evaluate the feasibility of establishing
2 guidelines or standards for optimized substi-
3 tution rates of recovered mineral component in
4 those cement or concrete projects; and

5 “(iii) identify any potential environmental
6 or economic effects that may result from great-
7 er substitution of recovered mineral component
8 in those cement or concrete projects.

9 “(3) REPORT.—Not later than 30 months after
10 the date of enactment of this section, the Adminis-
11 trator shall submit to Congress a report on the
12 study.

13 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—
14 Unless the study conducted under subsection (c) identifies
15 any effects or other problems described in subsection
16 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
17 ministrators and each agency head shall, not later than 1
18 year after the date on which the report under subsection
19 (c)(3) is submitted, take additional actions under this Act
20 to establish procurement requirements and incentives that
21 provide for the use of cement and concrete with increased
22 substitution of recovered mineral component in the con-
23 struction and maintenance of cement or concrete
24 projects—

1 “(1) to realize more fully the energy savings
2 and environmental benefits associated with increased
3 substitution; and

4 “(2) to eliminate barriers identified under sub-
5 section (c)(2)(B).

6 “(e) EFFECT OF SECTION.—Nothing in this section
7 affects the requirements of section 6002 (including the
8 guidelines and specifications for implementing those re-
9 quirements).”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents of the Solid Waste Disposal Act is amended by add-
12 ing after the item relating to section 6004 the following:
 “Sec. 6005. Increased use of recovered mineral component in federally funded
 projects involving procurement of cement or concrete.”.

13 **Subtitle B—Energy Assistance and** 14 **State Programs**

15 **SEC. 121. WEATHERIZATION ASSISTANCE.**

16 Section 422 of the Energy Conservation and Produc-
17 tion Act (42 U.S.C. 6872) is amended by striking “for
18 fiscal years 1999 through 2003 such sums as may be nec-
19 essary” and inserting “\$325,000,000 for fiscal year 2006,
20 \$400,000,000 for fiscal year 2007, and \$500,000,000 for
21 fiscal year 2008”.

1 **SEC. 122. STATE ENERGY PROGRAMS.**

2 (a) STATE ENERGY CONSERVATION PLANS.—Section
3 362 of the Energy Policy and Conservation Act (42 U.S.C.
4 6322) is amended by adding at the end the following:

5 “(g)(1) The Secretary shall, at least once every 3
6 years, invite the Governor of each State to review and,
7 if necessary, revise the energy conservation plan of the
8 State submitted under subsection (b) or (e).

9 “(2) A review conducted under paragraph (1)
10 should—

11 “(A) consider the energy conservation plans of
12 other States within the region; and

13 “(B) identify opportunities and actions carried
14 out in pursuit of common energy conservation
15 goals.”.

16 (b) STATE ENERGY EFFICIENCY GOALS.—Section
17 364 of the Energy Policy and Conservation Act (42 U.S.C.
18 6324) is amended to read as follows:

19 “STATE ENERGY EFFICIENCY GOALS

20 “SEC. 364. Each State energy conservation plan with
21 respect to which assistance is made available under this
22 part on or after the date of enactment of the Energy Pol-
23 icy Act of 2005—

24 “(1) shall contain a goal, consisting of an im-
25 provement of 25 percent or more in the efficiency of

1 use of energy in the State concerned in calendar
2 year 2012 as compared to calendar year 1992; and

3 “(2) may contain interim goals.”.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
5 365(f) of the Energy Policy and Conservation Act (42
6 U.S.C. 6325(f)) is amended by striking “for fiscal years
7 1999 through 2003 such sums as may be necessary” and
8 inserting “\$100,000,000 for each of fiscal years 2006 and
9 2007 and \$125,000,000 for fiscal year 2008”.

10 **SEC. 123. ENERGY EFFICIENT APPLIANCE REBATE PRO-**
11 **GRAMS.**

12 (a) DEFINITIONS.—In this section:

13 (1) ELIGIBLE STATE.—The term “eligible
14 State” means a State that meets the requirements
15 of subsection (b).

16 (2) ENERGY STAR PROGRAM.—The term “En-
17 ergy Star program” means the program established
18 by section 324A of the Energy Policy and Conserva-
19 tion Act (as added by section 131(a)).

20 (3) RESIDENTIAL ENERGY STAR PRODUCT.—
21 The term “residential Energy Star product” means
22 a product for a residence that is rated for energy ef-
23 ficiency under the Energy Star program.

24 (4) STATE ENERGY OFFICE.—The term “State
25 energy office” means the State agency responsible

1 for developing State energy conservation plans under
2 section 362 of the Energy Policy and Conservation
3 Act (42 U.S.C. 6322).

4 (5) STATE PROGRAM.—The term “State pro-
5 gram” means a State energy efficient appliance re-
6 bate program described in subsection (b)(1).

7 (b) ELIGIBLE STATES.—A State shall be eligible to
8 receive an allocation under subsection (c) if the State—

9 (1) establishes (or has established) a State en-
10 ergy efficient appliance rebate program to provide
11 rebates to residential consumers for the purchase of
12 residential Energy Star products to replace used ap-
13 pliances of the same type;

14 (2) submits an application for the allocation at
15 such time, in such form, and containing such infor-
16 mation as the Secretary may require; and

17 (3) provides assurances satisfactory to the Sec-
18 retary that the State will use the allocation to sup-
19 plement, but not supplant, funds made available to
20 carry out the State program.

21 (c) AMOUNT OF ALLOCATIONS.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 for each fiscal year, the Secretary shall allocate to
24 the State energy office of each eligible State to carry

1 out subsection (d) an amount equal to the product
2 obtained by multiplying—

3 (A) the amount made available under sub-
4 section (f) for the fiscal year; and

5 (B) by the ratio that—

6 (i) the population of the State in the
7 most recent calendar year for which data
8 are available; bears to

9 (ii) the total population of all eligible
10 States in that calendar year.

11 (2) MINIMUM ALLOCATIONS.—For each fiscal
12 year, the amounts allocated under this subsection
13 shall be adjusted proportionately so that no eligible
14 State is allocated a sum that is less than such min-
15 imum amount as shall be determined by the Sec-
16 retary.

17 (d) USE OF ALLOCATED FUNDS.—The allocation to
18 a State energy office under subsection (c) may be used
19 to pay not more than 50 percent of the cost of establishing
20 and carrying out a State program.

21 (e) ISSUANCE OF REBATES.—

22 (1) IN GENERAL.—A rebate may be provided to
23 a residential consumer that meets the requirements
24 of the State program.

1 (2) AMOUNT.—The amount of a rebate shall be
2 determined by the State energy office, taking into
3 consideration—

4 (A) the amount of the allocation to the
5 State energy office under subsection (c);

6 (B) the amount of any Federal or State
7 tax incentive available for the purchase of the
8 residential Energy Star product; and

9 (C) the difference between—

10 (i) the cost of the residential Energy
11 Star product; and

12 (ii) the cost of an appliance that is
13 not a residential Energy Star product, but
14 is of the same type as, and is the nearest
15 capacity, performance, and other relevant
16 characteristics (as determined by the State
17 energy office) to, the residential Energy
18 Star product.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary to carry
21 out this section \$50,000,000 for each of fiscal years 2006
22 through 2010.

23 **SEC. 124. ENERGY EFFICIENT PUBLIC BUILDINGS.**

24 (a) GRANTS.—The Secretary may make grants to the
25 State agency responsible for developing State energy con-

1 servation plans under section 362 of the Energy Policy
2 and Conservation Act (42 U.S.C. 6322), or a State agency
3 designated by the Governor of the State, to assist units
4 of local government in the State in improving the energy
5 efficiency of public buildings and facilities through—

6 (1) construction of new energy efficient public
7 buildings that use at least 30 percent less energy
8 than a comparable public building constructed in
9 compliance with standards prescribed in—

10 (A) the most recent version of the Inter-
11 national Energy Conservation Code; or

12 (B) a similar State code intended to
13 achieve substantially equivalent efficiency levels;

14 or

15 (2) renovation of existing public buildings to
16 achieve reductions in energy use of at least 30 per-
17 cent as compared to the baseline energy use in the
18 buildings before renovation, assuming a 3-year,
19 weather-normalized average for calculating the base-
20 line.

21 (b) ADMINISTRATION.—State energy offices receiving
22 grants under this section shall—

23 (1) maintain any records and evidence of com-
24 pliance that the Secretary may require; and

1 (2) to encourage planning, financing, and de-
2 sign of energy efficient public buildings by units of
3 local government—

4 (A) develop and distribute information and
5 materials; and

6 (B) conduct programs to provide technical
7 services and assistance.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There is authorized to be
10 appropriated to the Secretary to carry out this sec-
11 tion \$30,000,000 for each of fiscal years 2006
12 through 2010.

13 (2) ADMINISTRATIVE EXPENSES.—Not more
14 than 10 percent of amounts made available under
15 paragraph (1) shall be used for administrative ex-
16 penses.

17 **SEC. 125. LOW INCOME COMMUNITY ENERGY EFFICIENCY**
18 **PILOT PROGRAM.**

19 (a) DEFINITION OF INDIAN TRIBE.—In this section,
20 the term “Indian tribe” has the meaning given the term
21 in section 4 of the Indian Self-Determination and Edu-
22 cation Assistance Act (25 U.S.C. 450b).

23 (b) GRANTS.—

24 (1) IN GENERAL.—The Secretary may provide
25 grants, on a competitive basis, to units of local gov-

1 ernment, private or nonprofit community develop-
2 ment organizations, and economic development enti-
3 ties of Indian tribes—

4 (A) to improve energy efficiency;

5 (B) to identify and develop alternative, re-
6 newable, and distributed energy supplies; and

7 (C) to increase energy conservation in low-
8 income rural and urban communities.

9 (2) ELIGIBLE ACTIVITIES.—The following ac-
10 tivities are eligible for grants under paragraph (1):

11 (A) Investments that develop alternative,
12 renewable, and distributed energy supplies.

13 (B) Energy efficiency projects and energy
14 conservation programs.

15 (C) Studies and other activities that im-
16 prove energy efficiency in low-income rural and
17 urban communities.

18 (D) Planning and development assistance
19 for increasing the energy efficiency of buildings
20 and facilities.

21 (E) Technical and financial assistance to
22 units of local government and private entities to
23 develop new renewable and distributed sources
24 of power or combined heat and power genera-
25 tion.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to carry
3 out this section \$20,000,000 for each of fiscal years 2006
4 through 2010.

5 **SEC. 126. STATE TECHNOLOGIES ADVANCEMENT COLLABO-**
6 **RATIVE.**

7 (a) IN GENERAL.—The Secretary, in cooperation
8 with the States, shall establish a cooperative program for
9 research, development, demonstration, and deployment of
10 technologies in which there is a common Federal and State
11 energy efficiency, renewable energy, and fossil energy in-
12 terest, to be known as the “State Technologies Advance-
13 ment Collaborative” (referred to in this section as the
14 “Collaborative”).

15 (b) DUTIES.—The Collaborative shall—

16 (1) leverage Federal and State funding through
17 cost-shared activity;

18 (2) reduce redundancies in Federal and State
19 funding; and

20 (3) create multistate projects to be awarded
21 through a competitive process.

22 (c) ADMINISTRATION.—The Collaborative shall be
23 administered through an agreement between the Depart-
24 ment and appropriate State-based organizations.

1 (d) FUNDING SOURCES.—Funding for the Collabo-
2 rative may be provided from—

3 (1) amounts specifically appropriated for the
4 Collaborative; or

5 (2) amounts that may be allocated from other
6 appropriations without changing the purpose for
7 which the amounts are appropriated.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to carry out this section such sums as are
10 necessary for each of fiscal years 2006 through 2010.

11 **SEC. 127. MODEL BUILDING ENERGY CODE COMPLIANCE**
12 **GRANT PROGRAM.**

13 (a) IN GENERAL.—The Secretary shall carry out a
14 program to provide grants to each State that the Sec-
15 retary determines, with respect to new buildings in the
16 State, achieves at least a 90-percent rate of compliance
17 (based on energy performance) with the most recent model
18 building energy codes.

19 (b) GUIDELINES.—Not later than 180 days after the
20 date of enactment of this Act, the Secretary shall issue
21 guidelines that standardize criteria by which a State that
22 seeks to receive a grant under this section may—

23 (1) verify compliance with applicable model
24 building energy codes; and

1 (2) demonstrate eligibility to receive a grant
2 under this section.

3 (c) LOCAL GOVERNMENT CODES.—In the case of a
4 State in which building energy codes are established by
5 local governments—

6 (1) a local government may—

7 (A) apply for a grant under this section;
8 and

9 (B) verify compliance and demonstrate eli-
10 gibility for the grant under subsection (b); and

11 (2) if the Secretary determines that the local
12 government is eligible to receive a grant, the Sec-
13 retary may provide a grant to the local government.

14 (d) USE OF FUNDS.—Funds from a grant provided
15 under this section may be used only to carry out activities
16 relating to the implementation of building energy codes
17 and building practices that exceed efficiency requirements
18 of the most recent model building energy codes.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—There is authorized to be
21 appropriated to carry out this section \$25,000,000
22 for each of fiscal years 2006 through 2010.

23 (2) SET ASIDE.—Of the amounts made avail-
24 able under paragraph (1), the Secretary may use not
25 more than \$500,000 for each fiscal year—

- 1 (A) to develop compliance guidelines;
2 (B) to train State and local officials; and
3 (C) to administer grants provided under
4 this section.

5 **Subtitle C—Energy Efficient** 6 **Products**

7 **SEC. 131. ENERGY STAR PROGRAM.**

8 (a) IN GENERAL.—The Energy Policy and Conserva-
9 tion Act is amended by inserting after section 324 (42
10 U.S.C. 6294) the following:

11 “ENERGY STAR PROGRAM

12 “SEC. 324A. (a) IN GENERAL.—There is established
13 within the Department of Energy and the Environmental
14 Protection Agency a voluntary program to identify and
15 promote energy-efficient products and buildings in order
16 to reduce energy consumption, improve energy security,
17 and reduce pollution through voluntary labeling of, or
18 other forms of communication about, products and build-
19 ings that meet the highest energy conservation standards.

20 “(b) DIVISION OF RESPONSIBILITIES.—Responsibil-
21 ities under the program shall be divided between the De-
22 partment of Energy and the Environmental Protection
23 Agency in accordance with the terms of applicable agree-
24 ments between those agencies.

25 “(c) DUTIES.—The Administrator and the Secretary
26 shall—

1 “(1) promote Energy Star compliant tech-
2 nologies as the preferred technologies in the market-
3 place for—

4 “(A) achieving energy efficiency; and

5 “(B) reducing pollution;

6 “(2) work to enhance public awareness of the
7 Energy Star label, including by providing special
8 outreach to small businesses;

9 “(3) preserve the integrity of the Energy Star
10 label;

11 “(4) regularly update Energy Star product cri-
12 teria for product categories;

13 “(5) solicit comments from interested parties
14 prior to establishing or revising an Energy Star
15 product category, specification, or criterion (or prior
16 to effective dates for any such product category,
17 specification, or criterion);

18 “(6) on adoption of a new or revised product
19 category, specification, or criterion, provide reason-
20 able notice to interested parties of any changes (in-
21 cluding effective dates) in product categories, speci-
22 fications, or criteria, along with—

23 “(A) an explanation of the changes; and

24 “(B) as appropriate, responses to com-
25 ments submitted by interested parties; and

1 “(c) HVAC MAINTENANCE.—(1) To ensure that in-
2 stalled air conditioning and heating systems operate at
3 maximum rated efficiency levels, the Secretary shall, not
4 later than 180 days after the date of enactment of this
5 subsection, carry out a program to educate homeowners
6 and small business owners concerning the energy savings
7 from properly conducted maintenance of air conditioning,
8 heating, and ventilating systems.

9 “(2) The Secretary shall carry out the program under
10 paragraph (1), on a cost-shared basis, in cooperation with
11 the Administrator of the Environmental Protection Agen-
12 cy and any other entities that the Secretary determines
13 to be appropriate, including industry trade associations,
14 industry members, and energy efficiency organizations.

15 “(d) SMALL BUSINESS EDUCATION AND ASSIST-
16 ANCE.—(1) The Administrator of the Small Business Ad-
17 ministration, in consultation with the Secretary and the
18 Administrator of the Environmental Protection Agency,
19 shall develop and coordinate a Government-wide program,
20 building on the Energy Star for Small Business Program,
21 to assist small businesses in—

22 “(A) becoming more energy efficient;

23 “(B) understanding the cost savings from im-
24 proved energy efficiency; and

1 “(C) identifying financing options for energy ef-
2 ficiency upgrades.

3 “(2) The Secretary and the Administrator of the
4 Small Business Administration shall make program infor-
5 mation available directly to small businesses and through
6 other Federal agencies, including the Federal Emergency
7 Management Agency and the Department of Agri-
8 culture.”.

9 **SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.**

10 (a) IN GENERAL.—Not later than 180 days after the
11 date of enactment of this Act, the Secretary shall convene
12 an organizational conference for the purpose of estab-
13 lishing an ongoing, self-sustaining national public energy
14 education program.

15 (b) PARTICIPANTS.—The Secretary shall invite to
16 participate in the conference individuals and entities rep-
17 resenting all aspects of energy production and distribu-
18 tion, including—

- 19 (1) industrial firms;
- 20 (2) professional societies;
- 21 (3) educational organizations;
- 22 (4) trade associations; and
- 23 (5) governmental agencies.

24 (c) PURPOSE, SCOPE, AND STRUCTURE.—

1 (1) PURPOSE.—The purpose of the conference
2 shall be to establish an ongoing, self-sustaining na-
3 tional public energy education program to examine
4 and recognize interrelationships between energy
5 sources in all forms, including—

6 (A) conservation and energy efficiency;

7 (B) the role of energy use in the economy;

8 and

9 (C) the impact of energy use on the envi-
10 ronment.

11 (2) SCOPE AND STRUCTURE.—Taking into con-
12 sideration the purpose described in paragraph (1),
13 the participants in the conference invited under sub-
14 section (b) shall design the scope and structure of
15 the program described in subsection (a).

16 (d) TECHNICAL ASSISTANCE.—The Secretary shall
17 provide technical assistance and other guidance necessary
18 to carry out the program described in subsection (a).

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as are nec-
21 essary to carry out this section.

1 **SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INI-**
2 **TIATIVE.**

3 (a) IN GENERAL.—The Secretary shall carry out a
4 comprehensive national program, including advertising
5 and media awareness, to inform consumers about—

6 (1) the need to reduce energy consumption dur-
7 ing the 4-year period beginning on the date of enact-
8 ment of this Act;

9 (2) the benefits to consumers of reducing con-
10 sumption of electricity, natural gas, and petroleum,
11 particularly during peak use periods;

12 (3) the importance of low energy costs to eco-
13 nomic growth and preserving manufacturing jobs in
14 the United States; and

15 (4) practical, cost-effective measures that con-
16 sumers can take to reduce consumption of elec-
17 tricity, natural gas, and gasoline, including—

18 (A) maintaining and repairing heating and
19 cooling ducts and equipment;

20 (B) weatherizing homes and buildings;

21 (C) purchasing energy efficient products;

22 and

23 (D) proper tire maintenance.

24 (b) COOPERATION.—The program carried out under
25 subsection (a) shall—

1 (1) include collaborative efforts with State and
2 local government officials and the private sector; and

3 (2) incorporate, to the maximum extent prac-
4 ticable, successful State and local public education
5 programs.

6 (c) REPORT.—Not later than July 1, 2009, the Sec-
7 retary shall submit to Congress a report describing the
8 effectiveness of the program under this section.

9 (d) TERMINATION OF AUTHORITY.—The program
10 carried out under this section shall terminate on December
11 31, 2010.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to carry out this section
14 \$90,000,000 for each of fiscal years 2006 through 2010.

15 **SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDI-**
16 **TIONAL PRODUCTS.**

17 (a) DEFINITIONS.—Section 321 of the Energy Policy
18 and Conservation Act (42 U.S.C. 6291) is amended—

19 (1) in paragraph (29)—

20 (A) in subparagraph (D)—

21 (i) in clause (i), by striking “C78.1–
22 1978(R1984)” and inserting “C78.81–
23 2003 (Data Sheet 7881–ANSI–1010–1)”;

24 (ii) in clause (ii), by striking “C78.1–
25 1978(R1984)” and inserting “C78.81–

1 2003 (Data Sheet 7881–ANSI–3007–1)”;

2 and

3 (iii) in clause (iii), by striking

4 “C78.1–1978(R1984)” and inserting

5 “C78.81–2003 (Data Sheet 7881–ANSI–

6 1019–1)”; and

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

8 “(M) The term ‘F34T12 lamp’ (also known as
9 a ‘F40T12/ES lamp’) means a nominal 34 watt tu-
10 bular fluorescent lamp that is 48 inches in length
11 and 1½ inches in diameter, and conforms to ANSI
12 standard C78.81–2003 (Data Sheet 7881–ANSI–
13 1006–1).

14 “(N) The term ‘F96T12/ES lamp’ means a
15 nominal 60 watt tubular fluorescent lamp that is 96
16 inches in length and 1½ inches in diameter, and
17 conforms to ANSI standard C78.81–2003 (Data
18 Sheet 7881–ANSI–3006–1).

19 “(O) The term ‘F96T12HO/ES lamp’ means a
20 nominal 95 watt tubular fluorescent lamp that is 96
21 inches in length and 1½ inches in diameter, and
22 conforms to ANSI standard C78.81–2003 (Data
23 Sheet 7881–ANSI–1017–1).

24 “(P) The term ‘replacement ballast’ means a
25 ballast that—

1 “(i) is designed for use to replace an exist-
2 ing ballast in a previously installed luminaire;

3 “(ii) is marked ‘FOR REPLACEMENT
4 USE ONLY’;

5 “(iii) is shipped by the manufacturer in
6 packages containing not more than 10 ballasts;
7 and

8 “(iv) has output leads that when fully ex-
9 tended are a total length that is less than the
10 length of the lamp with which the ballast is in-
11 tended to be operated.”;

12 (2) in paragraph (30)(S)—

13 (A) by inserting “(i)” before “The term”;
14 and

15 (B) by adding at the end the following:

16 “(ii) The term “medium base compact flu-
17 orescent lamp” does not include—

18 “(I) any lamp that is—

19 “(aa) specifically designed to be
20 used for special purpose applications;
21 and

22 “(bb) unlikely to be used in gen-
23 eral purpose applications, such as the
24 applications described in subpara-
25 graph (D); or

1 “(II) any lamp not described in sub-
2 paragraph (D) that is excluded by the Sec-
3 retary, by rule, because the lamp is—

4 “(aa) designed for special appli-
5 cations; and

6 “(bb) unlikely to be used in gen-
7 eral purpose applications.”; and

8 (3) by adding at the end the following:

9 “(32) The term ‘battery charger’ means a de-
10 vice that charges batteries for consumer products,
11 including battery chargers embedded in other con-
12 sumer products.

13 “(33)(A) The term ‘commercial prerinse spray
14 valve’ means a handheld device designed and mar-
15 keted for use with commercial dishwashing and ware
16 washing equipment that sprays water on dishes, flat-
17 ware, and other food service items for the purpose
18 of removing food residue before cleaning the items.

19 “(B) The Secretary may modify the definition
20 of ‘commercial prerinse spray valve’ by rule—

21 “(i) to include products—

22 “(I) that are extensively used in con-
23 junction with commercial dishwashing and
24 ware washing equipment;

1 “(II) the application of standards to
2 which would result in significant energy
3 savings; and

4 “(III) the application of standards to
5 which would meet the criteria specified in
6 section 325(o)(4); and

7 “(ii) to exclude products—

8 “(I) that are used for special food
9 service applications;

10 “(II) that are unlikely to be widely
11 used in conjunction with commercial dish-
12 washing and ware washing equipment; and

13 “(III) the application of standards to
14 which would not result in significant en-
15 ergy savings.

16 “(34) The term ‘dehumidifier’ means a self-con-
17 tained, electrically operated, and mechanically en-
18 cased assembly consisting of—

19 “(A) a refrigerated surface (evaporator)
20 that condenses moisture from the atmosphere;

21 “(B) a refrigerating system, including an
22 electric motor;

23 “(C) an air-circulating fan; and

24 “(D) means for collecting or disposing of
25 the condensate.

1 “(35)(A) The term ‘distribution transformer’
2 means a transformer that—

3 “(i) has an input voltage of 34.5 kilovolts
4 or less;

5 “(ii) has an output voltage of 600 volts or
6 less; and

7 “(iii) is rated for operation at a frequency
8 of 60 Hertz.

9 “(B) The term ‘distribution transformer’ does
10 not include—

11 “(i) a transformer with multiple voltage
12 taps, the highest of which equals at least 20
13 percent more than the lowest;

14 “(ii) a transformer that is designed to be
15 used in a special purpose application and is un-
16 likely to be used in general purpose applica-
17 tions, such as a drive transformer, rectifier
18 transformer, auto-transformer, Uninterruptible
19 Power System transformer, impedance trans-
20 former, regulating transformer, sealed and non-
21 ventilating transformer, machine tool trans-
22 former, welding transformer, grounding trans-
23 former, or testing transformer; or

1 “(iii) any transformer not listed in clause
2 (ii) that is excluded by the Secretary by rule
3 because—

4 “(I) the transformer is designed for a
5 special application;

6 “(II) the transformer is unlikely to be
7 used in general purpose applications; and

8 “(III) the application of standards to
9 the transformer would not result in signifi-
10 cant energy savings.

11 “(36) The term ‘external power supply’ means
12 an external power supply circuit that is used to con-
13 vert household electric current into DC current or
14 lower-voltage AC current to operate a consumer
15 product.

16 “(37) The term ‘illuminated exit sign’ means a
17 sign that—

18 “(A) is designed to be permanently fixed in
19 place to identify an exit; and

20 “(B) consists of an electrically powered in-
21 tegral light source that—

22 “(i) illuminates the legend ‘EXIT’
23 and any directional indicators; and

1 “(ii) provides contrast between the
2 legend, any directional indicators, and the
3 background.

4 “(38) The term ‘low-voltage dry-type distribu-
5 tion transformer’ means a distribution transformer
6 that—

7 “(A) has an input voltage of 600 volts or
8 less;

9 “(B) is air-cooled; and

10 “(C) does not use oil as a coolant.

11 “(39) The term ‘pedestrian module’ means a
12 light signal used to convey movement information to
13 pedestrians.

14 “(40) The term ‘refrigerated bottled or canned
15 beverage vending machine’ means a commercial re-
16 frigerator that cools bottled or canned beverages and
17 dispenses the bottled or canned beverages on pay-
18 ment.

19 “(41) The term ‘standby mode’ means the low-
20 est power consumption mode, as established on an
21 individual product basis by the Secretary, that—

22 “(A) cannot be switched off or influenced
23 by the user; and

24 “(B) may persist for an indefinite time
25 when an appliance is—

1 “(i) connected to the main electricity
2 supply; and

3 “(ii) used in accordance with the in-
4 structions of the manufacturer.

5 “(42) The term ‘torchiere’ means a portable
6 electric lamp with a reflector bowl that directs light
7 upward to give indirect illumination.

8 “(43) The term ‘traffic signal module’ means a
9 standard 8-inch (200mm) or 12-inch (300mm) traf-
10 fic signal indication that—

11 “(A) consists of a light source, a lens, and
12 all other parts necessary for operation; and

13 “(B) communicates movement messages to
14 drivers through red, amber, and green colors.

15 “(44) The term ‘transformer’ means a device
16 consisting of 2 or more coils of insulated wire that
17 transfers alternating current by electromagnetic in-
18 duction from 1 coil to another to change the original
19 voltage or current value.

20 “(45)(A) The term ‘unit heater’ means a self-
21 contained fan-type heater designed to be installed
22 within the heated space.

23 “(B) The term ‘unit heater’ does not include a
24 warm air furnace.

1 “(46)(A) The term ‘high intensity discharge
2 lamp’ means an electric-discharge lamp in which—

3 “(i) the light-producing arc is stabilized by
4 bulb wall temperature; and

5 “(ii) the arc tube has a bulb wall loading
6 in excess of 3 Watts/cm².

7 “(B) The term ‘high intensity discharge lamp’
8 includes mercury vapor, metal halide, and high-pres-
9 sure sodium lamps described in subparagraph (A).

10 “(47)(A) The term ‘mercury vapor lamp’ means
11 a high intensity discharge lamp in which the major
12 portion of the light is produced by radiation from
13 mercury operating at a partial pressure in excess of
14 100,000 Pa (approximately 1 atm).

15 “(B) The term ‘mercury vapor lamp’ includes
16 clear, phosphor-coated, and self-ballasted lamps de-
17 scribed in subparagraph (A).

18 “(48) The term ‘mercury vapor lamp ballast’
19 means a device that is designed and marketed to
20 start and operate mercury vapor lamps by providing
21 the necessary voltage and current.”.

22 (b) TEST PROCEDURES.—Section 323 of the Energy
23 Policy and Conservation Act (42 U.S.C. 6293) is
24 amended—

1 (1) in subsection (b), by adding at the end the
2 following:

3 “(9) Test procedures for illuminated exit signs shall
4 be based on the test method used under version 2.0 of
5 the Energy Star program of the Environmental Protection
6 Agency for illuminated exit signs.

7 “(10)(A) Test procedures for distribution trans-
8 formers and low voltage dry-type distribution transformers
9 shall be based on the ‘Standard Test Method for Meas-
10 uring the Energy Consumption of Distribution Trans-
11 formers’ prescribed by the National Electrical Manufac-
12 turers Association (NEMA TP 2–1998).

13 “(B) The Secretary may review and revise the test
14 procedures established under subparagraph (A).

15 “(C) For purposes of section 346(a), the test proce-
16 dures established under subparagraph (A) shall be consid-
17 ered to be the testing requirements prescribed by the Sec-
18 retary under section 346(a)(1) for distribution trans-
19 formers for which the Secretary makes a determination
20 that energy conservation standards would—

21 “(i) be technologically feasible and economically
22 justified; and

23 “(ii) result in significant energy savings.

24 “(11) Test procedures for traffic signal modules and
25 pedestrian modules shall be based on the test method used

1 under the Energy Star program of the Environmental
2 Protection Agency for traffic signal modules, as in effect
3 on the date of enactment of this paragraph.

4 “(12)(A) Test procedures for medium base compact
5 fluorescent lamps shall be based on the test methods for
6 compact fluorescent lamps used under the August 9, 2001,
7 version of the Energy Star program of the Environmental
8 Protection Agency and the Department of Energy.

9 “(B) Except as provided in subparagraph (C), me-
10 dium base compact fluorescent lamps shall meet all test
11 requirements for regulated parameters of section 325(cc).

12 “(C) Notwithstanding subparagraph (B), if manufac-
13 turers document engineering predictions and analysis that
14 support expected attainment of lumen maintenance at 40
15 percent rated life and lamp lifetime, medium base compact
16 fluorescent lamps may be marketed before completion of
17 the testing of lamp life and lumen maintenance at 40 per-
18 cent of rated life.

19 “(13) Test procedures for dehumidifiers shall be
20 based on the test criteria used under the Energy Star Pro-
21 gram Requirements for Dehumidifiers developed by the
22 Environmental Protection Agency, as in effect on the date
23 of enactment of this paragraph unless revised by the Sec-
24 retary pursuant to this section.

1 “(14) The test procedure for measuring flow rate for
2 commercial prerinse spray valves shall be based on Amer-
3 ican Society for Testing and Materials Standard F2324,
4 entitled ‘Standard Test Method for Pre-Rinse Spray
5 Valves.’

6 “(15) The test procedure for refrigerated bottled or
7 canned beverage vending machines shall be based on
8 American National Standards Institute/American Society
9 of Heating, Refrigerating and Air-Conditioning Engineers
10 Standard 32.1–2004, entitled ‘Methods of Testing for
11 Rating Vending Machines for Bottled, Canned or Other
12 Sealed Beverages.’”; and

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

14 “(f) ADDITIONAL CONSUMER AND COMMERCIAL
15 PRODUCTS.—(1) Not later than 2 years after the date of
16 enactment of this subsection, the Secretary shall prescribe
17 testing requirements for—

18 “(A) suspended ceiling fans; and

19 “(B) refrigerated bottled or canned beverage
20 vending machines.

21 “(2) To the maximum extent practicable, the testing
22 requirements prescribed under paragraph (1) shall be
23 based on existing test procedures used in industry.”.

1 (c) STANDARD SETTING AUTHORITY.—Section 325
2 of the Energy Policy and Conservation Act (42 U.S.C.
3 6295) is amended—

4 (1) in subsection (f)(3), by adding at the end
5 the following:

6 “(D) Notwithstanding any other provision of this Act,
7 if the requirements of subsection (o) are met, the Sec-
8 retary may consider and prescribe energy conservation
9 standards or energy use standards for electricity used for
10 purposes of circulating air through duct work.”;

11 (2) in subsection (g)—

12 (A) in paragraph (6)(B), by inserting “and
13 labeled” after “designed”; and

14 (B) by adding at the end the following:

15 “(8)(A) Each fluorescent lamp ballast (other than re-
16 placement ballasts or ballasts described in subparagraph
17 (C))—

18 “(i)(I) manufactured on or after July 1, 2009;

19 “(II) sold by the manufacturer on or after Oc-
20 tober 1, 2009; or

21 “(III) incorporated into a luminaire by a lumi-
22 naire manufacturer on or after July 1, 2010; and

23 “(ii) designed—

24 “(I) to operate at nominal input voltages
25 of 120 or 277 volts;

1 “(II) to operate with an input current fre-
2 quency of 60 Hertz; and

3 “(III) for use in connection with F34T12
4 lamps, F96T12/ES lamps, or F96T12HO/ES
5 lamps;

6 shall have a power factor of 0.90 or greater and shall have
7 a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96 T12/ES lamps	120/277	120	0.77
Two F96 T12HO/ES lamps	120/277	190	0.42

8 “(B) The standards described in subparagraph (A)
9 shall apply to all ballasts covered by subparagraph (A)(ii)
10 that are manufactured on or after July 1, 2010, or sold
11 by the manufacturer on or after October 1, 2010.

12 “(C) The standards described in subparagraphs (A)
13 and (B) do not apply to—

14 “(i) a ballast that is designed for dimming to
15 50 percent or less of the maximum output of the
16 ballast;

17 “(ii) a ballast that is designed for use with 2
18 F96T12HO lamps at ambient temperatures of 20°F
19 or less and for use in an outdoor sign; or

1 “(iii) a ballast that has a power factor of less
2 than 0.90 and is designed and labeled for use only
3 in residential applications.”;

4 (3) in subsection (o), by adding at the end the
5 following:

6 “(5) The Secretary may set more than 1 energy con-
7 servation standard for products that serve more than 1
8 major function by setting 1 energy conservation standard
9 for each major function.”;

10 (4) in the first sentence of subsection (p), by
11 striking “Any” and inserting the following: “Except
12 as provided in subsection (u), any”; and

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

14 “(u) SPECIAL RULEMAKING PROCEDURES.—(1) Not-
15 withstanding any other provision of law, the Secretary
16 may publish a notice of direct final rulemaking based on
17 an energy conservation standard recommended by an in-
18 terested person, if—

19 “(A) in response to an advance notice of pro-
20 posed rulemaking under paragraph (p), the inter-
21 ested person (including a representative of a manu-
22 facturer of a covered product, a conservation advo-
23 cate, or consumer) submits a joint comment recom-
24 mending an energy conservation standard; and

1 “(B) the Secretary determines that the energy
2 conservation standard complies with the substantive
3 provisions of this Act that apply to the type (or
4 class) of covered products to which the rule may
5 apply.

6 “(2) The Secretary shall publish a notice of direct
7 final rulemaking under paragraph (1) with a notice of pro-
8 posed rulemaking incorporating by reference the regu-
9 latory language of the direct final rule that provides for
10 an effective date not earlier than 90 days after the date
11 of publication.

12 “(3) The Secretary may withdraw a direct final rule
13 published under paragraph (2) before the effective date
14 of the rule if an interested person files a significant ad-
15 verse comment in response to the related notice of pro-
16 posed rulemaking.

17 “(v) BATTERY CHARGER AND EXTERNAL POWER
18 SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not
19 later than 18 months after the date of enactment of this
20 subsection, the Secretary shall, after providing notice and
21 an opportunity for comment, prescribe, by rule, definitions
22 and test procedures for the power use of battery chargers
23 and external power supplies.

24 “(B) In establishing the test procedures under sub-
25 paragraph (A), the Secretary shall—

1 “(i) consider existing definitions and test proce-
2 dures used for measuring energy consumption in
3 standby mode and other modes; and

4 “(ii) assess the current and projected future
5 market for battery chargers and external power sup-
6 plies.

7 “(C) The assessment under subparagraph (B)(ii)
8 shall include—

9 “(i) estimates of the significance of potential
10 energy savings from technical improvements to bat-
11 tery chargers and external power supplies; and

12 “(ii) suggested product classes for energy con-
13 servation standards.

14 “(D) Not later than 18 months after the date of en-
15 actment of this subsection, the Secretary shall hold a
16 scoping workshop to discuss and receive comments on
17 plans for developing energy conservation standards for en-
18 ergy use for battery chargers and external power supplies.

19 “(E)(i) Not later than 3 years after the date of enact-
20 ment of this subsection, the Secretary shall issue a final
21 rule that determines whether energy conservation stand-
22 ards shall be issued for battery chargers and external
23 power supplies or classes of battery chargers and external
24 power supplies.

1 “(ii) For each product class, any energy conservation
2 standards issued under clause (i) shall be set at the lowest
3 level of energy use that—

4 “(I) meets the criteria and procedures of sub-
5 sections (o), (p), (q), (r), (s), and (t); and

6 “(II) would result in significant overall annual
7 energy savings, considering standby mode and other
8 operating modes.

9 “(2) In determining under section 323 whether test
10 procedures and energy conservation standards under this
11 section should be revised with respect to covered products
12 that are major sources of standby mode energy consump-
13 tion, the Secretary shall consider whether to incorporate
14 standby mode into the test procedures and energy con-
15 servation standards, taking into account standby mode
16 power consumption compared to overall product energy
17 consumption.

18 “(3) The Secretary shall not propose an energy con-
19 servation standard under this section, unless the Secretary
20 has issued applicable test procedures for each product
21 under section 323.

22 “(4) Any energy conservation standard issued under
23 this subsection shall be applicable to products manufac-
24 tured or imported beginning on the date that is 3 years
25 after the date of issuance.

1 “(5) The Secretary and the Administrator shall col-
2 laborate and develop programs (including programs under
3 section 324A and other voluntary industry agreements or
4 codes of conduct) that are designed to reduce standby
5 mode energy use.

6 “(w) SUSPENDED CEILING FANS AND REFRIG-
7 ERATED BEVERAGE VENDING MACHINES.—(1) Not later
8 than 4 years after the date of enactment of this sub-
9 section, the Secretary shall prescribe, by rule, energy con-
10 servation standards for—

11 “(A) suspended ceiling fans; and

12 “(B) refrigerated bottled or canned beverage
13 vending machines.

14 “(2) In establishing energy conservation standards
15 under this subsection, the Secretary shall use the criteria
16 and procedures prescribed under subsections (o) and (p).

17 “(3) Any energy conservation standard prescribed
18 under this subsection shall apply to products manufac-
19 tured 3 years after the date of publication of a final rule
20 establishing the energy conservation standard.

21 “(x) ILLUMINATED EXIT SIGNS.—An illuminated
22 exit sign manufactured on or after January 1, 2006, shall
23 meet the version 2.0 Energy Star Program performance
24 requirements for illuminated exit signs prescribed by the
25 Environmental Protection Agency.

1 “(y) TORCHIERES.—A torchiere manufactured on or
2 after January 1, 2006—

3 “(1) shall consume not more than 190 watts of
4 power; and

5 “(2) shall not be capable of operating with
6 lamps that total more than 190 watts.

7 “(z) LOW VOLTAGE DRY-TYPE DISTRIBUTION
8 TRANSFORMERS.—The efficiency of a low voltage dry-type
9 distribution transformer manufactured on or after Janu-
10 ary 1, 2006, shall be the Class I Efficiency Levels for dis-
11 tribution transformers specified in table 4–2 of the ‘Guide
12 for Determining Energy Efficiency for Distribution Trans-
13 formers’ published by the National Electrical Manufactur-
14 ers Association (NEMA TP–1–2002).

15 “(aa) TRAFFIC SIGNAL MODULES AND PEDESTRIAN
16 MODULES.—Any traffic signal module or pedestrian mod-
17 ule manufactured on or after January 1, 2006, shall—

18 “(1) meet the performance requirements used
19 under the Energy Star program of the Environ-
20 mental Protection Agency for traffic signals, as in
21 effect on the date of enactment of this subsection;
22 and

23 “(2) be installed with compatible, electrically
24 connected signal control interface devices and con-
25 flict monitoring systems.

1 “(bb) UNIT HEATERS.—A unit heater manufactured
2 on or after the date that is 3 years after the date of enact-
3 ment of this subsection shall—

4 “(1) be equipped with an intermittent ignition
5 device; and

6 “(2) have power venting or an automatic flue
7 damper.

8 “(cc) MEDIUM BASE COMPACT FLUORESCENT
9 LAMPS.—(1) A bare lamp and covered lamp (no reflector)
10 medium base compact fluorescent lamp manufactured on
11 or after January 1, 2006, shall meet the following require-
12 ments prescribed by the August 9, 2001, version of the
13 Energy Star Program Requirements for Compact Fluores-
14 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-
15 ciency Specification issued by the Environmental Protec-
16 tion Agency and Department of Energy:

17 “(A) Minimum initial efficacy.

18 “(B) Lumen maintenance at 1000 hours.

19 “(C) Lumen maintenance at 40 percent of
20 rated life.

21 “(D) Rapid cycle stress test.

22 “(E) Lamp life.

23 “(2) The Secretary may, by rule, establish require-
24 ments for color quality (CRI), power factor, operating fre-
25 quency, and maximum allowable start time based on the

1 requirements prescribed by the August 9, 2001, version
2 of the Energy Star Program Requirements for Compact
3 Fluorescent Lamps.

4 “(3) The Secretary may, by rule—

5 “(A) revise the requirements established under
6 paragraph (2); or

7 “(B) establish other requirements, after consid-
8 ering energy savings, cost effectiveness, and con-
9 sumer satisfaction.

10 “(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manu-
11 factured on or after October 1, 2007, shall have an Energy
12 Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.00
25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

13 “(2)(A) Not later than October 1, 2009, the Sec-
14 retary shall publish a final rule in accordance with sub-
15 sections (o) and (p), to determine whether the energy con-
16 servation standards established under paragraph (1)
17 should be amended.

18 “(B) The final rule published under subparagraph
19 (A) shall—

20 “(i) contain any amendment by the Secretary;

21 and

1 “(ii) provide that the amendment applies to
2 products manufactured on or after October 1, 2012.

3 “(C) If the Secretary does not publish an amendment
4 that takes effect by October 1, 2012, dehumidifiers manu-
5 factured on or after October 1, 2012, shall have an Energy
6 Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.

7 “(ee) COMMERCIAL PRERINSE SPRAY VALVES.—
8 Commercial prerinse spray valves manufactured on or
9 after January 1, 2006, shall have a flow rate of not more
10 than 1.6 gallons per minute.

11 “(ff) MERCURY VAPOR LAMP BALLASTS.—Mercury
12 vapor lamp ballasts shall not be manufactured or imported
13 after January 1, 2008.

14 “(gg) APPLICATION DATE.—Section 327 applies—
15 “(1) to products for which energy conservation
16 standards are to be established under subsection (l),
17 (u), (v), or (w) beginning on the date on which a
18 final rule is issued by the Secretary, except that any
19 State or local standard prescribed or enacted for the
20 product before the date on which the final rule is
21 issued shall not be preempted until the energy con-

1 servation standard established under subsection
2 (l),(u), (v), or (w) for the product takes effect; and
3 “(2) to products for which energy conservation
4 standards are established under subsections (x)
5 through (ff) on the date of enactment of those sub-
6 sections, except that any State or local standard pre-
7 scribed or enacted before the date of enactment of
8 those subsections shall not be preempted until the
9 energy conservation standards established under
10 subsections (x) through (ff) take effect.”.

11 (d) GENERAL RULE OF PREEMPTION.—Section
12 327(e) of the Energy Policy and Conservation Act (42
13 U.S.C. 6297(c)) is amended—

14 (1) in paragraph (5), by striking “or” at the
15 end;

16 (2) in paragraph (6), by striking the period at
17 the end and inserting “; or”; and

18 (3) by adding at the end the following:

19 “(7)(A) is a regulation concerning standards for
20 commercial prerinse spray valves adopted by the
21 California Energy Commission before January 1,
22 2005; or

23 “(B) is an amendment to a regulation described
24 in subparagraph (A) that was developed to align

1 California regulations with changes in American So-
2 ciety for Testing and Materials Standard F2324;

3 “(8)(A) is a regulation concerning standards for
4 pedestrian modules adopted by the California En-
5 ergy Commission before January 1, 2005; or

6 “(B) is an amendment to a regulation described
7 in subparagraph (A) that was developed to align
8 California regulations to changes in the Institute for
9 Transportation Engineers standards, entitled ‘Per-
10 formance Specification: Pedestrian Traffic Control
11 Signal Indications’.”.

12 **SEC. 136. ENERGY CONSERVATION STANDARDS FOR COM-**
13 **MERCIAL EQUIPMENT.**

14 (a) DEFINITIONS.—Section 340 of the Energy Policy
15 and Conservation Act (42 U.S.C. 6311) is amended—

16 (1) in paragraph (1)—

17 (A) by redesignating subparagraphs (D)
18 through (G) as subparagraphs (H) through
19 (K), respectively; and

20 (B) by inserting after subparagraph (C)
21 the following:

22 “(D) Very large commercial package air
23 conditioning and heating equipment.

24 “(E) Commercial refrigerators, freezers,
25 and refrigerator-freezers.

1 “(F) Automatic commercial ice makers.

2 “(G) Commercial clothes washers.”;

3 (2) in paragraph (2)(B), by striking “small and
4 large commercial package air conditioning and heat-
5 ing equipment” and inserting “commercial package
6 air conditioning and heating equipment, commercial
7 refrigerators, freezers, and refrigerator-freezers,
8 automatic commercial ice makers, commercial
9 clothes washers”;

10 (3) by striking paragraphs (8) and (9) and in-
11 serting the following:

12 “(8)(A) The term ‘commercial package air con-
13 ditioning and heating equipment’ means air-cooled,
14 water-cooled, evaporatively-cooled, or water source
15 (not including ground water source) electrically oper-
16 ated, unitary central air conditioners and central air
17 conditioning heat pumps for commercial application.

18 “(B) The term ‘small commercial package air
19 conditioning and heating equipment’ means commer-
20 cial package air conditioning and heating equipment
21 that is rated below 135,000 Btu per hour (cooling
22 capacity).

23 “(C) The term ‘large commercial package air
24 conditioning and heating equipment’ means commer-

1 cial package air conditioning and heating equipment
2 that is rated—

3 “(i) at or above 135,000 Btu per hour;
4 and

5 “(ii) below 240,000 Btu per hour (cooling
6 capacity).

7 “(D) The term ‘very large commercial package
8 air conditioning and heating equipment’ means com-
9 mercial package air conditioning and heating equip-
10 ment that is rated—

11 “(i) at or above 240,000 Btu per hour;
12 and

13 “(ii) below 760,000 Btu per hour (cooling
14 capacity).

15 “(9)(A) The term ‘commercial refrigerator,
16 freezer, and refrigerator-freezer’ means refrigeration
17 equipment that—

18 “(i) is not a consumer product (as defined
19 in section 321);

20 “(ii) is not designed and marketed exclu-
21 sively for medical, scientific, or research pur-
22 poses;

23 “(iii) operates at a chilled, frozen, com-
24 bination chilled and frozen, or variable tempera-
25 ture;

1 “(iv) displays or stores merchandise and
2 other perishable materials horizontally,
3 semivertically, or vertically;

4 “(v) has transparent or solid doors, sliding
5 or hinged doors, a combination of hinged, slid-
6 ing, transparent, or solid doors, or no doors;

7 “(vi) is designed for pull-down temperature
8 applications or holding temperature applica-
9 tions; and

10 “(vii) is connected to a self-contained con-
11 densing unit or to a remote condensing unit.

12 “(B) The term ‘holding temperature applica-
13 tion’ means a use of commercial refrigeration equip-
14 ment other than a pull-down temperature applica-
15 tion, except a blast chiller or freezer.

16 “(C) The term ‘integrated average temperature’
17 means the average temperature of all test package
18 measurements taken during the test.

19 “(D) The term ‘pull-down temperature applica-
20 tion’ means a commercial refrigerator with doors
21 that, when fully loaded with 12 ounce beverage cans
22 at 90 degrees F, can cool those beverages to an av-
23 erage stable temperature of 38 degrees F in 12
24 hours or less.

1 “(E) The term ‘remote condensing unit’ means
2 a factory-made assembly of refrigerating components
3 designed to compress and liquefy a specific refrigerant
4 that is remotely located from the refrigerated
5 equipment and consists of 1 or more refrigerant
6 compressors, refrigerant condensers, condenser fans
7 and motors, and factory supplied accessories.

8 “(F) The term ‘self-contained condensing unit’
9 means a factory-made assembly of refrigerating com-
10 ponents designed to compress and liquefy a specific
11 refrigerant that is an integral part of the refrigerated
12 equipment and consists of 1 or more refrigerant
13 compressors, refrigerant condensers, condenser
14 fans and motors, and factory supplied accessories.”;
15 and

16 (4) by adding at the end the following:

17 “(19) The term ‘automatic commercial ice
18 maker’ means a factory-made assembly (not necessarily
19 shipped in 1 package) that—

20 “(A) consists of a condensing unit and ice-
21 making section operating as an integrated unit,
22 with means for making and harvesting ice; and

23 “(B) may include means for storing ice,
24 dispensing ice, or storing and dispensing ice.

1 “(20) The term ‘commercial clothes washer’
2 means a soft-mount front-loading or soft-mount top-
3 loading clothes washer that—

4 “(A) has a clothes container compartment
5 that—

6 “(i) for horizontal-axis clothes wash-
7 ers, is not more than 3.5 cubic feet ; and

8 “(ii) for vertical-axis clothes washers,
9 is not more than 4.0 cubic feet; and

10 “(B) is designed for use in—

11 “(i) applications in which the occu-
12 pants of more than 1 household will be
13 using the clothes washer, such as multi-
14 family housing common areas and coin
15 laundries; or

16 “(ii) other commercial applications.

17 “(21) The term ‘harvest rate’ means the
18 amount of ice (at 32 degrees F) in pounds produced
19 per 24 hours.”.

20 (b) STANDARDS FOR COMMERCIAL PACKAGE AIR
21 CONDITIONING AND HEATING EQUIPMENT.—Section
22 342(a) of the Energy Policy and Conservation Act (42
23 U.S.C. 6313(a)) is amended—

1 (1) in the subsection heading, by striking
2 “SMALL AND LARGE” and inserting “SMALL,
3 LARGE, AND VERY LARGE”;

4 (2) in paragraph (1), by inserting “but before
5 January 1, 2010,” after “January 1, 1994,”;

6 (3) in paragraph (2), by inserting “but before
7 January 1, 2010,” after “January 1, 1995,”; and

8 (4) in paragraph (6)—

9 (A) in subparagraph (A)—

10 (i) by inserting “(i)” after “(A)”;

11 (ii) by striking “the date of enactment
12 of the Energy Policy Act of 1992” and in-
13 serting “January 1, 2010”;

14 (iii) by inserting after “large commer-
15 cial package air conditioning and heating
16 equipment,” the following: “and very large
17 commercial package air conditioning and
18 heating equipment, or if ASHRAE/IES
19 Standard 90.1, as in effect on October 24,
20 1992, is amended with respect to any”;
21 and

22 (iv) by adding at the end the fol-
23 lowing:

24 “(ii) If ASHRAE/IES Standard 90.1 is not amended
25 with respect to small commercial package air conditioning

1 and heating equipment, large commercial package air con-
2 ditioning and heating equipment, and very large commer-
3 cial package air conditioning and heating equipment dur-
4 ing the 5-year period beginning on the effective date of
5 a standard, the Secretary may initiate a rulemaking to
6 determine whether a more stringent standard—

7 “(I) would result in significant additional con-
8 servation of energy; and

9 “(II) is technologically feasible and economi-
10 cally justified.”; and

11 (B) in subparagraph (C)(ii), by inserting
12 “and very large commercial package air condi-
13 tioning and heating equipment” after “large
14 commercial package air conditioning and heat-
15 ing equipment”; and

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

17 “(7) Small commercial package air conditioning and
18 heating equipment manufactured on or after January 1,
19 2010, shall meet the following standards:

20 “(A) The minimum energy efficiency ratio of
21 air-cooled central air conditioners at or above 65,000
22 Btu per hour (cooling capacity) and less than
23 135,000 Btu per hour (cooling capacity) shall be—

24 “(i) 11.2 for equipment with no heating or
25 electric resistance heating; and

1 “(ii) 11.0 for equipment with all other
2 heating system types that are integrated into
3 the equipment (at a standard rating of 95 de-
4 grees F db).

5 “(B) The minimum energy efficiency ratio of
6 air-cooled central air conditioner heat pumps at or
7 above 65,000 Btu per hour (cooling capacity) and
8 less than 135,000 Btu per hour (cooling capacity)
9 shall be—

10 “(i) 11.0 for equipment with no heating or
11 electric resistance heating; and

12 “(ii) 10.8 for equipment with all other
13 heating system types that are integrated into
14 the equipment (at a standard rating of 95 de-
15 grees F db).

16 “(C) The minimum coefficient of performance
17 in the heating mode of air-cooled central air condi-
18 tioning heat pumps at or above 65,000 Btu per hour
19 (cooling capacity) and less than 135,000 Btu per
20 hour (cooling capacity) shall be 3.3 (at a high tem-
21 perature rating of 47 degrees F db).

22 “(8) Large commercial package air conditioning and
23 heating equipment manufactured on or after January 1,
24 2010, shall meet the following standards:

1 “(A) The minimum energy efficiency ratio of
2 air-cooled central air conditioners at or above
3 135,000 Btu per hour (cooling capacity) and less
4 than 240,000 Btu per hour (cooling capacity) shall
5 be—

6 “(i) 11.0 for equipment with no heating or
7 electric resistance heating; and

8 “(ii) 10.8 for equipment with all other
9 heating system types that are integrated into
10 the equipment (at a standard rating of 95 de-
11 grees F db).

12 “(B) The minimum energy efficiency ratio of
13 air-cooled central air conditioner heat pumps at or
14 above 135,000 Btu per hour (cooling capacity) and
15 less than 240,000 Btu per hour (cooling capacity)
16 shall be—

17 “(i) 10.6 for equipment with no heating or
18 electric resistance heating; and

19 “(ii) 10.4 for equipment with all other
20 heating system types that are integrated into
21 the equipment (at a standard rating of 95 de-
22 grees F db).

23 “(C) The minimum coefficient of performance
24 in the heating mode of air-cooled central air condi-
25 tioning heat pumps at or above 135,000 Btu per

1 hour (cooling capacity) and less than 240,000 Btu
2 per hour (cooling capacity) shall be 3.2 (at a high
3 temperature rating of 47 degrees F db).

4 “(9) Very large commercial package air conditioning
5 and heating equipment manufactured on or after January
6 1, 2010, shall meet the following standards:

7 “(A) The minimum energy efficiency ratio of
8 air-cooled central air conditioners at or above
9 240,000 Btu per hour (cooling capacity) and less
10 than 760,000 Btu per hour (cooling capacity) shall
11 be—

12 “(i) 10.0 for equipment with no heating or
13 electric resistance heating; and

14 “(ii) 9.8 for equipment with all other heat-
15 ing system types that are integrated into the
16 equipment (at a standard rating of 95 degrees
17 F db).

18 “(B) The minimum energy efficiency ratio of
19 air-cooled central air conditioner heat pumps at or
20 above 240,000 Btu per hour (cooling capacity) and
21 less than 760,000 Btu per hour (cooling capacity)
22 shall be—

23 “(i) 9.5 for equipment with no heating or
24 electric resistance heating; and

1 “(ii) 9.3 for equipment with all other heat-
2 ing system types that are integrated into the
3 equipment (at a standard rating of 95 degrees
4 F db).

5 “(C) The minimum coefficient of performance
6 in the heating mode of air-cooled central air condi-
7 tioning heat pumps at or above 240,000 Btu per
8 hour (cooling capacity) and less than 760,000 Btu
9 per hour (cooling capacity) shall be 3.2 (at a high
10 temperature rating of 47 degrees F db).”.

11 (c) STANDARDS FOR COMMERCIAL REFRIGERATORS,
12 FREEZERS, AND REFRIGERATOR-FREEZERS.—Section
13 342 of the Energy Policy and Conservation Act (42 U.S.C.
14 6313) is amended by adding at the end the following:

15 “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND
16 REFRIGERATOR-FREEZERS.—(1) In this subsection:

17 “(A) The term ‘AV’ means the adjusted volume
18 (ft³) (defined as 1.63 x frozen temperature compart-
19 ment volume (ft³) + chilled temperature compart-
20 ment volume (ft³)) with compartment volumes meas-
21 ured in accordance with the Association of Home
22 Appliance Manufacturers Standard HRF1–1979.

23 “(B) The term ‘V’ means the chilled or frozen
24 compartment volume (ft³) (as defined in the Asso-

1 ciation of Home Appliance Manufacturers Standard
2 HRF1-1979).

3 “(C) Other terms have such meanings as may
4 be established by the Secretary, based on industry-
5 accepted definitions and practice.

6 “(2) Each commercial refrigerator, freezer, and re-
7 frigerator-freezer with a self-contained condensing unit de-
8 signed for holding temperature applications manufactured
9 on or after January 1, 2010, shall have a daily energy
10 consumption (in kilowatt hours per day) that does not ex-
11 ceed the following:

“Refrigerators with solid doors	0.10 V + 2.04
Refrigerators with transparent doors	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV - 0.71 or 0.70.

12 “(3) Each commercial refrigerator with a self-con-
13 tained condensing unit designed for pull-down tempera-
14 ture applications and transparent doors manufactured on
15 or after January 1, 2010, shall have a daily energy con-
16 sumption (in kilowatt hours per day) of not more than
17 0.126 V + 3.51.

18 “(4)(A) Not later than January 1, 2009, the Sec-
19 retary shall issue, by rule, standard levels for ice-cream
20 freezers, self-contained commercial refrigerators, freezers,
21 and refrigerator-freezers without doors, and remote con-
22 densing commercial refrigerators, freezers, and refrig-

1 erator-freezers, with the standard levels effective for
2 equipment manufactured on or after January 1, 2012.

3 “(B) The Secretary may issue, by rule, standard lev-
4 els for other types of commercial refrigerators, freezers,
5 and refrigerator-freezers not covered by paragraph (2)(A)
6 with the standard levels effective for equipment manufac-
7 tured 3 or more years after the date on which the final
8 rule is published.

9 “(5)(A) Not later than January 1, 2013, the Sec-
10 retary shall issue a final rule to determine whether the
11 standards established under this subsection should be
12 amended.

13 “(B) Not later than 3 years after the effective date
14 of any amended standards under subparagraph (A) or the
15 publication of a final rule determining that the standards
16 should not be amended, the Secretary shall issue a final
17 rule to determine whether the standards established under
18 this subsection or the amended standards, as applicable,
19 should be amended.

20 “(C) If the Secretary issues a final rule under sub-
21 paragraph (A) or (B) establishing amended standards, the
22 final rule shall provide that the amended standards apply
23 to products manufactured on or after the date that is—

24 “(i) 3 years after the date on which the final
25 amended standard is published; or

1 “(ii) if the Secretary determines, by rule, that
2 3 years is inadequate, not later than 5 years after
3 the date on which the final rule is published.”.

4 (d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE
5 MAKERS.—Section 342 of the Energy Policy and Con-
6 servation Act (42 U.S.C. 6313) (as amended by subsection
7 (c)) is amended by adding at the end the following:

8 “(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1)
9 Each automatic commercial ice maker that produces cube
10 type ice with capacities between 50 and 2500 pounds per
11 24-hour period when tested according to the test standard
12 established in section 343(a)(7) and is manufactured on
13 or after January 1, 2010, shall meet the following stand-
14 ard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		≥500 and <1436	5.58–0.0011H	200–0.022H
		≥1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		≥450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not Applicable
		≥1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		≥934	5.3	Not Applicable

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		≥200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		≥175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.

Water use is for the condenser only and does not include potable water used to make ice.

1 “(2)(A) The Secretary may issue, by rule, standard
2 levels for types of automatic commercial ice makers that
3 are not covered by paragraph (1).

4 “(B) The standards established under subparagraph
5 (A) shall apply to products manufactured on or after the
6 date that is—

7 “(i) 3 years after the date on which the rule is
8 published under subparagraph (A); or

9 “(ii) if the Secretary determines, by rule, that
10 3 years is inadequate, not later than 5 years after
11 the date on which the final rule is published.

12 “(3)(A) Not later than January 1, 2015, with respect
13 to the standards established under paragraph (1), and,
14 with respect to the standards established under paragraph
15 (2), not later than 5 years after the date on which the
16 standards take effect, the Secretary shall issue a final rule
17 to determine whether amending the applicable standards
18 is technologically feasible and economically justified.

1 “(B) Not later than 5 years after the effective date
2 of any amended standards under subparagraph (A) or the
3 publication of a final rule determining that amending the
4 standards is not technologically feasible or economically
5 justified, the Secretary shall issue a final rule to determine
6 whether amending the standards established under para-
7 graph (1) or the amended standards, as applicable, is tech-
8 nologically feasible or economically justified.

9 “(C) If the Secretary issues a final rule under sub-
10 paragraph (A) or (B) establishing amended standards, the
11 final rule shall provide that the amended standards apply
12 to products manufactured on or after the date that is—

13 “(i) 3 years after the date on which the final
14 amended standard is published; or

15 “(ii) if the Secretary determines, by rule, that
16 3 years is inadequate, not later than 5 years after
17 the date on which the final amended standard is
18 published.

19 “(4) A final rule issued under paragraph (2) or (3)
20 shall establish standards at the maximum level that is
21 technically feasible and economically justified, as provided
22 in subsections (o) and (p) of section 325.”.

23 (e) STANDARDS FOR COMMERCIAL CLOTHES WASH-
24 ERS.—Section 342 of the Energy Policy and Conservation

1 Act (42 U.S.C. 6313) (as amended by subsection (d)) is
2 amended by adding at the end the following:

3 “(e) COMMERCIAL CLOTHES WASHERS.—(1) Each
4 commercial clothes washer manufactured on or after Jan-
5 uary 1, 2007, shall have—

6 “(A) a Modified Energy Factor of at least 1.26;

7 and

8 “(B) a Water Factor of not more than 9.5.

9 “(2)(A)(i) Not later than January 1, 2010, the Sec-
10 retary shall publish a final rule to determine whether the
11 standards established under paragraph (1) should be
12 amended.

13 “(ii) The rule published under clause (i) shall provide
14 that any amended standard shall apply to products manu-
15 factured 3 years after the date on which the final amended
16 standard is published.

17 “(B)(i) Not later than January 1, 2015, the Sec-
18 retary shall publish a final rule to determine whether the
19 standards established under paragraph (1) should be
20 amended.

21 “(ii) The rule published under clause (i) shall provide
22 that any amended standard shall apply to products manu-
23 factured 3 years after the date on which the final amended
24 standard is published.”.

1 (f) TEST PROCEDURES.—Section 343 of the Energy
2 Policy and Conservation Act (42 U.S.C. 6314) is
3 amended—

4 (1) in subsection (a)—

5 (A) in paragraph (4)—

6 (i) in subparagraph (A), by inserting
7 “very large commercial package air condi-
8 tioning and heating equipment,” after
9 “large commercial package air conditioning
10 and heating equipment,”; and

11 (ii) in subparagraph (B), by inserting
12 “very large commercial package air condi-
13 tioning and heating equipment,” after
14 “large commercial package air conditioning
15 and heating equipment,”; and

16 (B) by adding at the end the following:

17 “(6)(A)(i) In the case of commercial refrigerators,
18 freezers, and refrigerator-freezers, the test procedures
19 shall be—

20 “(I) the test procedures determined by the Sec-
21 retary to be generally accepted industry testing pro-
22 cedures; or

23 “(II) rating procedures developed or recognized
24 by the ASHRAE or by the American National
25 Standards Institute.

1 “(ii) In the case of self-contained refrigerators, freez-
2 ers, and refrigerator-freezers to which standards are appli-
3 cable under paragraphs (2) and (3) of section 342(c), the
4 initial test procedures shall be the ASHRAE 117 test pro-
5 cedure that is in effect on January 1, 2005.

6 “(B)(i) In the case of commercial refrigerators, freez-
7 ers, and refrigerators-freezers with doors covered by the
8 standards adopted in February 2002, by the California
9 Energy Commission, the rating temperatures shall be the
10 integrated average temperature of 38 degrees F (± 2 de-
11 grees F) for refrigerator compartments and 0 degrees F
12 (± 2 degrees F) for freezer compartments.

13 “(C) The Secretary shall issue a rule in accordance
14 with paragraphs (2) and (3) to establish the appropriate
15 rating temperatures for the other products for which
16 standards will be established under subsection 342(c)(4).

17 “(D) In establishing the appropriate test tempera-
18 tures under this subparagraph, the Secretary shall follow
19 the procedures and meet the requirements under section
20 323(e).

21 “(E)(i) Not later than 180 days after the publication
22 of the new ASHRAE 117 test procedure, if the ASHRAE
23 117 test procedure for commercial refrigerators, freezers,
24 and refrigerator-freezers is amended, the Secretary shall,
25 by rule, amend the test procedure for the product as nec-

1 essary to ensure that the test procedure is consistent with
2 the amended ASHRAE 117 test procedure, unless the
3 Secretary makes a determination, by rule, and supported
4 by clear and convincing evidence, that to do so would not
5 meet the requirements for test procedures under para-
6 graphs (2) and (3).

7 “(ii) If the Secretary determines that 180 days is an
8 insufficient period during which to review and adopt the
9 amended test procedure or rating procedure under clause
10 (i), the Secretary shall publish a notice in the Federal
11 Register stating the intent of the Secretary to wait not
12 longer than 1 additional year before putting into effect
13 an amended test procedure or rating procedure.

14 “(F)(i) If a test procedure other than the ASHRAE
15 117 test procedure is approved by the American National
16 Standards Institute, the Secretary shall, by rule—

17 “(I) review the relative strengths and weak-
18 nesses of the new test procedure relative to the
19 ASHRAE 117 test procedure; and

20 “(II) based on that review, adopt 1 new test
21 procedure for use in the standards program.

22 “(ii) If a new test procedure is adopted under clause
23 (i)—

24 “(I) section 323(e) shall apply; and

1 “(II) subparagraph (B) shall apply to the
2 adopted test procedure.

3 “(7)(A) In the case of automatic commercial ice mak-
4 ers, the test procedures shall be the test procedures speci-
5 fied in Air-Conditioning and Refrigeration Institute
6 Standard 810–2003, as in effect on January 1, 2005.

7 “(B)(i) If Air-Conditioning and Refrigeration Insti-
8 tute Standard 810–2003 is amended, the Secretary shall
9 amend the test procedures established in subparagraph
10 (A) as necessary to be consistent with the amended Air-
11 Conditioning and Refrigeration Institute Standard, unless
12 the Secretary determines, by rule, published in the Federal
13 Register and supported by clear and convincing evidence,
14 that to do so would not meet the requirements for test
15 procedures under paragraphs (2) and (3).

16 “(ii) If the Secretary issues a rule under clause (i)
17 containing a determination described in clause (ii), the
18 rule may establish an amended test procedure for the
19 product that meets the requirements of paragraphs (2)
20 and (3).

21 “(C) The Secretary shall comply with section 323(e)
22 in establishing any amended test procedure under this
23 paragraph.

24 “(8) With respect to commercial clothes washers, the
25 test procedures shall be the same as the test procedures

1 established by the Secretary for residential clothes wash-
2 ers under section 325(g).”; and

3 (2) in subsection (d)(1), by inserting “very
4 large commercial package air conditioning and heat-
5 ing equipment, commercial refrigerators, freezers,
6 and refrigerator-freezers, automatic commercial ice
7 makers, commercial clothes washers,” after “large
8 commercial package air conditioning and heating
9 equipment,”.

10 (g) LABELING.—Section 344(e) of the Energy Policy
11 and Conservation Act (42 U.S.C. 6315(e)) is amended by
12 inserting “very large commercial package air conditioning
13 and heating equipment, commercial refrigerators, freezers,
14 and refrigerator-freezers, automatic commercial ice mak-
15 ers, commercial clothes washers,” after “large commercial
16 package air conditioning and heating equipment,” each
17 place it appears.

18 (h) ADMINISTRATION, PENALTIES, ENFORCEMENT,
19 AND PREEMPTION.—Section 345 of the Energy Policy and
20 Conservation Act (42 U.S.C. 6316) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (7), by striking “and” at
23 the end;

24 (B) in paragraph (8), by striking the pe-
25 riod at the end and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(9) in the case of commercial clothes washers,
3 section 327(b)(1) shall be applied as if the National
4 Appliance Energy Conservation Act of 1987 was the
5 Energy Policy Act of 2005.”;

6 (2) in the first sentence of subsection (b)(1), by
7 striking “part B” and inserting “part A”; and

8 (3) by adding at the end the following:

9 “(d)(1) Except as provided in paragraphs (2) and
10 (3), section 327 shall apply with respect to very large com-
11 mercial package air conditioning and heating equipment
12 to the same extent and in the same manner as section
13 327 applies under part A on the date of enactment of this
14 subsection.

15 “(2) Any State or local standard issued before the
16 date of enactment of this subsection shall not be pre-
17 empted until the standards established under section
18 342(a)(9) take effect on January 1, 2010.

19 “(e)(1)(A) Subsections (a), (b), and (d) of section
20 326, subsections (m) through (s) of section 325, and sec-
21 tions 328 through 336 shall apply with respect to commer-
22 cial refrigerators, freezers, and refrigerator-freezers to the
23 same extent and in the same manner as those provisions
24 apply under part A.

1 “(B) In applying those provisions to commercial re-
2 frigerators, freezers, and refrigerator-freezers, paragraphs
3 (1), (2), (3), and (4) of subsection (a) shall apply.

4 “(2)(A) Section 327 shall apply to commercial refrig-
5 erators, freezers, and refrigerator-freezers for which
6 standards are established under paragraphs (2) and (3)
7 of section 342(c) to the same extent and in the same man-
8 ner as those provisions apply under part A on the date
9 of enactment of this subsection, except that any State or
10 local standard issued before the date of enactment of this
11 subsection shall not be preempted until the standards es-
12 tablished under paragraphs (2) and (3) of section 342(c)
13 take effect.

14 “(B) In applying section 327 in accordance with sub-
15 paragraph (A), paragraphs (1), (2), and (3) of subsection
16 (a) shall apply.

17 “(3)(A) Section 327 shall apply to commercial refrig-
18 erators, freezers, and refrigerator-freezers for which
19 standards are established under section 342(c)(4) to the
20 same extent and in the same manner as the provisions
21 apply under part A on the date of publication of the final
22 rule by the Secretary, except that any State or local stand-
23 ard issued before the date of publication of the final rule
24 by the Secretary shall not be preempted until the stand-
25 ards take effect.

1 “(B) In applying section 327 in accordance with sub-
2 paragraph (A), paragraphs (1), (2), and (3) of subsection
3 (a) shall apply.

4 “(4)(A) If the Secretary does not issue a final rule
5 for a specific type of commercial refrigerator, freezer, or
6 refrigerator-freezer within the time frame specified in sec-
7 tion 342(c)(5), subsections (b) and (c) of section 327 shall
8 not apply to that specific type of refrigerator, freezer, or
9 refrigerator-freezer for the period beginning on the date
10 that is 2 years after the scheduled date for a final rule
11 and ending on the date on which the Secretary publishes
12 a final rule covering the specific type of refrigerator, freez-
13 er, or refrigerator-freezer.

14 “(B) Any State or local standard issued before the
15 date of publication of the final rule shall not be preempted
16 until the final rule takes effect.

17 “(5)(A) In the case of any commercial refrigerator,
18 freezer, or refrigerator-freezer to which standards are ap-
19 plicable under paragraphs (2) and (3) of section 342(c),
20 the Secretary shall require manufacturers to certify,
21 through an independent, nationally recognized testing or
22 certification program, that the commercial refrigerator,
23 freezer, or refrigerator-freezer meets the applicable stand-
24 ard.

1 “(B) The Secretary shall, to the maximum extent
2 practicable, encourage the establishment of at least 2 inde-
3 pendent testing and certification programs.

4 “(C) As part of certification, information on equip-
5 ment energy use and interior volume shall be made avail-
6 able to the Secretary.

7 “(f)(1)(A)(i) Except as provided in clause (ii), section
8 327 shall apply to automatic commercial ice makers for
9 which standards have been established under section
10 342(d)(1) to the same extent and in the same manner as
11 the section applies under part A on the date of enactment
12 of this subsection.

13 “(ii) Any State standard issued before the date of en-
14 actment of this subsection shall not be preempted until
15 the standards established under section 342(d)(1) take ef-
16 fect.

17 “(B) In applying section 327 to the equipment under
18 subparagraph (A), paragraphs (1), (2), and (3) of sub-
19 section (a) shall apply.

20 “(2)(A)(i) Except as provided in clause (ii), section
21 327 shall apply to automatic commercial ice makers for
22 which standards have been established under section
23 342(d)(2) to the same extent and in the same manner as
24 the section applies under part A on the date of publication
25 of the final rule by the Secretary.

1 “(ii) Any State standard issued before the date of
2 publication of the final rule by the Secretary shall not be
3 preempted until the standards established under section
4 342(d)(2) take effect.

5 “(B) In applying section 327 in accordance with sub-
6 paragraph (A), paragraphs (1), (2), and (3) of subsection
7 (a) shall apply.

8 “(3)(A) If the Secretary does not issue a final rule
9 for a specific type of automatic commercial ice maker
10 within the time frame specified in subsection 342(d), sub-
11 sections (b) and (c) of section 327 shall no longer apply
12 to the specific type of automatic commercial ice maker for
13 the period beginning on the day after the scheduled date
14 for a final rule and ending on the date on which the Sec-
15 retary publishes a final rule covering the specific type of
16 automatic commercial ice maker.

17 “(B) Any State standard issued before the publica-
18 tion of the final rule shall not be preempted until the
19 standards established in the final rule take effect.

20 “(4)(A) The Secretary shall monitor whether manu-
21 facturers are reducing harvest rates below tested values
22 for the purpose of bringing non-complying equipment into
23 compliance.

24 “(B) If the Secretary finds that there has been a sub-
25 stantial amount of manipulation with respect to harvest

1 rates under subparagraph (A), the Secretary shall take
2 steps to minimize the manipulation, such as requiring har-
3 vest rates to be within 5 percent of tested values.

4 “(g)(1)(A) If the Secretary does not issue a final rule
5 for commercial clothes washers within the timeframe spec-
6 ified in section 342(e)(2), subsections (b) and (c) of sec-
7 tion 327 shall not apply to commercial clothes washers for
8 the period beginning on the day after the scheduled date
9 for a final rule and ending on the date on which the Sec-
10 retary publishes a final rule covering commercial clothes
11 washers.

12 “(B) Any State or local standard issued before the
13 date on which the Secretary publishes a final rule shall
14 not be preempted until the standards established under
15 section 342(e)(2) take effect.

16 “(2) The Secretary shall undertake an educational
17 program to inform owners of laundromats, multifamily
18 housing, and other sites where commercial clothes washers
19 are located about the new standard, including impacts on
20 washer purchase costs and options for recovering those
21 costs through coin collection.”.

22 **SEC. 137. EXPEDITED RULEMAKING.**

23 (a) ADMINISTRATIVE PROCEDURE.—The first sen-
24 tence of section 325(p) of the Energy Policy and Con-
25 servation Act (42 U.S.C. 6295(p)) is amended by striking

1 “Any” and inserting “Except as provided in subsection
2 (u), any”.

3 (b) ADMINISTRATIVE PROCEDURE AND JUDICIAL
4 REVIEW.—The first sentence of section 336(b)(2) of the
5 Energy Policy and Conservation Act (42 U.S.C.
6 6306(b)(2)) is amended by striking “such chapter.” and
7 inserting “that chapter, except, notwithstanding section
8 706(2)(D) of title 5, United States Code, no direct final
9 rule prescribed or withdrawn under section 325(u) may
10 be held unlawful or set aside because of the failure of the
11 Secretary to observe a procedure required by law other
12 than the procedures required under section 325(u).”.

13 (c) CONFORMING AMENDMENT.—Section 345(b)(1)
14 of the Energy Policy and Conservation Act (42 U.S.C.
15 6316(b)(1)) is amended by inserting “section 325(u),” be-
16 fore “section 326(a)”.

17 **SEC. 138. ENERGY LABELING.**

18 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER
19 PRODUCT LABELING.—Section 324(a)(2) of the Energy
20 Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is
21 amended by adding at the end the following:

22 “(F)(i) Not later than 90 days after the date of en-
23 actment of this subparagraph, the Commission shall ini-
24 tiate a rulemaking to consider—

1 “(I) the effectiveness of the consumer products
2 labeling program in assisting consumers in making
3 purchasing decisions and improving energy effi-
4 ciency; and

5 “(II) changes to the labeling rules (including
6 categorical labeling) that would improve the effec-
7 tiveness of consumer product labels.

8 “(ii) Not later than 2 years after the date of enact-
9 ment of this subparagraph, the Commission shall complete
10 the rulemaking initiated under clause (i).”.

11 (b) RULEMAKING ON LABELING FOR ADDITIONAL
12 PRODUCTS.—Section 324(a) of the Energy Policy and
13 Conservation Act (42 U.S.C. 6294(a)) is amended by add-
14 ing at the end the following:

15 “(5)(A) For covered products described in sub-
16 sections (u) through (ee) of section 325, after a test proce-
17 dure has been prescribed under section 323, the Secretary
18 or the Commission, as appropriate, may prescribe, by rule,
19 under this section labeling requirements for the products.

20 “(B) In the case of products to which TP–1 stand-
21 ards under section 325(y) apply, labeling requirements
22 shall be based on the ‘Standard for the Labeling of Dis-
23 tribution Transformer Efficiency’ prescribed by the Na-
24 tional Electrical Manufacturers Association (NEMA TP–
25 3) as in effect on the date of enactment of this paragraph.

1 “(C) In the case of dehumidifiers covered under sec-
2 tion 325(dd), the Commission shall not require an ‘Energy
3 Guide’ label.”.

4 **SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS**
5 **UTILITIES STUDY.**

6 (a) IN GENERAL.—Not later than 1 year after the
7 date of enactment of this Act, the Secretary, in consulta-
8 tion with the National Association of Regulatory Utility
9 Commissioners and the National Association of State En-
10 ergy Officials, shall conduct a study of State and regional
11 policies that promote cost-effective programs to reduce en-
12 ergy consumption (including energy efficiency programs)
13 that are carried out by—

14 (1) utilities that are subject to State regulation;

15 and

16 (2) nonregulated utilities.

17 (b) CONSIDERATION.—In conducting the study under
18 subsection (a), the Secretary shall take into
19 consideration—

20 (1) performance standards for achieving energy
21 use and demand reduction targets;

22 (2) funding sources, including rate surcharges;

23 (3) infrastructure planning approaches (includ-
24 ing energy efficiency programs) and infrastructure
25 improvements;

1 (4) the costs and benefits of consumer edu-
2 cation programs conducted by State and local gov-
3 ernments and local utilities to increase consumer
4 awareness of energy efficiency technologies and
5 measures; and

6 (5) methods of—

7 (A) removing disincentives for utilities to
8 implement energy efficiency programs;

9 (B) encouraging utilities to undertake vol-
10 untary energy efficiency programs; and

11 (C) ensuring appropriate returns on energy
12 efficiency programs.

13 (c) REPORT.—Not later than 1 year after the date
14 of enactment of this Act, the Secretary shall submit to
15 Congress a report that includes—

16 (1) the findings of the study; and

17 (2) any recommendations of the Secretary, in-
18 cluding recommendations on model policies to pro-
19 mote energy efficiency programs.

20 **SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.**

21 (a) IN GENERAL.—The Secretary shall establish a
22 pilot program under which the Secretary provides financial
23 assistance to at least 3, but not more than 7, States to
24 carry out pilot projects in the States for—

1 (1) planning and adopting statewide programs
2 that encourage, for each year in which the pilot
3 project is carried out—

4 (A) energy efficiency; and

5 (B) reduction of consumption of electricity
6 or natural gas in the State by at least 0.75 per-
7 cent, as compared to a baseline determined by
8 the Secretary for the period preceding the im-
9 plementation of the program; or

10 (2) for any State that has adopted a statewide
11 program as of the date of enactment of this Act, ac-
12 tivities that reduce energy consumption in the State
13 by expanding and improving the program.

14 (b) VERIFICATION.—A State that receives financial
15 assistance under subsection (a)(1) shall submit to the Sec-
16 retary independent verification of any energy savings
17 achieved through the statewide program.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$5,000,000 for each of fiscal years 2006 through 2010,
21 to remain available until expended.

22 **SEC. 141. ENERGY EFFICIENCY RESOURCE PROGRAMS.**

23 (a) ELECTRIC UTILITY PROGRAMS.—Section 111 of
24 the Public Utilities Regulatory Policy Act of 1978 (16

1 U.S.C. 2621) is amended by adding at the end the fol-
2 lowing:

3 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

4 “(1) DEFINITIONS.—In this subsection:

5 “(A) DEMAND BASELINE.—The term ‘de-
6 mand baseline’ means the baseline determined
7 by the Secretary for an appropriate period pre-
8 ceeding the implementation of an energy effi-
9 ciency resource program.

10 “(B) ENERGY EFFICIENCY RESOURCE PRO-
11 GRAMS.—The term ‘energy efficiency resource
12 program’ means an energy efficiency or other
13 demand reduction program that is designed to
14 reduce annual electricity consumption or peak
15 demand of consumers served by an electric util-
16 ity by a percentage of the demand baseline of
17 the utility that is equal to not less than 0.75
18 percent of the number of years during which
19 the program is in effect.

20 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

21 “(A) As soon as practicable after the date
22 of enactment of this subsection, but not later
23 than 3 years after that date, each State regu-
24 latory authority (with respect to each electric
25 utility over which the State has ratemaking au-

1 thority) and each nonregulated electric utility
2 shall, after notice, conduct a public hearing on
3 the benefits and feasibility of implementing an
4 energy efficiency resource program.

5 “(B) A State regulatory authority or non-
6 regulated utility shall implement an energy effi-
7 ciency resource program if, on the basis of a
8 hearing under subparagraph (A), the State reg-
9 ulatory authority or nonregulated utility deter-
10 mines that the program would—

11 “(i) benefit end-use customers;

12 “(ii) be cost-effective based on total
13 resource cost;

14 “(iii) serve the public welfare; and

15 “(iv) be feasible to implement.

16 “(3) IMPLEMENTATION.—

17 “(A) STATE REGULATORY AUTHORITIES.—

18 If a State regulatory authority makes a deter-
19 mination under paragraph (2)(B), the State
20 regulatory authority shall—

21 “(i) require each electric utility over
22 which the State has ratemaking authority
23 to implement an energy efficiency resource
24 program; and

1 “(ii) allow such a utility to recover
2 any expenditures incurred by the utility in
3 implementing the energy efficiency re-
4 source program.

5 “(B) NONREGULATED ELECTRIC UTILI-
6 TIES.—If a nonregulated electric utility makes
7 a determination under paragraph (2)(B), the
8 utility shall implement an energy efficiency re-
9 source program.

10 “(4) UPDATING REGULATIONS.—A State regu-
11 latory authority or nonregulated utility may update
12 periodically a determination under paragraph (2)(B)
13 to determine whether an energy efficiency resource
14 program should be—

15 “(A) continued;,
16 “(B) modified; or
17 “(C) terminated.

18 “(5) EXCEPTION.—Paragraph (2) shall not
19 apply to a State regulatory authority (or any non-
20 regulated electric utility operating in the State) that
21 demonstrates to the Secretary that an energy effi-
22 ciency resource program is in effect in the State.”.

23 (b) GAS UTILITIES.—Section 303 of the Public Utili-
24 ties Regulatory Policy Act of 1978 (15 U.S.C. 3203) is
25 amended by adding at the end the following:

1 “(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

2 “(1) DEFINITIONS.—In this subsection:

3 “(A) DEMAND BASELINE.—The term ‘de-
4 mand baseline’ means the baseline determined
5 by the Secretary for an appropriate period pre-
6 ceding the implementation of an energy effi-
7 ciency resource program.

8 “(B) ENERGY EFFICIENCY RESOURCE PRO-
9 GRAMS.—The term ‘energy efficiency resource
10 program’ means an energy efficiency or other
11 demand reduction program that is designed to
12 reduce annual gas consumption or peak demand
13 of consumers served by a gas utility by a per-
14 centage of the demand baseline of the utility
15 that is equal to not less than 0.75 percent of
16 the number of years during which the program
17 is in effect.

18 “(2) PUBLIC HEARINGS; DETERMINATIONS.—

19 “(A) As soon as practicable after the date
20 of enactment of this subsection, but not later
21 than 3 years after that date, each State regu-
22 latory authority (with respect to each gas utility
23 over which the State has ratemaking authority)
24 and each nonregulated gas utility shall, after
25 notice, conduct a public hearing on the benefits

1 and feasibility of implementing an energy effi-
2 ciency resource program.

3 “(B) A State regulatory authority or non-
4 regulated utility shall implement an energy effi-
5 ciency resource program if, on the basis of a
6 hearing under subparagraph (A), the State reg-
7 ulatory authority or nonregulated utility deter-
8 mines that the program would—

9 “(i) benefit end-use customers;

10 “(ii) be cost-effective based on total
11 resource cost;

12 “(iii) serve the public welfare; and

13 “(iv) be feasible to implement.

14 “(3) IMPLEMENTATION.—

15 “(A) STATE REGULATORY AUTHORITIES.—

16 If a State regulatory authority makes a deter-
17 mination under paragraph (2)(B), the State
18 regulatory authority shall—

19 “(i) require each gas utility over
20 which the State has ratemaking authority
21 to implement an energy efficiency resource
22 program; and

23 “(ii) allow such a utility to recover
24 any expenditures incurred by the utility in

1 implementing the energy efficiency re-
2 source program.

3 “(B) NONREGULATED GAS UTILITIES.—If
4 a nonregulated gas utility makes a determina-
5 tion under paragraph (2)(B), the utility shall
6 implement an energy efficiency resource pro-
7 gram.

8 “(4) UPDATING REGULATIONS.—A State regu-
9 latory authority or nonregulated utility may update
10 periodically a determination under paragraph (2)(B)
11 to determine whether an energy efficiency resource
12 program should be—

13 “(A) continued;,

14 “(B) modified; or

15 “(C) terminated.

16 “(5) EXCEPTION.—Paragraph (2) shall not
17 apply to a State regulatory authority (or any non-
18 regulated gas utility operating in the State) that
19 demonstrates to the Secretary that an energy effi-
20 ciency resource program is in effect in the State.”.

21 **Subtitle D—Measures to Conserve** 22 **Petroleum**

23 **SEC. 151. REDUCTION OF DEPENDENCE ON IMPORTED PE-** 24 **TROLEUM.**

25 (a) REPORT.—

1 (1) IN GENERAL.—Not later than February 1,
2 2006, and annually thereafter, the President shall
3 submit to Congress a report, based on the most re-
4 cent edition of the Annual Energy Outlook published
5 by the Energy Information Administration, assessing
6 the progress made by the United States toward the
7 goal of reducing dependence on imported petroleum
8 sources by 2015.

9 (2) CONTENTS.—The report under subsection
10 (a) shall—

11 (A) include a description of the implemen-
12 tation, during the previous fiscal year, of provi-
13 sions under this Act relating to domestic crude
14 petroleum production;

15 (B) assess the effectiveness of those provi-
16 sions in meeting the goal described in para-
17 graph (1); and

18 (C) describe the progress in developing and
19 implementing measures under subsection (b).

20 (b) MEASURES TO REDUCE IMPORT DEPENDENCE
21 THROUGH INCREASED DOMESTIC PETROLEUM CON-
22 SERVATION.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the President
25 shall develop and implement measures to conserve

1 petroleum in end-uses throughout the economy of
2 the United States sufficient to reduce total demand
3 for petroleum in the United States by 1,000,000
4 barrels per day from the amount projected for cal-
5 endar year 2015 in the reference case contained in
6 the report of the Energy Information Administration
7 entitled “Annual Energy Outlook 2005”.

8 (2) CONTENTS.—The measures under para-
9 graph (1) shall be designed to ensure continued reli-
10 able and affordable energy for consumers.

11 (3) IMPLEMENTATION.—The measures under
12 paragraph (1) shall be implemented under existing
13 authorities of appropriate Federal executive agencies
14 identified by the President.

15 **Subtitle E—Energy Efficiency in** 16 **Housing**

17 **SEC. 161. PUBLIC HOUSING CAPITAL FUND.**

18 Section 9 of the United States Housing Act of 1937
19 (42 U.S.C. 1437g) is amended—

20 (1) in subsection (d)(1)—

21 (A) in subparagraph (I), by striking “;
22 and” and inserting a semicolon;

23 (B) in subparagraph (J), by striking the
24 period at the end and inserting a semicolon;
25 and

1 (C) by adding at the end the following:

2 “(K) improvement of energy and water-use
3 efficiency by installing fixtures and fittings that
4 conform to the American Society of Mechanical
5 Engineers/American National Standards Insti-
6 tute standards A112.19.2–1998 and
7 A112.18.1–2000, or any revision thereto, appli-
8 cable at the time of installation, and by increas-
9 ing energy efficiency and water conservation by
10 such other means as the Secretary determines
11 are appropriate; and

12 “(L) integrated utility management and
13 capital planning to maximize energy conserva-
14 tion and efficiency measures.”; and

15 (2) in subsection (e)(2)(C)—

16 (A) by striking “The treatment” and in-
17 serting the following:

18 “(i) IN GENERAL.—The treatment”;

19 and

20 (B) by adding at the end the following:

21 “(ii) THIRD PARTY CONTRACTS.—

22 Contracts described in clause (i) may in-
23 clude contracts for—

24 “(I) equipment conversions to
25 less costly utility sources;

1 “(II) projects with resident-paid
2 utilities; and

3 “(III) adjustments to frozen base
4 year consumption, including systems
5 repaired to meet applicable building
6 and safety codes and adjustments for
7 occupancy rates increased by rehabili-
8 tation.

9 “(iii) TERM OF CONTRACT.—The total
10 term of a contract described in clause (i)
11 shall not exceed 20 years to allow longer
12 payback periods for retrofits, including—

13 “(I) windows;

14 “(II) heating system replace-
15 ments;

16 “(III) wall insulation;

17 “(IV) site-based generation; and

18 “(V) advanced energy savings
19 technologies, including renewable en-
20 ergy generation and other such retro-
21 fits.”.

22 **SEC. 162. ENERGY EFFICIENT APPLIANCES.**

23 In purchasing appliances, a public housing agency
24 shall purchase energy-efficient appliances that are Energy
25 Star products or FEMP designated products, as such

1 terms are defined in section 552 of the National Energy
2 Conservation Policy Act (42 U.S.C. 8251 et seq.) (as
3 amended by section 104) unless the purchase of energy-
4 efficient appliances is not cost-effective to the agency.

5 **SEC. 163. ENERGY EFFICIENCY STANDARDS.**

6 Section 109 of the Cranston-Gonzalez National Af-
7 fordable Housing Act (42 U.S.C. 12709) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1)—

10 (i) by striking “ 1 year after the date
11 of enactment of the Energy Policy Act of
12 1992” and inserting “September 30,
13 2006”;

14 (ii) in subparagraph (A), by striking
15 “; and” and inserting a semicolon;

16 (iii) in subparagraph (B), by striking
17 the period at the end and inserting “;
18 and”; and

19 (iv) by adding at the end the fol-
20 lowing:

21 “(C) rehabilitation and new construction of
22 public and assisted housing funded by HOPE
23 VI revitalization grants, established under sec-
24 tion 24 of the United States Housing Act of
25 1937 (42 U.S.C. 1437v), where such standards

1 are determined to be cost effective by the Sec-
2 retary of Housing and Urban Development.”;
3 and

4 (B) in paragraph (2), in the first sentence,
5 by inserting “, and, with respect to rehabilita-
6 tion and new construction of public and assisted
7 housing funded by HOPE VI revitalization
8 grants, established under section 24 of the
9 United States Housing Act of 1937 (42 U.S.C.
10 1437v), the 2003 International Energy Con-
11 servation Code” after “Standard 90.1–1989”);
12 (2) in subsection (b)—

13 (A) by striking “within 1 year after the
14 date of enactment of the Energy Policy Act of
15 1992” and inserting “by September 30, 2006”;
16 and

17 (B) by inserting “, and, with respect to re-
18 habilitation and new construction of public and
19 assisted housing funded by HOPE VI revital-
20 ization grants, established under section 24 of
21 the United States Housing Act of 1937 (42
22 U.S.C. 1437v), the 2003 International Energy
23 Conservation Code” after “Standard 90.1–
24 1989”; and

25 (3) in subsection (c)—

1 (A) in the heading, by inserting “AND THE
2 INTERNATIONAL ENERGY CONSERVATION
3 CODE” after “MODEL ENERGY CODE”; and

4 (B) by inserting “, or, with respect to re-
5 habilitation and new construction of public and
6 assisted housing funded by HOPE VI revital-
7 ization grants, established under section 24 of
8 the United States Housing Act of 1937 (42
9 U.S.C. 1437v), the 2003 International Energy
10 Conservation Code” after “Standard 90.1–
11 1989”.

12 **SEC. 164. ENERGY STRATEGY FOR THE DEPARTMENT OF**
13 **HOUSING AND URBAN DEVELOPMENT.**

14 (a) DEVELOPMENT OF STRATEGY.—The Secretary of
15 Housing and Urban Development shall develop and imple-
16 ment an integrated energy strategy to reduce utility ex-
17 penses through cost-effective energy conservation and effi-
18 ciency measures and energy efficient design and construc-
19 tion of public and assisted housing.

20 (b) CONTENTS OF STRATEGY.—The energy strategy
21 required under subsection (a) shall include the develop-
22 ment of energy reduction goals and incentives for public
23 housing agencies.

24 (c) REPORT.—Not later than 1 year after the date
25 of enactment of this Act, and every 2 years thereafter,

1 the Secretary of Housing and Urban Development shall
2 submit to Congress a report describing—

3 (1) the energy strategy required under sub-
4 section (a);

5 (2) the actions taken by the Department of
6 Housing and Urban Development to monitor the en-
7 ergy usage of public housing agencies; and

8 (3) the progress, if any, in implementing the
9 energy strategy required under subsection (a).

10 **TITLE II—RENEWABLE ENERGY**

11 **Subtitle A—General Provisions**

12 **SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RE-** 13 **SOURCES.**

14 (a) RESOURCE ASSESSMENTS.—Not later than 180
15 days after the date of enactment of this Act and each year
16 thereafter, the Secretary shall—

17 (1) review the available assessments of renew-
18 able energy resources within the United States, in-
19 cluding solar, wind, biomass, ocean (tidal, wave, cur-
20 rent, and thermal), geothermal, and hydroelectric
21 energy resources; and

22 (2) undertake new assessments as necessary,
23 taking into account changes in market conditions,
24 available technologies, and other relevant factors.

25 (b) REPORTS.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act and each year
3 thereafter, the Secretary shall publish a report based
4 on the most recent assessment under subsection (a).

5 (2) CONTENTS.—The report shall contain—

6 (A) a detailed inventory describing the
7 available quantity and characteristics of the re-
8 newable energy resources; and

9 (B) such other information as the Sec-
10 retary determines would be useful in developing
11 the renewable energy resources, including—

12 (i) descriptions of surrounding ter-
13 rain, population and load centers, nearby
14 energy infrastructure, and the location of
15 energy and water resources;

16 (ii) available estimates of the costs
17 needed to develop each resource;

18 (iii) an identification of any barriers
19 to providing adequate transmission for re-
20 mote sources of renewable energy resources
21 to current and emerging markets;

22 (iv) recommendations for removing or
23 addressing those barriers; and

24 (v) recommendations for providing ac-
25 cess to the electrical grid that do not un-

1 fairly disadvantage renewable or other en-
2 ergy producers.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary to carry
5 out this section \$10,000,000 for each of fiscal years 2006
6 through 2010.

7 **SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

8 (a) INCENTIVE PAYMENTS.—Section 1212(a) of the
9 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is
10 amended—

11 (1) by striking the last sentence;

12 (2) by designating the first, second, and third
13 sentences as paragraphs (1), (2), and (3), respec-
14 tively;

15 (3) in paragraph (3) (as so designated), by
16 striking “and which satisfies” and all that follows
17 through “deems necessary”; and

18 (4) by adding at the end the following:

19 “(4)(A) Subject to subparagraph (B), if there are in-
20 sufficient appropriations to make full payments for electric
21 production from all qualified renewable energy facilities
22 for a fiscal year, the Secretary shall assign—

23 “(i) 60 percent of appropriated funds for the
24 fiscal year to facilities that use solar, wind, geo-

1 thermal, or closed-loop (dedicated energy crops) bio-
2 mass technologies to generate electricity; and

3 “(ii) 40 percent of appropriated funds for the
4 fiscal year to other projects.

5 “(B) After submitting to Congress an explanation of
6 the reasons for the alteration, the Secretary may alter the
7 percentage requirements of subparagraph (A).”.

8 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—
9 Section 1212(b) of the Energy Policy Act of 1992 (42
10 U.S.C. 13317(b)) is amended—

11 (1) by striking “a State or any political” and
12 all that follows through “nonprofit electrical cooper-
13 ative” and inserting “a not-for-profit electric cooper-
14 ative, a public utility described in section 115 of the
15 Internal Revenue Code of 1986, a State, Common-
16 wealth, territory, or possession of the United States,
17 or the District of Columbia, or a political subdivision
18 thereof, or an Indian tribal government or subdivi-
19 sion thereof,”; and

20 (2) by inserting “landfill gas,” after “wind, bio-
21 mass,”.

22 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the
23 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is
24 amended by striking “during the 10-fiscal year period be-
25 ginning with the first full fiscal year occurring after the

1 enactment of this section” and inserting “before October
2 1, 2016”.

3 (d) PAYMENT PERIOD.—Section 1212(d) of the En-
4 ergy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended
5 in the second sentence by inserting “, or in which the Sec-
6 retary determines that all necessary Federal and State au-
7 thorizations have been obtained to begin construction of
8 the facility” after “eligible for such payments”.

9 (e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of
10 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))
11 is amended in the first sentence by inserting “landfill
12 gas,” after “wind, biomass,”.

13 (f) TERMINATION OF AUTHORITY.—Section 1212(f)
14 of the Energy Policy Act of 1992 (42 U.S.C. 13317(f))
15 is amended by striking “the expiration of” and all that
16 follows through “of this section” and inserting “Sep-
17 tember 30, 2026”.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—Section
19 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317)
20 is amended by striking subsection (g) and inserting the
21 following:

22 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as are nec-
24 essary to carry out this section for each of fiscal years
25 2006 through 2026, to remain available until expended.”.

1 **SEC. 203. FEDERAL PURCHASE REQUIREMENT.**

2 (a) DEFINITIONS.—In this section:

3 (1) BIOMASS.—The term “biomass” means any
4 solid, nonhazardous, cellulosic material that is de-
5 rived from—

6 (A) any of the following forest-related re-
7 sources: mill residue, precommercial thinning,
8 slash, brush, or nonmerchutable material;

9 (B) a solid wood waste material—

10 (i) including a waste pallet, crate,
11 dunnage, manufacturing and construction
12 wood waste (other than pressure-treated,
13 chemically-treated, or painted wood waste),
14 and landscape or right-of-way tree trim-
15 ming; but

16 (ii) not including municipal solid
17 waste (garbage), gas derived from the bio-
18 degradation of solid waste, or paper that is
19 commonly recycled;

20 (C) agriculture waste, including an orchard
21 tree crop, vineyard, grain, legume, sugar, and
22 other crop byproduct or residue, and a livestock
23 waste nutrient; or

24 (D) a plant that is grown exclusively as a
25 fuel for the production of electricity.

1 (2) RENEWABLE ENERGY.—The term “renew-
2 able energy” means electric energy generated from
3 solar, wind, biomass, landfill gas, geothermal, munic-
4 ipal solid waste, or new hydroelectric generation ca-
5 pacity achieved from increased efficiency or addi-
6 tions of new capacity at an existing hydroelectric
7 project.

8 (b) REQUIREMENT.—The President, acting through
9 the Secretary, shall seek to ensure that, to the extent eco-
10 nomically feasible and technically practicable, of the total
11 quantity of electric energy the Federal Government con-
12 sumes during any fiscal year, the following amounts shall
13 be renewable energy:

14 (1) Not less than 3 percent in each of fiscal
15 years 2007 through 2009.

16 (2) Not less than 5 percent in each of fiscal
17 years 2010 through 2012.

18 (3) Not less than 7.5 percent in fiscal year
19 2013 and each fiscal year thereafter.

20 (c) CALCULATION.—For purposes of determining
21 compliance with the requirement of this section, the quan-
22 tity of renewable energy shall be doubled if—

23 (1) the renewable energy is produced and used
24 onsite at a Federal facility;

1 (2) the renewable energy is produced on Fed-
2 eral land and used at a Federal facility; or

3 (3) the renewable energy is produced on Indian
4 land (as defined in section 2601 of the Energy Pol-
5 icy Act of 1992) and used at a Federal facility.

6 (d) REPORT.—Not later than April 15, 2007, and
7 every 2 years thereafter, the Secretary shall provide to
8 Congress a report on the progress of the Federal Govern-
9 ment in meeting the goals established by this section.

10 **SEC. 204. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

11 (a) DEFINITIONS.—In this section:

12 (1) CELLULOSIC BIOMASS ETHANOL.—The
13 term “cellulosic biomass ethanol” means ethanol de-
14 rived from any lignocellulosic or hemicellulosic mat-
15 ter that is available on a renewable or recurring
16 basis, including—

17 (A) dedicated energy crops and trees;

18 (B) wood and wood residues;

19 (C) plants;

20 (D) grasses;

21 (E) agricultural residues; and

22 (F) fibers.

23 (2) RENEWABLE FUEL.—

24 (A) IN GENERAL.—The term “renewable
25 fuel” means motor vehicle fuel that—

1 (i)(I) is produced from grain, starch,
2 oilseeds, sugar cane, sugar beets, sugar
3 components, tobacco, potatoes, or other
4 biomass; or

5 (II) is natural gas produced from a
6 biogas source, including a landfill, sewage
7 waste treatment plant, feedlot, or other
8 place where decaying organic material is
9 found; and

10 (ii) is used to replace or reduce the
11 quantity of fossil fuel present in a fuel
12 mixture used to operate a motor vehicle.

13 (B) INCLUSIONS.—The term “renewable
14 fuel” includes—

15 (i) cellulosic biomass ethanol;

16 (ii) waste derived ethanol;

17 (iii) biodiesel (as defined in section
18 312(f) of the Energy Policy Act of 1992
19 (42 U.S.C. 13220(f)); and

20 (iv) any blending components derived
21 from renewable fuel, except that only the
22 renewable fuel portion of the blending com-
23 ponent shall be considered part of the ap-
24 plicable volume under the renewable fuel
25 program established by this section.

1 (3) SMALL REFINERY.—The term “small refin-
2 ery” means a refinery for which average aggregate
3 daily crude oil throughput for the calendar year (as
4 determined by dividing the aggregate throughput for
5 the calendar year by the number of days in the cal-
6 endar year) does not exceed 75,000 barrels.

7 (4) WASTE DERIVED ETHANOL.—The term
8 “waste derived ethanol” means ethanol derived
9 from—

10 (A) animal wastes, including poultry fats
11 and poultry wastes, and other waste materials;
12 or

13 (B) municipal solid waste.

14 (b) RENEWABLE FUEL PROGRAM.—

15 (1) IN GENERAL.—

16 (A) REGULATIONS.—Not later than 1 year
17 after the date of enactment of this Act, the Sec-
18 retary shall issue regulations ensuring that
19 motor vehicle fuel sold or dispensed to con-
20 sumers in the contiguous United States, on an
21 annual average basis, contains the applicable
22 volume of renewable fuel specified in paragraph
23 (2).

24 (B) COMPLIANCE.—Regardless of the date
25 of issuance, the regulations shall contain com-

1 pliance provisions for refiners, blenders, and
 2 importers, as appropriate, to ensure that the re-
 3 quirements of this section are met, but shall not
 4 restrict where renewable fuel can be used, or
 5 impose any per-gallon obligation for the use of
 6 renewable fuel.

7 (C) NO REGULATIONS.—If the Secretary
 8 does not issue the regulations, the applicable
 9 percentage referred to in paragraph (3), on a
 10 volume percentage of gasoline basis, shall be
 11 3.2 in 2006.

12 (2) APPLICABLE VOLUME.—

13 (A) CALENDAR YEARS 2006 THROUGH
 14 2012.—For the purpose of paragraph (1), the
 15 applicable volume for any of calendar years
 16 2006 through 2012 shall be determined in ac-
 17 cordance with the following table:

Applicable volume of renewable fuel

Calendar year:	(In billions of gallons)
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0

18 (B) CALENDAR YEARS 2013 AND THERE-
 19 AFTER.—

20 (i) IN GENERAL.—Subject to clause
 21 (ii), for the purpose of paragraph (1), the

1 applicable volume for calendar year 2013
2 and each calendar year thereafter shall be
3 determined by the Secretary, in coordina-
4 tion with the Secretary of Agriculture and
5 the Administrator of the Environmental
6 Protection Agency, based on a review of
7 the implementation of the program during
8 calendar years 2006 through 2012, includ-
9 ing a review of—

10 (I) the impact of the use of re-
11 newable fuels on the environment, air
12 quality, energy security, job creation,
13 and rural economic development; and

14 (II) the expected annual rate of
15 future production of renewable fuels,
16 including cellulosic ethanol.

17 (ii) MINIMUM QUANTITY DERIVED
18 FROM CELLULOSIC BIOMASS.—For cal-
19 endar year 2013 and each calendar year
20 thereafter—

21 (I) the applicable volume referred
22 to in clause (i) shall contain a min-
23 imum of 250,000,000 gallons that are
24 derived from cellulosic biomass; and

1 (II) the 2.5-to-1 ratio referred to
2 in subsection (e) shall not apply.

3 (C) LIMITATION.—An increase in the ap-
4 plicable volume for a calendar year under sub-
5 paragraph (B) shall be not less than the prod-
6 uct obtained by multiplying—

7 (i) the number of gallons of gasoline
8 that the Secretary estimates will be sold or
9 introduced into commerce during the cal-
10 endar year; and

11 (ii) the quotient obtained by
12 dividing—

13 (I) 8,000,000,000; by

14 (II) the number of gallons of gas-
15 oline sold or introduced into com-
16 merce during calendar year 2012.

17 (e) NONCONTIGUOUS STATE OPT-IN.—

18 (1) IN GENERAL.—On the petition of a non-
19 contiguous State, the Secretary may allow the re-
20 newable fuel program established under this subtitle
21 to apply in the noncontiguous State at the same
22 time or any time after the Secretary issues regula-
23 tions under subsection (b).

24 (2) OTHER ACTIONS.—The Secretary may—

1 (A) issue or revise regulations under sub-
2 section (b);

3 (B) establish applicable percentages under
4 subsection (d);

5 (C) provide for the generation of credits
6 under subsection (f); and

7 (D) take such other actions as are nec-
8 essary to allow for the application of the renew-
9 able fuels program in a noncontiguous State.

10 (d) APPLICABLE PERCENTAGES.—

11 (1) PROVISION OF ESTIMATE OF VOLUMES OF
12 GASOLINE SALES.—Not later than October 31 of
13 each of calendar years 2006 through 2011, the Ad-
14 ministrator of the Energy Information Administra-
15 tion shall provide to the Secretary an estimate of the
16 volumes of gasoline that will be sold or introduced
17 into commerce in the United States during the fol-
18 lowing calendar year.

19 (2) DETERMINATION OF APPLICABLE PERCENT-
20 AGES.—

21 (A) IN GENERAL.—Not later than Novem-
22 ber 30 of each of calendar years 2006 through
23 2011, based on the estimate provided under
24 paragraph (1), the Secretary shall determine
25 and publish in the Federal Register, with re-

1 spect to the following calendar year, the renew-
2 able fuel obligation that ensures that the re-
3 quirements under subsection (b) are met.

4 (B) REQUIRED ELEMENTS.—The renew-
5 able fuel obligation determined for a calendar
6 year under subparagraph (A) shall—

7 (i) be applicable to refiners, blenders,
8 and importers, as appropriate;

9 (ii) be expressed in terms of a volume
10 percentage of gasoline sold or introduced
11 into commerce; and

12 (iii) subject to paragraph (3)(A), con-
13 sist of a single applicable percentage that
14 applies to all categories of persons speci-
15 fied in clause (i).

16 (3) ADJUSTMENTS.—In determining the appli-
17 cable percentage for a calendar year, the Secretary
18 shall make adjustments—

19 (A) to prevent the imposition of redundant
20 obligations to any person specified in paragraph
21 (2)(B)(i); and

22 (B) to account for the use of renewable
23 fuel during the previous calendar year by small
24 refineries that are exempt under subsection (i).

1 (e) EQUIVALENCY.—For the purpose of subsection
2 (b), 1 gallon of either cellulosic biomass ethanol or waste
3 derived ethanol shall be considered to be the equivalent
4 of 2.5 gallons of renewable fuel.

5 (f) CREDIT PROGRAM.—

6 (1) REGULATIONS.—The regulations issued to
7 carry out this section shall provide for—

8 (A) the generation of an appropriate
9 amount of credits by any person that refines,
10 blends, or imports gasoline that contains a
11 quantity of renewable fuel that is greater than
12 the quantity required under subsection (b);

13 (B) the generation of an appropriate
14 amount of credits for biodiesel fuel; and

15 (C) if a small refinery notifies the Sec-
16 retary that the small refinery waives the exemp-
17 tion provided by this section, the generation of
18 credits by the small refinery beginning in the
19 year following the notification.

20 (2) USE OF CREDITS.—A person that generates
21 credits under paragraph (1) may use the credits, or
22 transfer all or a portion of the credits to another
23 person, for the purpose of complying with subsection
24 (b).

1 (3) LIFE OF CREDITS.—A credit generated
2 under this paragraph shall be valid to demonstrate
3 compliance for the calendar year in which the credit
4 was generated.

5 (4) INABILITY TO PURCHASE SUFFICIENT
6 CREDITS.—The regulations issued to carry out this
7 section shall include provisions permitting any per-
8 son that is unable to generate or purchase sufficient
9 credits to meet the requirement under subsection (b)
10 to carry forward a renewable fuels deficit if, for the
11 calendar year following the year in which the renew-
12 able fuels deficit is created—

13 (A) the person achieves compliance with
14 the renewable fuels requirement under sub-
15 section (b); and

16 (B) generates or purchases additional re-
17 newable fuels credits to offset the renewable
18 fuels deficit of the preceding year.

19 (g) SEASONAL VARIATIONS IN RENEWABLE FUEL
20 USE.—

21 (1) STUDY.—For each of calendar years 2006
22 through 2012, the Administrator of the Energy In-
23 formation Administration shall conduct a study of
24 renewable fuels blending to determine whether there

1 are excessive seasonal variations in the use of renew-
2 able fuels.

3 (2) REGULATION OF EXCESSIVE SEASONAL
4 VARIATIONS.—If, for any calendar year, the Admin-
5 istrator of the Energy Information Administration,
6 based on the study under subparagraph (A), makes
7 the determinations specified in paragraph (3), the
8 Secretary shall issue regulations to ensure that 35
9 percent or more of the quantity of renewable fuels
10 necessary to meet the requirements under subsection
11 (b) is used during each of the periods specified in
12 paragraph (4) of each subsequent calendar year.

13 (3) DETERMINATIONS.—The determinations re-
14 ferred to in paragraph (2) are that—

15 (A) less than 35 percent of the quantity of
16 renewable fuels necessary to meet the require-
17 ments under subsection (b) has been used dur-
18 ing 1 of the periods specified in paragraph (4)
19 of the calendar year;

20 (B) a pattern of excessive seasonal vari-
21 ation described in subparagraph (A) will con-
22 tinue in subsequent calendar years; and

23 (C) issuing regulations or other require-
24 ments to impose a 35 percent or more seasonal
25 use of renewable fuels will not—

1 (i) prevent or interfere with the at-
2 tainment of national ambient air quality
3 standards; or

4 (ii) significantly increase the price of
5 motor fuels to the consumer.

6 (4) PERIODS.—The 2 periods referred to in this
7 paragraph are—

8 (A) April through September; and

9 (B) January through March and October
10 through December.

11 (5) STATE EXEMPTION FROM SEASONALITY RE-
12 QUIREMENTS.—Notwithstanding any other provision
13 of law, a seasonality requirement relating to the use
14 of renewable fuel established in accordance with this
15 subsection shall not apply to any State that receives
16 a waiver under section 209(b) of the Clean Air Act
17 (42 U.S.C. 7543(b)).

18 (h) WAIVERS.—

19 (1) IN GENERAL.—The Secretary, in consulta-
20 tion with the Secretary of Agriculture and the Ad-
21 ministrator of the Environmental Protection Agency,
22 may waive the requirements under subsection (b), in
23 whole or in part, on a petition by 1 or more States
24 by reducing the national quantity of renewable fuel
25 required under this section—

1 (A) based on a determination by the Sec-
2 retary, after public notice and opportunity for
3 comment, that implementation of the require-
4 ment would severely harm the economy or envi-
5 ronment of a State, a region, or the United
6 States; or

7 (B) based on a determination by the Sec-
8 retary, after public notice and opportunity for
9 comment, that there is an inadequate domestic
10 supply to meet the requirement.

11 (2) PETITIONS FOR WAIVERS.—Not later than
12 90 days after the date on which a petition is re-
13 ceived by the Secretary under paragraph (1), the
14 Secretary, in consultation with the Secretary of Ag-
15 riculture and the Administrator of the Environ-
16 mental Protection Agency, shall approve or dis-
17 approve the petition.

18 (3) TERMINATION OF WAIVERS.—A waiver
19 granted under paragraph (1) shall terminate on the
20 date that is 1 year after the date on which the wai-
21 ver was granted, but may be renewed by the Sec-
22 retary, after consultation with the Secretary of Agri-
23 culture and the Administrator of the Environmental
24 Protection Agency.

25 (i) SMALL REFINERIES.—

1 (1) IN GENERAL.—Subsection (b) shall not
2 apply to small refineries until the first calendar year
3 beginning more than 5 years after the first year set
4 forth in the table in subsection (b)(2)(A).

5 (2) STUDY.—Not later than December 31,
6 2008, the Secretary shall complete a study to deter-
7 mine whether the requirements under subsection (b)
8 would impose a disproportionate economic hardship
9 on small refineries.

10 (3) SMALL REFINERIES AND ECONOMIC HARD-
11 SHIP.—For any small refinery that the Secretary de-
12 termines would experience a disproportionate eco-
13 nomic hardship, the Secretary shall extend the small
14 refinery exemption for the small refinery for not less
15 than 2 additional years.

16 (4) ECONOMIC HARDSHIP.—

17 (A) EXTENSION OF EXEMPTION.—A small
18 refinery may at any time petition the Secretary
19 for an extension of the exemption from the re-
20 quirements under subsection (b) for the reason
21 of disproportionate economic hardship.

22 (B) EVALUATION.—In evaluating a hard-
23 ship petition, the Secretary, in consultation
24 with the Administrator and Secretary of Agri-

1 culture, shall consider the findings of the study
2 in addition to other economic factors.

3 (C) DEADLINE FOR ACTION ON PETI-
4 TIONS.—The Secretary shall act on any petition
5 submitted by a small refinery for a hardship ex-
6 emption not later than 90 days after the receipt
7 of the petition.

8 (5) CREDIT PROGRAM.—Subsection (f)(1)(C)
9 shall apply to each small refinery that waives an ex-
10 emption under this paragraph.

11 (6) OPT-IN FOR SMALL REFINERS.—A small re-
12 finery shall be subject to subsection (b) if the small
13 refinery notifies the Secretary that the small refinery
14 waives the exemption under paragraph (3).

15 (j) CELLULOSIC BIOMASS AND CANE SUGAR LOAN
16 GUARANTEE PROGRAM.—

17 (1) IN GENERAL.—Subject to the availability of
18 appropriations, funds shall be made available, and
19 remain available until expended, to pay the cost (as
20 defined in the Federal Credit Reform Act of 1990
21 (2 U.S.C. 661 et seq.)) of loan guarantees issued
22 under section 19 of the Federal Nonnuclear Energy
23 Research and Development Act of 1974 (42 U.S.C.
24 5919) to carry out commercial demonstration

1 projects for cellulosic biomass and sucrose-derived
2 ethanol.

3 (2) DEMONSTRATION PROJECTS.—

4 (A) IN GENERAL.—The Secretary shall
5 issue loan guarantees under this section to
6 carry out projects to commercially demonstrate
7 the feasibility and viability of converting cel-
8 lulosic biomass derived from agricultural res-
9 idue such as corn stover or straw or cane sugar
10 and related products into ethanol.

11 (B) DESIGN CAPACITY.—Each project shall
12 have a design capacity to produce at least
13 15,000,000 gallons of cellulose ethanol each
14 year.

15 (3) APPLICANT ASSURANCES.—An applicant for
16 a loan guarantee under this section shall provide as-
17 surances, satisfactory to the Secretary, that—

18 (A) the project design has been validated
19 through the operation of a continuous process
20 facility with a cumulative output of at least
21 50,000 gallons of ethanol;

22 (B) the project has been subject to a full
23 technical review;

24 (C) the project is covered by adequate
25 project performance guarantees;

1 (D) the project, with the loan guarantee, is
2 economically viable; and

3 (E) there is a reasonable assurance of re-
4 payment of the guaranteed loan.

5 (4) LIMITATIONS.—

6 (A) MAXIMUM GUARANTEE.—Except as
7 provided in subparagraph (B), notwithstanding
8 section 19(c)(2)(A) of the Federal Nonnuclear
9 Energy Research and Development Act of 1974
10 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee
11 under this section may be issued for up to 80
12 percent of the estimated cost of a project, but
13 may not exceed \$250,000,000 for a project.

14 (B) ADDITIONAL GUARANTEES.—

15 (i) IN GENERAL.—The Secretary may
16 issue additional loan guarantees for a
17 project to cover up to 80 percent of the ex-
18 cess of actual project cost over estimated
19 project cost but not to exceed 15 percent
20 of the amount of the original guarantee.

21 (ii) PRINCIPAL AND INTEREST.—Sub-
22 ject to subparagraph (A), the Secretary
23 shall guarantee 100 percent of the prin-
24 cipal and interest of a loan made under
25 subparagraph (A).

1 (5) EQUITY CONTRIBUTIONS.—To be eligible
2 for a loan guarantee under this section, an applicant
3 for the loan guarantee shall have binding commit-
4 ments from equity investors to provide an initial eq-
5 uity contribution of at least 20 percent of the total
6 project cost.

7 (6) EFFECT OF OTHER LAWS.—The following
8 provisions are inapplicable to a loan guarantee made
9 under this section:

10 (A) Subsections (m) and (p) of section 19
11 of the Federal Nonnuclear Energy Research
12 and Development Act of 1974 (42 U.S.C.
13 5919).

14 (B) The first, third, and fourth sentences
15 of section 19(g)(4) of that Act.

16 (7) APPLICATION.—An application for a loan
17 guarantee under this section shall be approved or
18 disapproved by the Secretary not later than 90 days
19 after the application is received by the Secretary.

20 **SEC. 205. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**
21 **AND BIODIESEL PURCHASING REQUIRE-**
22 **MENT.**

23 (a) IN GENERAL.—Title III of the Energy Policy Act
24 of 1992 is amended by striking section 306 (42 U.S.C.
25 13215) and inserting the following:

1 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
2 **LINE AND BIODIESEL PURCHASING REQUIRE-**
3 **MENT.**

4 “(a) ETHANOL-BLENDED GASOLINE.—The head of
5 each Federal agency shall ensure that, in areas in which
6 ethanol-blended gasoline is reasonably available at a gen-
7 erally competitive price, the Federal agency purchases eth-
8 anol-blended gasoline containing at least 10 percent eth-
9 anol rather than nonethanol-blended gasoline, for use in
10 vehicles used by the agency that use gasoline.

11 “(b) BIODIESEL.—

12 “(1) DEFINITION OF BIODIESEL.—In this sub-
13 section, the term ‘biodiesel’ has the meaning given
14 the term in section 312(f).

15 “(2) REQUIREMENT.—The head of each Fed-
16 eral agency shall ensure that the Federal agency
17 purchases, for use in fueling fleet vehicles that use
18 diesel fuel used by the Federal agency at the loca-
19 tion at which fleet vehicles of the Federal agency are
20 centrally fueled, in areas in which the biodiesel-
21 blended diesel fuel described in subparagraphs (A)
22 and (B) is available at a generally competitive
23 price—

24 “(A) as of the date that is 5 years after
25 the date of enactment of this paragraph, bio-
26 diesel-blended diesel fuel that contains at least

1 United States, the Administrator shall conduct and pub-
2 lish the results of a survey of renewable fuels demand in
3 the motor vehicle fuels market in the United States
4 monthly, and in a manner designed to protect the con-
5 fidentiality of individual responses.

6 “(2) In conducting the survey, the Administrator
7 shall collect information both on a national and regional
8 basis, including—

9 “(A) information on—

10 “(i) the quantity of renewable fuels pro-
11 duced;

12 “(ii) the quantity of renewable fuels blend-
13 ed;

14 “(iii) the quantity of renewable fuels im-
15 ported; and

16 “(iv) the quantity of renewable fuels de-
17 manded; and

18 “(B) market price data.”.

19 **SEC. 207. SUGAR CANE ETHANOL PROGRAM.**

20 (a) DEFINITION OF PROGRAM.—In this section, the
21 term “program” means the Sugar Cane Ethanol Program
22 established by subsection (b).

23 (b) ESTABLISHMENT.—There is established within
24 the Department a program to be known as the “Sugar
25 Cane Ethanol Program”.

1 (c) PROJECT.—

2 (1) IN GENERAL.—Subject to the availability of
3 appropriations under subsection (d), in carrying out
4 the program, the Secretary shall establish a project
5 that is—

6 (A) carried out in multiple States—

7 (i) in each of which is produced cane
8 sugar that is eligible for loans under sec-
9 tion 156 of the Federal Agriculture Im-
10 provement and Reform Act of 1996 (7
11 U.S.C. 7272), or a similar subsequent au-
12 thority; and

13 (ii) at the option of each such State,
14 that have an incentive program that re-
15 quires the use of ethanol in the State; and

16 (B) designed to study the production of
17 ethanol from cane sugar, sugarcane, and sugar-
18 cane byproducts.

19 (2) REQUIREMENTS.—A project described in
20 paragraph (1) shall—

21 (A) be limited to the production of ethanol
22 in the States of Florida, Louisiana, Texas, and
23 Hawaii in a way similar to the existing program
24 for the processing of corn for ethanol to dem-
25 onstrate that the process may be applicable to

1 cane sugar, sugarcane, and sugarcane byprod-
2 ucts;

3 (B) include information on the ways in
4 which the scale of production may be replicated
5 once the sugar cane industry has located sites
6 for, and constructed, ethanol production facili-
7 ties; and

8 (C) not last more than 3 years.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this section
11 \$36,000,000, to remain available until expended.

12 **SEC. 208. MODIFICATION OF COMMODITY CREDIT COR-**
13 **PORATION BIOENERGY PROGRAM.**

14 Section 9010(a)(3)(A) of the Farm Security and
15 Rural Investment Act of 2002 (7 U.S.C. 8108(a)(3)(A))
16 is amended by inserting “potatoes, sugarcane, sugar beets,
17 products of sugarcane or sugar beets,” after “sesame
18 seed,”.

19 **SEC. 209. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.**

20 (a) IN GENERAL.—Subject to the availability of ap-
21 propriations under subsection (d), the Secretary shall, in
22 consultation with the Secretary of Agriculture and the
23 Biomass Research and Development Technical Advisory
24 Committee established under section 306 of the Biomass
25 Research and Development Act of 2000 (Public Law 106–

1 224; 7 U.S.C. 8101 note), establish a program, to be
2 known as the “Advanced Biofuel Technologies Program”,
3 to demonstrate advanced technologies for the production
4 of alternative transportation fuels.

5 (b) PRIORITY.—In carrying out the program under
6 subsection (a), the Secretary shall give priority to projects
7 that enhance the geographical diversity of alternative fuels
8 production and utilize feedstocks that represent 10 per-
9 cent or less of ethanol or biodiesel fuel production in the
10 United States during the previous fiscal year.

11 (c) DEMONSTRATION PROJECTS.—

12 (1) IN GENERAL.—As part of the program
13 under subsection (a), the Secretary shall fund dem-
14 onstration projects—

15 (A) to develop not less than 4 different
16 conversion technologies for producing cellulosic
17 biomass ethanol; and

18 (B) to develop not less than 5 technologies
19 for coproducing value-added bioproducts (such
20 as fertilizers, herbicides, and pesticides) result-
21 ing from the production of biodiesel fuel.

22 (2) ADMINISTRATION.—Demonstration projects
23 under this subsection shall be—

24 (A) conducted based on a merit-reviewed,
25 competitive process; and

1 (B) subject to the cost-sharing require-
2 ments of section 1002.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$110,000,000 for each of fiscal years 2006 through 2010.

6 **SEC. 210. ASSISTANCE FOR RURAL COMMUNITIES WITH**
7 **HIGH ENERGY COSTS.**

8 Beginning on the date of enactment of this Act and
9 notwithstanding any other provision of law, the Secretary
10 and the Administrator of the Rural Utilities Service shall
11 use the authorities provided under the Rural Electrifica-
12 tion Act of 1936 (7 U.S.C. 901 et seq.) and section
13 331(b)(4) of the Consolidated Farm and Rural Develop-
14 ment Act (7 U.S.C. 1981(b)(4)) (including deferral, exten-
15 sion, refinancing, restructuring, and reduction of loans
16 made under those Acts) to aid electric borrowers that
17 serve rural communities in Alaska with extremely high en-
18 ergy costs to—

- 19 (1) reduce rates for customers;
20 (2) maintain reliable service;
21 (3) preserve the economic feasibility of the elec-
22 tric systems; and
23 (4) avoid default.

1 **Subtitle B—Insular Energy**

2 **SEC. 221. DEFINITIONS.**

3 In this subtitle:

4 (1) **DISTRIBUTED GENERATION.**—The term
5 “distributed generation” means energy supplied in a
6 rural or off-grid area.

7 (2) **INSULAR AREA.**—The term “insular area”
8 means—

9 (A) Guam;

10 (B) American Samoa;

11 (C) the Commonwealth of the Northern
12 Mariana Islands;

13 (D) the Federated States of Micronesia;

14 (E) the Republic of the Marshall Islands;

15 (F) the Republic of Palau;

16 (G) the United States Virgin Islands; and

17 (H) the Commonwealth of Puerto Rico.

18 **SEC. 222. ASSESSMENT.**

19 (a) **IN GENERAL.**—Not later than 1 year after the
20 date of enactment of this Act, the Secretary (in consulta-
21 tion with the Secretary of Interior) shall—

22 (1) conduct an assessment of the energy needs
23 of insular areas; and

24 (2) submit a report describing the results of the
25 assessment to—

1 (A) the Committee on Energy and Natural
2 Resources of the Senate;

3 (B) the Committee on Energy and Com-
4 merce of the House of Representatives; and

5 (C) the Committee on Resources of the
6 House of Representatives.

7 (b) STRATEGIES AND PROJECTS.—In conducting the
8 assessment, for each of the insular areas, the Secretary
9 shall identify and evaluate the strategies or projects with
10 the greatest potential for reducing the dependence of the
11 insular area on imported fossil fuels as used for the gen-
12 eration of electricity, including strategies and projects
13 for—

14 (1) improved supply-side efficiency of central-
15 ized electrical generation, transmission, and distribu-
16 tion systems;

17 (2) improved demand-side management
18 through—

19 (A) the application of established stand-
20 ards for energy efficiency for appliances;

21 (B) the conduct of energy audits for busi-
22 ness and industrial customers; and

23 (C) the use of energy savings performance
24 contracts;

1 (3) increased use of renewable energy,
2 including—

3 (A) solar thermal energy for electric gen-
4 eration;

5 (B) solar thermal energy for water heating
6 in large buildings, such as hotels, hospitals,
7 government buildings, and residences;

8 (C) photovoltaic energy;

9 (D) wind energy;

10 (E) hydroelectric energy;

11 (F) wave energy;

12 (G) energy from ocean thermal resources,
13 including ocean thermal-cooling for community
14 air conditioning;

15 (H) water vapor condensation for the pro-
16 duction of potable water;

17 (I) fossil fuel and renewable hybrid elec-
18 trical generation systems; and

19 (J) other strategies or projects that the
20 Secretary may identify as having significant po-
21 tential; and

22 (4) fuel substitution and minimization with in-
23 digenous biofuels, such as coconut oil.

24 (c) DISTRIBUTED GENERATION.—In conducting the
25 assessment, for each insular area with a significant need

1 for distributed generation, the Secretary shall identify and
2 evaluate the most promising strategies and projects de-
3 scribed in paragraphs (3) and (4) of subsection (b) for
4 meeting that need.

5 (d) FACTORS.—In assessing the potential of any
6 strategy or project under this section, the Secretary shall
7 consider—

8 (1) the estimated cost of the power or energy
9 to be produced, including—

10 (A) any additional costs associated with
11 the distribution of the generation; and

12 (B) the long-term availability of the gen-
13 eration source;

14 (2) the capacity of the local electrical utility to
15 manage, operate, and maintain any project that may
16 be undertaken; and

17 (3) other factors the Secretary considers to be
18 appropriate.

19 **SEC. 223. PROJECT FEASIBILITY STUDIES.**

20 (a) IN GENERAL.—On a request described in sub-
21 section (b), the Secretary shall conduct a feasibility study
22 of a project to implement a strategy or project identified
23 under section 222 as having the potential to—

24 (1) significantly reduce the dependence of an
25 insular area on imported oil; or

1 (2) provide needed distributed generation to an
2 insular area.

3 (b) REQUEST.—The Secretary shall conduct a feasi-
4 bility study under subsection (a) on—

5 (1) the request of an electric utility located in
6 an insular area that commits to fund at least 10
7 percent of the cost of the study; and

8 (2) if the electric utility is located in the Fed-
9 erated States of Micronesia, the Republic of the
10 Marshall Islands, or the Republic of Palau, written
11 support for that request by the President or the Am-
12 bassador of the affected freely associated state.

13 (c) CONSULTATION.—The Secretary shall consult
14 with regional utility organizations in—

15 (1) conducting feasibility studies under sub-
16 section (a); and

17 (2) determining the feasibility of potential
18 projects.

19 (d) FEASIBILITY.—For the purpose of a feasibility
20 study under subsection (a), a project shall be determined
21 to be feasible if the project would significantly reduce the
22 dependence of an insular area on imported fossil fuels, or
23 provide needed distributed generation to an insular area,
24 at a reasonable cost.

1 **SEC. 224. IMPLEMENTATION.**

2 (a) IN GENERAL.—On a determination by the Sec-
3 retary (in consultation with the Secretary of the Interior)
4 that a project is feasible under section 223 and a commit-
5 ment by an electric utility to operate and maintain the
6 project, the Secretary may provide such technical and fi-
7 nancial assistance as the Secretary determines is appro-
8 priate for the implementation of the project.

9 (b) REGIONAL UTILITY ORGANIZATIONS.—In pro-
10 viding assistance under subsection (a), the Secretary shall
11 consider providing the assistance through regional utility
12 organizations.

13 **SEC. 225. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—There are authorized to be appro-
15 priated to the Secretary—

16 (1) \$500,000 for the completion of the assess-
17 ment under section 222;

18 (2) \$500,000 for each fiscal year for project
19 feasibility studies under section 223; and

20 (3) \$5,000,000 for each fiscal year for project
21 implementation under section 224.

22 (b) LIMITATION OF FUNDS RECEIVED BY INSULAR
23 AREAS.—No insular area may receive, during any 3-year
24 period, more than 20 percent of the total funds made
25 available during that 3-year period under paragraphs (2)
26 and (3) of subsection (a) unless the Secretary determines

1 that providing funding in excess of that percentage best
2 advances existing opportunities to meet the objectives of
3 this subtitle.

4 **Subtitle C—Biomass Energy**

5 **SEC. 231. DEFINITIONS.**

6 In this subtitle:

7 (1) **BIOMASS.**—The term “biomass” means
8 nonmerchantable material from, or precommercial
9 thinnings of, trees and woody plants produced from
10 treatments—

11 (A) to reduce hazardous fuels;

12 (B) to reduce or contain disease or insect
13 infestations; or

14 (C) to restore forest health.

15 (2) **ELIGIBLE COMMUNITY.**—The term “eligible
16 community” means an Indian Reservation, or a
17 county, town, township, municipality, or other simi-
18 lar unit of local government with a population of not
19 more than 50,000 individuals that the Secretary de-
20 termines is located in an area near Federal or In-
21 dian land, that is—

22 (A) at significant risk of catastrophic wild-
23 fire, disease, or insect infestation; or

24 (B) diseased or infested by insects.

1 (3) ELIGIBLE OPERATION.—The term “eligible
2 operation” means a facility that—

3 (A) is located within the boundaries of an
4 eligible community; and

5 (B) uses biomass from Federal or Indian
6 land as a raw material to produce electric en-
7 ergy, sensible heat, or transportation fuels.

8 (4) GREEN TON.—The term “green ton” means
9 2,000 pounds of biomass that has not been mechani-
10 cally or artificially dried.

11 (5) INDIAN TRIBE.—The term “Indian tribe”
12 has the meaning given the term in section 4(e) of
13 the Indian Self-Determination and Education Assist-
14 ance Act (25 U.S.C. 450b(e)).

15 (6) PERSON.—The term “person” includes—

16 (A) an individual;

17 (B) an eligible community;

18 (C) an Indian tribe;

19 (D) a small business or a corporation that
20 is incorporated in the United States; and

21 (E) a nonprofit organization.

22 (7) SECRETARY.—The term “Secretary”
23 means—

1 (A) the Secretary of Agriculture, with re-
2 spect to land within the National Forest Sys-
3 tem; or

4 (B) the Secretary of the Interior, with re-
5 spect to Federal land under the jurisdiction of
6 the Secretary of the Interior and Indian land.

7 **SEC. 232. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**
8 **GRAM.**

9 (a) IN GENERAL.—The Secretary may make grants
10 to any person that owns or operates an eligible operation
11 to offset the costs incurred to purchase biomass for use
12 by the eligible operation.

13 (b) PRIORITY.—In making grants under subsection
14 (a), the Secretary shall give priority to eligible operations
15 that use biomass from the highest risk areas, as deter-
16 mined by the Secretary.

17 (c) GRANT AMOUNT.—A grant provided under this
18 section may not exceed \$20 per green ton of biomass deliv-
19 ered.

20 (d) MONITORING OF GRANT RECIPIENT ACTIVI-
21 TIES.—

22 (1) IN GENERAL.—As a condition of a grant
23 under this section, the grant recipient shall keep
24 such records as the Secretary may require to fully

1 and correctly disclose the use of the grant funds and
2 all transactions involved in the purchase of biomass.

3 (2) ACCESS.—On notice by the Secretary, the
4 grant recipient shall provide the Secretary reason-
5 able access to examine the inventory and records of
6 the eligible operation.

7 (e) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—There are authorized to be
9 appropriated to carry out this section for each of fis-
10 cal years 2006 through 2010—

11 (A) \$12,500,000 to the Secretary of Agri-
12 culture; and

13 (B) \$12,500,000 to the Secretary of the
14 Interior.

15 (2) AVAILABILITY.—Amounts made available
16 under paragraph (1) shall remain available until ex-
17 pended.

18 **SEC. 233. IMPROVED BIOMASS UTILIZATION PROGRAM.**

19 (a) IN GENERAL.—The Secretary may provide grants
20 to persons in eligible communities to offset the costs of
21 developing or researching proposals to improve the use of
22 biomass or add value to biomass utilization.

23 (b) SELECTION.—Grant recipients shall be selected
24 based on the potential of a proposal to—

1 (1) develop affordable thermal or electric energy
2 resources for the benefit of an eligible community;

3 (2) provide opportunities for the creation or ex-
4 pansion of small business concerns within an eligible
5 community;

6 (3) create new job opportunities within an eligi-
7 ble community;

8 (4) improve efficiency or develop cleaner tech-
9 nologies for biomass utilization; and

10 (5) reduce the hazardous fuel from the highest
11 risk areas.

12 (c) LIMITATION.—No grant provided under this sec-
13 tion shall exceed \$500,000.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—

15 (1) IN GENERAL.—There are authorized to be
16 appropriated to carry out this section for each of fis-
17 cal years 2006 through 2010—

18 (A) \$12,500,000 to the Secretary of Agri-
19 culture; and

20 (B) \$12,500,000 to the Secretary of the
21 Interior.

22 (2) AVAILABILITY.—Amounts made available
23 under paragraph (1) shall remain available until ex-
24 pended.

1 **SEC. 234. REPORT.**

2 Not later than 3 years after the date of enactment
3 of this Act, the Secretary of Agriculture and the Secretary
4 of the Interior shall jointly submit to Congress a report
5 that describes the interim results of the programs carried
6 out under sections 232 and 233.

7 **Subtitle D—Geothermal Energy**

8 **SEC. 241. COMPETITIVE LEASE SALE REQUIREMENTS.**

9 Section 4 of the Geothermal Steam Act of 1970 (30
10 U.S.C. 1003) is amended to read as follows:

11 **“SEC. 4. LEASING PROCEDURES.**

12 “(a) **NOMINATIONS.**—The Secretary shall accept
13 nominations of land to be leased at any time from quali-
14 fied companies and individuals under this Act.

15 “(b) **COMPETITIVE LEASE SALE REQUIRED.**—

16 “(1) **IN GENERAL.**—Except as otherwise specifi-
17 cally provided by this Act, all land to be leased that
18 is not subject to leasing under subsection (c) shall
19 be leased as provided in this subsection to the high-
20 est responsible qualified bidder, as determined by
21 the Secretary.

22 “(2) **COMPETITIVE LEASE SALES.**—The Sec-
23 retary shall hold a competitive lease sale at least
24 once every 2 years for land in a State that has nomi-
25 nations pending under subsection (a) if the land is
26 otherwise available for leasing.

1 “(c) NONCOMPETITIVE LEASING.—The Secretary
2 shall make available for a period of 2 years for non-
3 competitive leasing any tract for which a competitive lease
4 sale is held, but for which the Secretary does not receive
5 any bids in a competitive lease sale.

6 “(d) PENDING LEASE APPLICATIONS.—

7 “(1) IN GENERAL.—It shall be a priority for
8 the Secretary, and for the Secretary of Agriculture
9 with respect to National Forest Systems land, to en-
10 sure timely completion of administrative actions nec-
11 essary to process applications for geothermal leasing
12 pending on May 19, 2005.

13 “(2) ADMINISTRATION.—An application de-
14 scribed in paragraph (1) and any lease issued pursu-
15 ant to the application—

16 “(A) except as provided in subparagraph
17 (B), shall be subject to this section as in effect
18 on the day before the date of enactment of this
19 paragraph; or

20 “(B) at the election of the applicant, shall
21 be subject to this section as in effect on the ef-
22 fective date of this paragraph.”.

1 **SEC. 242. DIRECT USE.**

2 (a) FEES FOR DIRECT USE.—Section 5 of the Geo-
3 thermal Steam Act of 1970 (30 U.S.C. 1004) is
4 amended—

5 (1) in subsection (c), by redesignating para-
6 graphs (1) and (2) as subparagraphs (A) and (B),
7 respectively;

8 (2) by redesignating subsections (a) through (d)
9 as paragraphs (1) through (4), respectively;

10 (3) by inserting “(a) IN GENERAL.—” after
11 “SEC. 5.”; and

12 (4) by adding at the end the following:

13 “(d) DIRECT USE.—

14 “(1) IN GENERAL.—Notwithstanding subsection
15 (a)(1), the Secretary shall establish a schedule of
16 fees, in lieu of royalties for geothermal resources,
17 that a lessee or its affiliate—

18 “(A) uses for a purpose other than the
19 commercial generation of electricity; and

20 “(B) does not sell.

21 “(2) SCHEDULE OF FEES.—The schedule of
22 fees—

23 “(A) may be based on the quantity or ther-
24 mal content, or both, of geothermal resources
25 used or any other basis that the Secretary finds
26 appropriate under the circumstances; and

1 “(B) shall ensure a fair return to the
2 United States for use of the resource.

3 “(3) STATE OR LOCAL GOVERNMENTS.—If a
4 State or local government is the lessee and uses geo-
5 thermal resources without sale and for purposes
6 other than commercial generation of electricity, the
7 Secretary shall charge only a nominal fee for use of
8 the resource.”.

9 (b) LEASING FOR DIRECT USE.—Section 4 of the
10 Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as
11 amended by section 241) is amended adding at the end
12 the following:

13 “(e) LEASING FOR DIRECT USE OF GEOTHERMAL
14 RESOURCES.—Notwithstanding subsection (b), the Sec-
15 retary may identify areas in which the land to be leased
16 under this Act exclusively for direct use of geothermal re-
17 sources without sale for purposes other than commercial
18 generation of electricity may be leased to any qualified ap-
19 plicant that first applies for such a lease under regulations
20 issued by the Secretary, if the Secretary—

21 “(1) publishes a notice of the land proposed for
22 leasing not later than 120 days before the date of
23 the issuance of the lease;

24 “(2) does not receive during the 120-day period
25 beginning on the date of the publication any nomi-

1 nation to include the land concerned in the next
2 competitive lease sale; and

3 “(3) determines there is no competitive interest
4 in the land to be leased.

5 “(f) AREA SUBJECT TO LEASE FOR DIRECT USE.—

6 “(1) IN GENERAL.—Subject to paragraph (2), a
7 geothermal lease for the direct use of geothermal re-
8 sources shall cover not more than the quantity of
9 acreage determined by the Secretary to be reason-
10 ably necessary for the proposed use.

11 “(2) LIMITATIONS.—The quantity of acreage
12 covered by the lease shall not exceed the limitations
13 established under section 7.”

14 **SEC. 243. ROYALTIES.**

15 (a) CALCULATION OF ROYALTIES.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary of
18 the Interior shall issue a final regulation that pro-
19 vides a simplified methodology for calculating the
20 royalty under subsection (a)(1) of section 5 of the
21 Geothermal Steam Act of 1970 (30 U.S.C. 1004)
22 (as amended by section 242(a)).

23 (2) CONSIDERATIONS.—In issuing the final reg-
24 ulation under paragraph (1), the Secretary shall—

1 (A) consider the use of a method based on
2 gross proceeds from the sale of electricity; and

3 (B) ensure that the final regulation issued
4 under paragraph (1) results in the same level of
5 royalty revenues over a 10-year period as the
6 regulation in effect on the day before the date
7 of enactment of this Act.

8 (b) ROYALTY UNDER EXISTING LEASES.—

9 (1) IN GENERAL.—Any lessee under a lease
10 issued under the Geothermal Steam Act of 1970 (30
11 U.S.C. 1001 et seq.) before the date of enactment
12 of this Act may, within the time period specified in
13 paragraph (2), submit to the Secretary of the Inte-
14 rior a request to modify the terms of the lease relat-
15 ing to payment of royalties to comply with—

16 (A) in the case of a lease that meets the
17 requirements of subsection (b) of section 5 of
18 the Geothermal Steam Act of 1970 (30 U.S.C.
19 1004) (as amended by section 242(a)), the
20 schedule of fees established under that section;
21 and

22 (B) in the case of any other lease, the
23 methodology established under subsection (a).

1 (2) TIMING.—A request for a modification
2 under paragraph (1) shall be submitted to the Sec-
3 retary by the date that is not later than—

4 (A) in the case of a lease for direct use, 18
5 months after the effective date of the schedule
6 of fees established by the Secretary under sec-
7 tion 5 of the Geothermal Steam Act of 1970
8 (30 U.S.C. 1004); or

9 (B) in the case of any other lease, 18
10 months after the effective date of the final reg-
11 ulation issued under subsection (a).

12 (3) APPLICATION OF MODIFICATION.—If the
13 lessee requests modification of a lease under para-
14 graph (1)—

15 (A) the Secretary shall modify the lease to
16 comply with—

17 (i) in the case of a lease for direct
18 use, the schedule of fees established by the
19 Secretary under section 5 of the Geo-
20 thermal Steam Act of 1970 (30 U.S.C.
21 1004); or

22 (ii) in the case of any other lease, the
23 methodology established under subsection
24 (a); and

1 (B) the modification shall apply to any use
2 of geothermal steam and any associated geo-
3 thermal resources to which subsection (a) ap-
4 plies that occurs after the date of the modifica-
5 tion.

6 (4) CONSULTATION.—The Secretary shall con-
7 sult with the State and local governments affected
8 by any proposed changes in lease royalty terms
9 under this subsection.

10 **SEC. 244. GEOTHERMAL LEASING AND PERMITTING ON**
11 **FEDERAL LAND.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this section, the Secretary of the In-
14 terior and the Secretary of Agriculture shall enter into,
15 and submit to Congress, a memorandum of understanding
16 in accordance with this section regarding leasing and per-
17 mitting for geothermal development of public land and Na-
18 tional Forest System land under the respective jurisdic-
19 tions of the Secretaries.

20 (b) LEASE AND PERMIT APPLICATIONS.—The memo-
21 randum of understanding shall—

22 (1) identify areas with geothermal potential on
23 land included in the National Forest System and, if
24 necessary, require review of management plans to

1 consider leasing under the Geothermal Steam Act of
2 1970 (30 U.S.C. 1001 et seq.) as a land use; and

3 (2) establish an administrative procedure for
4 processing geothermal lease applications, including
5 lines of authority, steps in application processing,
6 and time limits for application processing.

7 (c) DATA RETRIEVAL SYSTEM.—The memorandum
8 of understanding shall establish a joint data retrieval sys-
9 tem that—

10 (1) is capable of tracking lease and permit ap-
11 plications; and

12 (2) provides to the applicant information as to
13 the status of an application within the Departments
14 of the Interior and Agriculture, including an esti-
15 mate of the time required for administrative action.

16 **SEC. 245. ASSESSMENT OF GEOTHERMAL ENERGY POTEN-**
17 **TIAL.**

18 Not later than 3 years after the date of enactment
19 of this Act and thereafter as the availability of data and
20 developments in technology warrants, the Secretary of the
21 Interior, acting through the Director of the United States
22 Geological Survey and in cooperation with the States,
23 shall—

24 (1) update the Assessment of Geothermal Re-
25 sources made during 1978; and

1 (2) submit to Congress the updated assessment.

2 **SEC. 246. COOPERATIVE OR UNIT PLANS.**

3 Section 18 of the Geothermal Steam Act of 1970 (30
4 U.S.C. 1017) is amended to read as follows:

5 **“SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.**

6 “(a) ADOPTION OF UNITS BY LESSEES.—

7 “(1) IN GENERAL.—For the purpose of more
8 properly conserving the natural resources of any
9 geothermal reservoir, field, or like area, or any part
10 thereof (whether or not any part of the geothermal
11 reservoir, field, or like area, is subject to any cooper-
12 ative plan of development or operation (referred to
13 in this section as a ‘unit agreement’)), lessees there-
14 of and their representatives may unite with each
15 other, or jointly or separately with others, in collec-
16 tively adopting and operating under a unit agree-
17 ment for the reservoir, field, or like area, or any
18 part thereof, including direct use resources, if deter-
19 mined and certified by the Secretary to be necessary
20 or advisable in the public interest.

21 “(2) MAJORITY INTEREST OF SINGLE
22 LEASES.—A majority interest of owners of any sin-
23 gle lease shall have the authority to commit the lease
24 to a unit agreement.

1 “(3) INITIATIVE OF SECRETARY.—The Sec-
2 retary may also initiate the formation of a unit
3 agreement, or require an existing Federal lease to
4 commit to a unit agreement, if in the public interest.

5 “(4) MODIFICATION OF LEASE REQUIREMENTS
6 BY SECRETARY.—

7 “(A) IN GENERAL.—The Secretary may, in
8 the discretion of the Secretary and with the
9 consent of the holders of leases involved, estab-
10 lish, alter, change, or revoke rates of operations
11 (including drilling, operations, production, and
12 other requirements) of the leases and make con-
13 ditions with respect to the leases, with the con-
14 sent of the lessees, in connection with the cre-
15 ation and operation of any such unit agreement
16 as the Secretary may consider necessary or ad-
17 visable to secure the protection of the public in-
18 terest.

19 “(B) UNLIKE TERMS OR RATES.—Leases
20 with unlike lease terms or royalty rates shall
21 not be required to be modified to be in the
22 same unit.

23 “(b) REQUIREMENT OF PLANS UNDER NEW
24 LEASES.—The Secretary may—

1 “(1) provide that geothermal leases issued
2 under this Act shall contain a provision requiring
3 the lessee to operate under a unit agreement; and

4 “(2) prescribe the unit agreement under which
5 the lessee shall operate, which shall adequately pro-
6 tect the rights of all parties in interest, including the
7 United States.

8 “(c) MODIFICATION OF RATE OF PROSPECTING, DE-
9 VELOPMENT, AND PRODUCTION.—The Secretary may re-
10 quire that any unit agreement authorized by this section
11 that applies to land owned by the United States contain
12 a provision under which authority is vested in the Sec-
13 retary, or any person, committee, or State or Federal offi-
14 cer or agency as may be designated in the unit agreement
15 to alter or modify, from time to time, the rate of
16 prospecting and development and the quantity and rate
17 of production under the unit agreement.

18 “(d) EXCLUSION FROM DETERMINATION OF HOLD-
19 ING OR CONTROL.—Any land that is subject to a unit
20 agreement approved or prescribed by the Secretary under
21 this section shall not be considered in determining hold-
22 ings or control under section 7.

23 “(e) POOLING OF CERTAIN LAND.—If separate
24 tracts of land cannot be independently developed and oper-

1 ated to use geothermal steam and associated geothermal
2 resources pursuant to any section of this Act—

3 “(1) the land, or a portion of the land, may be
4 pooled with other land, whether or not owned by the
5 United States, for purposes of development and op-
6 eration under a communitization agreement pro-
7 viding for an apportionment of production or royal-
8 ties among the separate tracts of land comprising
9 the production unit, if the pooling is determined by
10 the Secretary to be in the public interest; and

11 “(2) operation or production pursuant to the
12 communitization agreement shall be treated as oper-
13 ation or production with respect to each tract of
14 land that is subject to the communitization agree-
15 ment.

16 “(f) UNIT AGREEMENT REVIEW.—

17 “(1) IN GENERAL.—Not later than 5 years
18 after the date of approval of any unit agreement and
19 at least every 5 years thereafter, the Secretary
20 shall—

21 “(A) review each unit agreement; and

22 “(B) after notice and opportunity for com-
23 ment, eliminate from inclusion in the unit
24 agreement any land that the Secretary deter-

1 mines is not reasonably necessary for unit oper-
2 ations under the unit agreement.

3 “(2) BASIS FOR ELIMINATION.—The elimi-
4 nation shall—

5 “(A) be based on scientific evidence; and

6 “(B) occur only if the elimination is deter-
7 mined by the Secretary to be for the purpose of
8 conserving and properly managing the geo-
9 thermal resource.

10 “(3) EXTENSION.—Any land eliminated under
11 this subsection shall be eligible for an extension
12 under section 6(g) if the land meets the require-
13 ments for the extension.

14 “(g) DRILLING OR DEVELOPMENT CONTRACTS.—

15 “(1) IN GENERAL.—The Secretary may, on
16 such conditions as the Secretary may prescribe, ap-
17 prove drilling or development contracts made by 1 or
18 more lessees of geothermal leases, with 1 or more
19 persons, associations, or corporations if, in the dis-
20 cretion of the Secretary, the conservation of natural
21 resources or the public convenience or necessity may
22 require or the interests of the United States may be
23 best served by the approval.

24 “(2) HOLDINGS OR CONTROL.—Each lease op-
25 erated under an approved drilling or development

1 contract, and interest under the contract, shall be
2 excepted in determining holdings or control under
3 section 7.

4 “(h) COORDINATION WITH STATE GOVERNMENTS.—
5 The Secretary shall coordinate unitization and pooling ac-
6 tivities with appropriate State agencies.”.

7 **SEC. 247. ROYALTY ON BYPRODUCTS.**

8 Section 5 of the Geothermal Steam Act of 1970 (30
9 U.S.C. 1004) (as amended by section 242(a)) is amended
10 in subsection (a) by striking paragraph (2) and inserting
11 the following:

12 “(2) a royalty on any byproduct that is a min-
13 eral specified in the first section of the Mineral
14 Leasing Act (30 U.S.C. 181), and that is derived
15 from production under the lease, at the rate of the
16 royalty that applies under that Act to production of
17 the mineral under a lease under that Act;”.

18 **SEC. 248. LEASE DURATION AND WORK COMMITMENT RE-**
19 **QUIREMENTS.**

20 Section 6(i) of the Geothermal Steam Act of 1970
21 (30 U.S.C. 1005(i)) is amended by striking paragraph (2)
22 and inserting the following:

23 “(2) The Secretary shall, by regulation, establish pay-
24 ments under this subsection at levels that ensure the dili-
25 gent development of the lease.”.

1 **SEC. 249. ANNUAL RENTAL.**

2 (a) ANNUAL RENTAL RATE.—Section 5 of the Geo-
3 thermal Steam Act of 1970 (30 U.S.C. 1004) (as amended
4 by section 242(a)) is amended in subsection (a) by striking
5 paragraph (3) and inserting the following:

6 “(3) payment in advance of an annual rental of
7 not less than—

8 “(A) for each of the first through tenth
9 years of the lease—

10 “(i) in the case of a lease awarded in
11 a noncompetitive lease sale, \$1 per acre or
12 fraction thereof; or

13 “(ii) in the case of a lease awarded in
14 a competitive lease sale, \$2 per acre or
15 fraction thereof for the first year and \$3
16 per acre or fraction thereof for each of the
17 second through 10th years; and

18 “(B) for each year after the 10th year of
19 the lease, \$5 per acre or fraction thereof;”.

20 (b) TERMINATION OF LEASE FOR FAILURE TO PAY
21 RENTAL.—Section 5 of the Geothermal Steam Act of
22 1970 (30 U.S.C. 1004) (as amended by section 242(a))
23 is amended by adding at the end the following:

24 “(c) TERMINATION OF LEASE FOR FAILURE TO PAY
25 RENTAL.—

1 “(1) IN GENERAL.—The Secretary shall termi-
2 nate any lease with respect to which rental is not
3 paid in accordance with this Act and the terms of
4 the lease under which the rental is required, on the
5 expiration of the 45-day period beginning on the
6 date of the failure to pay the rental.

7 “(2) NOTIFICATION.—The Secretary shall
8 promptly notify a lessee that has not paid rental re-
9 quired under the lease that the lease will be termi-
10 nated at the end of the period referred to in para-
11 graph (1).

12 “(3) REINSTATEMENT.—A lease that would
13 otherwise terminate under paragraph (1) shall not
14 terminate under that paragraph if the lessee pays to
15 the Secretary, before the end of the period referred
16 to in paragraph (1), the amount of rental due plus
17 a late fee equal to 10 percent of the amount.”.

18 **SEC. 250. ADVANCED ROYALTIES REQUIRED FOR CES-**
19 **SATION OF PRODUCTION.**

20 Section 5 of the Geothermal Steam Act of 1970
21 (30 U.S.C. 1004) (as amended by section 249(b)) is
22 amended by adding at the end the following:

23 “(d) ADVANCED ROYALTIES REQUIRED FOR CES-
24 SATION OF PRODUCTION.—

1 “(1) IN GENERAL.—Subject to paragraphs (2)
2 and (3), if, at any time after commercial production
3 under a lease is achieved, production ceases for any
4 reason, the lease shall remain in full force and effect
5 for a period of not more than an aggregate number
6 of 10 years beginning on the date production ceases,
7 if, during the period in which production is ceased,
8 the lessee pays royalties in advance at the monthly
9 average rate at which the royalty was paid during
10 the period of production.

11 “(2) REDUCTION.—The amount of any produc-
12 tion royalty paid for any year shall be reduced (but
13 not below 0) by the amount of any advanced royalti-
14 es paid under the lease to the extent that the ad-
15 vance royalties have not been used to reduce produc-
16 tion royalties for a prior year.

17 “(3) EXCEPTIONS.—Paragraph (1) shall not
18 apply if the cessation in production is required or
19 otherwise caused by—

20 “(A) the Secretary;

21 “(B) the Secretary of the Air Force;

22 “(C) the Secretary of the Army;

23 “(D) the Secretary of the Navy;

24 “(E) a State or a political subdivision of a
25 State; or

1 “(F) a force majeure.”.

2 **SEC. 251. LEASING AND PERMITTING ON FEDERAL LAND**
3 **WITHDRAWN FOR MILITARY PURPOSES.**

4 (a) **IN GENERAL.**—Not later than 2 years after the
5 date of enactment of this Act, the Secretary of the Interior
6 and the Secretary of Defense, in consultation with the Sec-
7 retary of the Air Force, the Secretary of the Army, the
8 Secretary of the Navy, interested States, political subdivi-
9 sions of States, and representatives of the geothermal in-
10 dustry, and other interested persons, shall submit to the
11 appropriate committees of Congress a joint report on leas-
12 ing and permitting activities for geothermal energy on
13 Federal land withdrawn for military purposes.

14 (b) **REQUIREMENTS.**—The report required under
15 subsection (a) shall include—

16 (1) a description of the military geothermal pro-
17 gram, including a description of—

18 (A) any differences between the military
19 geothermal program and the nonmilitary geo-
20 thermal program, including required security
21 procedures and operational considerations; and

22 (B) the reasons the differences described
23 in subparagraph (A) are significant;

24 (2) with respect to the military geothermal pro-
25 gram, a description of—

1 (A) revenues or energy provided to the De-
2 partment of Defense and facilities of the De-
3 partment Defense; and

4 (B) royalty structures, as applicable;

5 (3) any revenue sharing with States and polit-
6 ical subdivisions of States and other benefits from—

7 (A) the implementation of the Geothermal
8 Steam Act of 1970 (30 U.S.C 1001 et seq.) and
9 other applicable Federal law by the Secretary of
10 the Interior; and

11 (B) the administration of geothermal leas-
12 ing under section 2689 of title 10, United
13 States Code, by the Secretary of Defense;

14 (4) if appropriate—

15 (A) a description of the current methods
16 and procedures used to ensure interagency co-
17 ordination, as needed, in developing renewable
18 energy sources on Federal land withdrawn for
19 military purposes; and

20 (B) an identification of any new proce-
21 dures that would improve interagency coordina-
22 tion to ensure efficient processing and adminis-
23 tration of leases or contracts for geothermal en-
24 ergy on Federal land withdrawn for military

1 purposes, consistent with the defense purposes
2 of the withdrawals; and

3 (5) recommendations for any legislative or ad-
4 ministrative actions that would increase geothermal
5 production, including—

6 (A) a common royalty structure;

7 (B) leasing procedures; and

8 (C) other changes that—

9 (i) increase production;

10 (ii) offset military operation costs; or

11 (iii) enhance the ability of Federal

12 agencies to develop geothermal resources.

13 (c) EFFECT.—Nothing in this section affects the
14 legal status of geothermal leasing and development con-
15 ducted by the Department of the Interior and the Depart-
16 ment of Defense.

17 **SEC. 252. TECHNICAL AMENDMENTS.**

18 (a) The Geothermal Steam Act of 1970 (30 U.S.C.
19 1001 et seq.) is amended by striking “geothermal steam
20 and associated geothermal resources” each place it ap-
21 pears and inserting “geothermal resources”.

22 (b) The first section of the Geothermal Steam Act
23 of 1970 (30 U.S.C. 1001 note) is amended by striking
24 “That this” and inserting the following:

1 **“SECTION 1. SHORT TITLE.**

2 “This”.

3 (c) Section 2 of the Geothermal Steam Act of 1970
4 (30 U.S.C. 1001) is amended—

5 (1) by striking “SEC. 2. As” and inserting the
6 following:

7 **“SEC. 2. DEFINITIONS.**

8 “As”; and

9 (2) by striking subsection (e) and inserting the
10 following:

11 “(e) ‘direct use’ means use of geothermal re-
12 sources for commercial, residential, agricultural,
13 public facilities, or other energy needs other than the
14 commercial production of electricity; and”.

15 (d) Section 3 of the Geothermal Steam Act of 1970
16 (30 U.S.C. 1002) is amended by striking “SEC. 3. Sub-
17 ject” and inserting the following:

18 **“SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.**

19 “Subject”.

20 (e) Section 5 of the Geothermal Steam Act of 1970
21 (30 U.S.C. 1004) is amended by striking “SEC. 5. Geo-
22 thermal” and inserting the following:

23 **“SEC. 5. RENTS AND ROYALTIES.**

24 “Geothermal”.

1 (f) Section 6 of the Geothermal Steam Act of 1970
2 (30 U.S.C. 1005) is amended by striking “SEC. 6. (a)
3 The” and inserting the following:

4 **“SEC. 6. DURATION OF LEASES.**

5 “(a) The”.

6 (g) Section 7 of the Geothermal Steam Act of 1970
7 (30 U.S.C. 1006) is amended by striking “SEC. 7. A geo-
8 thermal” and inserting the following:

9 **“SEC. 7. ACREAGE OF GEOTHERMAL LEASE.**

10 “A geothermal”.

11 (h) Section 8 of the Geothermal Steam Act of 1970
12 (30 U.S.C. 1007) is amended by striking “SEC. 8. (a)
13 The” and inserting the following:

14 **“SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDI-**
15 **TIONS.**

16 “(a) The”.

17 (i) Section 9 of the Geothermal Steam Act of 1970
18 (30 U.S.C. 1008) is amended by striking “SEC. 9. If” and
19 inserting the following:

20 **“SEC. 9. BYPRODUCTS.**

21 “If”.

22 (j) Section 10 of the Geothermal Steam Act of 1970
23 (30 U.S.C. 1009) is amended by striking “SEC. 10. The”
24 and inserting the following:

1 **“SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.**

2 “The”.

3 (k) Section 11 of the Geothermal Steam Act of 1970
4 (30 U.S.C. 1010) is amended by striking “SEC. 11. The”
5 and inserting the following:

6 **“SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.**

7 “The”.

8 (l) Section 12 of the Geothermal Steam Act of 1970
9 (30 U.S.C. 1011) is amended by striking “SEC. 12.
10 Leases” and inserting the following:

11 **“SEC. 12. TERMINATION OF LEASES.**

12 “Leases”.

13 (m) Section 13 of the Geothermal Steam Act of 1970
14 (30 U.S.C. 1012) is amended by striking “SEC. 13. The”
15 and inserting the following:

16 **“SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENT-
17 AL OR ROYALTY.**

18 “The”.

19 (n) Section 14 of the Geothermal Steam Act of 1970
20 (30 U.S.C. 1013) is amended by striking “SEC. 14. Sub-
21 ject” and inserting the following:

22 **“SEC. 14. SURFACE LAND USE.**

23 “Subject”.

24 (o) Section 15 of the Geothermal Steam Act of 1970
25 (30 U.S.C. 1014) is amended by striking “SEC. 15. (a)
26 Geothermal” and inserting the following:

1 **“SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.**

2 “(a) Geothermal”.

3 (p) Section 16 of the Geothermal Steam Act of 1970
4 (30 U.S.C. 1015) is amended by striking “SEC. 16.
5 Leases” and inserting the following:

6 **“SEC. 16. REQUIREMENT FOR LESSEES.**

7 “Leases”.

8 (q) Section 17 of the Geothermal Steam Act of 1970
9 (30 U.S.C. 1016) is amended by striking “SEC. 17. Ad-
10 ministration” and inserting the following:

11 **“SEC. 17. ADMINISTRATION.**

12 “Administration”.

13 (r) Section 19 of the Geothermal Steam Act of 1970
14 (30 U.S.C. 1018) is amended by striking “SEC. 19. Upon”
15 and inserting the following:

16 **“SEC. 19. DATA FROM FEDERAL AGENCIES.**

17 “Upon”.

18 (s) Section 20 of the Geothermal Steam Act of 1970
19 (30 U.S.C. 1019) is amended by striking “SEC. 20. Sub-
20 ject” and inserting the following:

21 **“SEC. 20. DISPOSITION OF AMOUNTS RECEIVED FROM**
22 **SALES, BONUSES, ROYALTIES, AND RENTALS.**

23 “Subject”.

24 (t) Section 21 of the Geothermal Steam Act of 1970
25 (30 U.S.C. 1020) is amended by striking “SEC. 21.” and

1 all that follows through “(b) Geothermal” and inserting
2 the following:

3 **“SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVA-**
4 **TION OF MINERAL RIGHTS.**

5 “Geothermal”.

6 (u) Section 22 of the Geothermal Steam Act of 1970
7 (30 U.S.C. 1021) is amended by striking “SEC. 22. Noth-
8 ing” and inserting the following:

9 **“SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.**

10 “Nothing”.

11 (v) Section 23 of the Geothermal Steam Act of 1970
12 (30 U.S.C. 1022) is amended by striking “SEC. 23. (a)
13 All” and inserting the following:

14 **“SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.**

15 “(a) All”.

16 (w) Section 24 of the Geothermal Steam Act of 1970
17 (30 U.S.C. 1023) is amended by striking “SEC. 24. The”
18 and inserting the following:

19 **“SEC. 24. RULES AND REGULATIONS.**

20 “The”.

21 (x) Section 25 of the Geothermal Steam Act of 1970
22 (30 U.S.C. 1024) is amended by striking “SEC. 25. As”
23 and inserting the following:

1 **“SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER**
2 **CERTAIN OTHER LAWS.**

3 “As”.

4 (y) Section 26 of the Geothermal Steam Act of 1970
5 is amended by striking “SEC. 26. The” and inserting the
6 following:

7 **“SEC. 26. AMENDMENT.**

8 “The”.

9 (z) Section 27 of the Geothermal Steam Act of 1970
10 (30 U.S.C. 1025) is amended by striking “SEC. 27. The”
11 and inserting the following:

12 **“SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL**
13 **RIGHTS.**

14 “The”.

15 (aa) Section 28 of the Geothermal Steam Act of 1970
16 (30 U.S.C. 1026) is amended by striking “SEC. 28. (a)(1)
17 The” and inserting the following:

18 **“SEC. 28. SIGNIFICANT THERMAL FEATURES.**

19 “(a)(1) The”.

20 (bb) Section 29 of the Geothermal Steam Act of 1970
21 (30 U.S.C. 1027) is amended by striking “SEC. 29. The”
22 and inserting the following:

23 **“SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.**

24 “The”.

1 **Subtitle E—Hydroelectric**

2 **SEC. 261. ALTERNATIVE CONDITIONS AND FISHWAYS.**

3 (a) FEDERAL RESERVATIONS.—Section 4(e) of the
4 Federal Power Act (16 U.S.C. 797(e)) is amended by in-
5 serting after “adequate protection and utilization of such
6 reservation.” at the end of the first proviso the following:
7 “The license applicant and any party to the proceeding
8 shall be entitled to a determination on the record, after
9 opportunity for an agency trial-type hearing of no more
10 than 90 days, on any disputed issues of material fact with
11 respect to such conditions. All disputed issues of material
12 fact raised by any party shall be determined in a single
13 trial-type hearing to be conducted within a time frame es-
14 tablished by the Commission for each license proceeding.
15 Within 90 days of the date of enactment of this Act, the
16 Secretaries of the Interior, Commerce, and Agriculture
17 shall establish jointly, by rule, the procedures for such ex-
18 pedited trial-type hearing, including the opportunity to un-
19 dertake discovery and cross-examine witnesses, in con-
20 sultation with the Federal Energy Regulatory Commis-
21 sion.”.

22 (b) FISHWAYS.—Section 18 of the Federal Power Act
23 (16 U.S.C. 811) is amended by inserting after “and such
24 fishways as may be prescribed by the Secretary of Com-
25 merce.” the following: “The license applicant and any

1 party to the proceeding shall be entitled to a determination
2 on the record, after opportunity for an agency trial-type
3 hearing of no more than 90 days, on any disputed issues
4 of material fact with respect to such fishways. All disputed
5 issues of material fact raised by any party shall be deter-
6 mined in a single trial-type hearing to be conducted within
7 a time frame established by the Commission for each li-
8 cense proceeding. Within 90 days of the date of enactment
9 of this Act, the Secretaries of the Interior, Commerce, and
10 Agriculture shall establish jointly, by rule, the procedures
11 for such expedited trial-type hearing, including the oppor-
12 tunity to undertake discovery and cross-examine wit-
13 nesses, in consultation with the Federal Energy Regu-
14 latory Commission.”.

15 (c) ALTERNATIVE CONDITIONS AND PRESCRIP-
16 TIONS.—Part I of the Federal Power Act (16 U.S.C. 791a
17 et seq.) is amended by adding the following new section
18 at the end thereof:

19 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

20 “(a) ALTERNATIVE CONDITIONS.—(1) Whenever any
21 person applies for a license for any project works within
22 any reservation of the United States, and the Secretary
23 of the department under whose supervision such reserva-
24 tion falls (referred to in this subsection as the ‘Secretary’)
25 deems a condition to such license to be necessary under

1 the first proviso of section 4(e), the license applicant or
2 any other party to the license proceeding may propose an
3 alternative condition.

4 “(2) Notwithstanding the first proviso of section 4(e),
5 the Secretary shall accept the proposed alternative condi-
6 tion referred to in paragraph (1), and the Commission
7 shall include in the license such alternative condition, if
8 the Secretary determines, based on substantial evidence
9 provided by the license applicant, any other party to the
10 proceeding, or otherwise available to the Secretary, that
11 such alternative condition—

12 “(A) provides for the adequate protection and
13 utilization of the reservation; and

14 “(B) the Secretary concurs with the license ap-
15 plicant’s judgment that the alternative condition will
16 either—

17 “(i) cost significantly less to implement; or

18 “(ii) result in improved operation of the
19 project works for electricity production, as com-
20 pared to the condition initially deemed nec-
21 essary by the Secretary.

22 “(3) The Secretary concerned shall submit into the
23 public record of the Commission proceeding with any con-
24 dition under section 4(e) or alternative condition it accepts
25 under this section, a written statement explaining the

1 basis for such condition, and reason for not accepting any
2 alternative condition under this section. The written state-
3 ment must demonstrate that the Secretary gave equal con-
4 sideration to the effects of the condition adopted and alter-
5 natives not accepted on energy supply, distribution, cost,
6 and use; flood control; navigation; water supply; and air
7 quality (in addition to the preservation of other aspects
8 of environmental quality); based on such information as
9 may be available to the Secretary, including information
10 voluntarily provided in a timely manner by the applicant
11 and others. The Secretary shall also submit, together with
12 the aforementioned written statement, all studies, data,
13 and other factual information available to the Secretary
14 and relevant to the Secretary's decision.

15 “(4) If the Secretary does not accept an applicant's
16 alternative condition under this section, and the Commis-
17 sion finds that the Secretary's condition would be incon-
18 sistent with the purposes of this part, or other applicable
19 law, the Commission may refer the dispute to the Commis-
20 sion's Dispute Resolution Service. The Dispute Resolution
21 Service shall consult with the Secretary and the Commis-
22 sion and issue a non-binding advisory within 90 days. The
23 Secretary may accept the Dispute Resolution Service advi-
24 sory unless the Secretary finds that the recommendation
25 will not adequately protect the reservation. The Secretary

1 shall submit the advisory and the Secretary's final written
2 determination into the record of the Commission's pro-
3 ceeding.

4 “(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever
5 the Secretary of the Interior or the Secretary of Commerce
6 prescribes a fishway under section 18, the license appli-
7 cant or any other party to the license proceeding may pro-
8 pose an alternative to such prescription to construct,
9 maintain, or operate a fishway.

10 “(2) Notwithstanding section 18, the Secretary of the
11 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 li-
16 cense applicant, any other party to the proceeding, or oth-
17 erwise available to the Secretary, that such alternative—

18 “(A) will be no less protective than the fishway
19 initially prescribed by the Secretary; and

20 “(B) the Secretary concurs with the license ap-
21 plicant's judgment that the alternative prescription
22 will either—

23 “(i) cost significantly less to implement; or

24 “(ii) result in improved operation of the
25 project works for electricity production, as com-

1 pared to the fishway initially deemed necessary
2 by the Secretary.

3 “(3) The Secretary concerned shall submit into the
4 public record of the Commission proceeding with any pre-
5 scription under section 18 or alternative prescription it ac-
6 cepts under this section, a written statement explaining
7 the basis for such prescription, and reason for not accept-
8 ing any alternative prescription under this section. The
9 written statement must demonstrate that the Secretary
10 gave equal consideration to the effects of the prescription
11 adopted and alternatives not accepted on energy supply,
12 distribution, cost, and use; flood control; navigation; water
13 supply; and air quality (in addition to the preservation of
14 other aspects of environmental quality); based on such in-
15 formation as may be available to the Secretary, including
16 information voluntarily provided in a timely manner by the
17 applicant and others. The Secretary shall also submit, to-
18 gether with the aforementioned written statement, all
19 studies, data, and other factual information available to
20 the Secretary and relevant to the Secretary’s decision.

21 “(4) If the Secretary concerned does not accept an
22 applicant’s alternative prescription under this section, and
23 the Commission finds that the Secretary’s prescription
24 would be inconsistent with the purposes of this part, or
25 other applicable law, the Commission may refer the dis-

1 pute to the Commission's Dispute Resolution Service. The
2 Dispute Resolution Service shall consult with the Sec-
3 retary and the Commission and issue a non-binding advi-
4 sory within 90 days. The Secretary may accept the Dis-
5 pute Resolution Service advisory unless the Secretary
6 finds that the recommendation will not adequately protect
7 the fish resources. The Secretary shall submit the advisory
8 and the Secretary's final written determination into the
9 record of the Commission's proceeding.".

10 **SEC. 262. ALASKA STATE JURISDICTION OVER SMALL HY-**
11 **DROELECTRIC PROJECTS.**

12 Section 32 of the Federal Power Act (16 U.S.C.
13 823c) is amended—

14 (1) in subsection (a)(3)(C), by inserting “except
15 as provided in subsection (j),” before “conditions”;
16 and

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

18 “(j) FISH AND WILDLIFE.—If the State of Alaska
19 determines that a recommendation under subsection
20 (a)(3)(C) is inconsistent with paragraphs (1) and (2) of
21 subsection (a), the State of Alaska may decline to adopt
22 all or part of the recommendations in accordance with the
23 procedures established under section 10(j)(2).”.

1 **SEC. 263. FLINT CREEK HYDROELECTRIC PROJECT.**

2 (a) **EXTENSION OF TIME.**—Notwithstanding the time
3 period specified in section 5 of the Federal Power Act (16
4 U.S.C. 798) that would otherwise apply to the Federal En-
5 ergy Regulatory Commission (referred to in this section
6 as the “Commission”) project numbered 12107, the Com-
7 mission shall—

8 (1) if the preliminary permit is in effect on the
9 date of enactment of this Act, extend the prelimi-
10 nary permit for a period of 3 years beginning on the
11 date on which the preliminary permit expires; or

12 (2) if the preliminary permit expired before the
13 date of enactment of this Act, on request of the per-
14 mittee, reinstate the preliminary permit for an addi-
15 tional 3-year period beginning on the date of enact-
16 ment of this Act.

17 (b) **LIMITATION ON CERTAIN FEES.**—Notwith-
18 standing section 10(e)(1) of the Federal Power Act (16
19 U.S.C. 803(e)(1)) or any other provision of Federal law
20 providing for the payment to the United States of charges
21 for the use of Federal land for the purposes of operating
22 and maintaining a hydroelectric development licensed by
23 the Commission, any political subdivision of the State of
24 Montana that holds a Commission license for the Commis-
25 sion project numbered 12107 in Granite and Deer Lodge
26 Counties, Montana, shall be required to pay to the United

1 States for the use of that land for each year during which
2 the political subdivision continues to hold the license for
3 the project, the lesser of—

4 (1) \$25,000; or

5 (2) such annual charge as the Commission or
6 any other department or agency of the Federal Gov-
7 ernment may assess.

8 **TITLE III—OIL AND GAS**
9 **Subtitle A—Petroleum Reserve and**
10 **Home Heating Oil**

11 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**
12 **TEGIC PETROLEUM RESERVE AND OTHER**
13 **ENERGY PROGRAMS.**

14 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-
15 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-
16 icy and Conservation Act (42 U.S.C. 6212 et seq.) is
17 amended—

18 (1) by striking section 166 (42 U.S.C. 6246)
19 and inserting the following:

20 “AUTHORIZATION OF APPROPRIATIONS

21 “SEC. 166. There are authorized to be appropriated
22 to the Secretary such sums as are necessary to carry out
23 this part and part D, to remain available until expended.”;

24 (2) by striking section 186 (42 U.S.C. 6250e);

25 and

26 (3) by striking part E (42 U.S.C. 6251).

1 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
2 ICY AND CONSERVATION ACT.—Title II of the Energy
3 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
4 amended—

5 (1) by inserting before section 273 (42 U.S.C.
6 6283) the following:

7 “PART C—SUMMER FILL AND FUEL BUDGETING
8 PROGRAMS”;

9 (2) by striking section 273(e) (42 U.S.C.
10 6283(e)); and

11 (3) by striking part D (42 U.S.C. 6285).

12 (c) TECHNICAL AMENDMENTS.—The table of con-
13 tents for the Energy Policy and Conservation Act is
14 amended—

15 (1) by inserting after the items relating to part
16 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

17 (2) by amending the items relating to part C of
18 title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”;

19 and

1 (3) by striking the items relating to part D of
2 title II.

3 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
4 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
5 and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended
6 by striking “by more” and all that follows through “mid-
7 October through March” and inserting “by more than 60
8 percent over its 5-year rolling average for the months of
9 mid-October through March (considered as a heating sea-
10 son average)”.

11 (e) FILL STRATEGIC PETROLEUM RESERVE TO CA-
12 PACITY.—The Secretary shall, as expeditiously as prac-
13 ticable, without incurring excessive cost or appreciably af-
14 fecting the price of gasoline or heating oil to consumers,
15 acquire petroleum in quantities sufficient to fill the Stra-
16 tegic Petroleum Reserve to the 1,000,000,000-barrel ca-
17 pacity authorized under section 154(a) of the Energy Pol-
18 icy and Conservation Act (42 U.S.C. 6234(a)), in accord-
19 ance with the sections 159 and 160 of that Act (42 U.S.C.
20 6239, 6240).

21 **SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.**

22 Section 713 of the Energy Act of 2000 (Public Law
23 106–469; 42 U.S.C. 6201 note) is amended by striking
24 “4” and inserting “9”.

1 **Subtitle B—Production Incentives**

2 **SEC. 311. DEFINITION OF SECRETARY.**

3 In this subtitle, the term “Secretary” means the Sec-
4 retary of the Interior.

5 **SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.**

6 (a) **APPLICABILITY OF SECTION.**—Notwithstanding
7 any other provision of law, this section applies to all roy-
8 alty in-kind accepted by the Secretary on or after the date
9 of enactment of this Act under any Federal oil or gas lease
10 or permit under—

11 (1) section 36 of the Mineral Leasing Act (30
12 U.S.C. 192);

13 (2) section 27 of the Outer Continental Shelf
14 Lands Act (43 U.S.C. 1353); or

15 (3) any other Federal law governing leasing of
16 Federal land for oil and gas development.

17 (b) **TERMS AND CONDITIONS.**—All royalty accruing
18 to the United States shall, on the demand of the Sec-
19 retary, be paid in oil or gas. If the Secretary makes such
20 a demand, the following provisions apply to the payment:

21 (1) **SATISFACTION OF ROYALTY OBLIGATION.**—

22 Delivery by, or on behalf of, the lessee of the royalty
23 amount and quality due under the lease satisfies
24 royalty obligation of the lessee for the amount deliv-
25 ered, except that transportation and processing re-

1 imbursements paid to, or deductions claimed by, the
2 lessee shall be subject to review and audit.

3 (2) MARKETABLE CONDITION.—

4 (A) DEFINITION OF MARKETABLE CONDI-
5 TION.—In this paragraph, the term “in market-
6 able condition” means sufficiently free from im-
7 purities and otherwise in a condition that the
8 royalty production will be accepted by a pur-
9 chaser under a sales contract typical of the field
10 or area in which the royalty production was
11 produced.

12 (B) REQUIREMENT.—Royalty production
13 shall be placed in marketable condition by the
14 lessee at no cost to the United States.

15 (3) DISPOSITION BY THE SECRETARY.—The
16 Secretary may—

17 (A) sell or otherwise dispose of any royalty
18 production taken in-kind (other than oil or gas
19 transferred under section 27(a)(3) of the Outer
20 Continental Shelf Lands Act (43 U.S.C.
21 1353(a)(3)) for not less than the market price;
22 and

23 (B) transport or process (or both) any roy-
24 alty production taken in-kind.

1 (4) RETENTION BY THE SECRETARY.—The Sec-
2 retary may, notwithstanding section 3302 of title 31,
3 United States Code, retain and use a portion of the
4 revenues from the sale of oil and gas taken in-kind
5 that otherwise would be deposited to miscellaneous
6 receipts, without regard to fiscal year limitation, or
7 may use oil or gas received as royalty taken in-kind
8 (referred to in this paragraph as “royalty produc-
9 tion”) to pay the cost of—

- 10 (A) transporting the royalty production;
11 (B) processing the royalty production;
12 (C) disposing of the royalty production; or
13 (D) any combination of transporting, proc-
14 essing, and disposing of the royalty production.

15 (5) LIMITATION.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B), the Secretary may not use
18 revenues from the sale of oil and gas taken in-
19 kind to pay for personnel, travel, or other ad-
20 ministrative costs of the Federal Government.

21 (B) EXCEPTION.—Notwithstanding sub-
22 paragraph (A), the Secretary may use a portion
23 of the revenues from royalty in-kind sales, with-
24 out fiscal year limitation, to pay salaries and

1 other administrative costs directly related to the
2 royalty in-kind program.

3 (c) REIMBURSEMENT OF COST.—If a lessee, pursu-
4 ant to an agreement with the United States or as provided
5 in the lease, processes the royalty gas or delivers the roy-
6 alty oil or gas at a point not on or adjacent to the lease
7 area, the Secretary shall—

8 (1) reimburse the lessee for the reasonable costs
9 of transportation (not including gathering) from the
10 lease to the point of delivery or for processing costs;
11 or

12 (2) allow the lessee to deduct the transportation
13 or processing costs in reporting and paying royalties
14 in-value for other Federal oil and gas leases.

15 (d) BENEFIT TO THE UNITED STATES REQUIRED.—
16 The Secretary may receive oil or gas royalties in-kind only
17 if the Secretary determines that receiving royalties in-kind
18 provides benefits to the United States that are greater
19 than or equal to the benefits that are likely to have been
20 received had royalties been taken in-value.

21 (e) REPORTS.—

22 (1) IN GENERAL.—Not later than September
23 30, 2006, the Secretary shall submit to Congress a
24 report that addresses—

1 (A) actions taken to develop businesses
2 processes and automated systems to fully sup-
3 port the royalty-in-kind capability to be used in
4 tandem with the royalty-in-value approach in
5 managing Federal oil and gas revenue; and

6 (B) future royalty-in-kind businesses oper-
7 ation plans and objectives.

8 (2) REPORTS ON OIL OR GAS ROYALTIES TAKEN
9 IN-KIND.—For each of fiscal years 2006 through
10 2015 in which the United States takes oil or gas
11 royalties in-kind from production in any State or
12 from the outer Continental Shelf, excluding royalties
13 taken in-kind and sold to refineries under subsection
14 (h), the Secretary shall submit to Congress a report
15 that describes—

16 (A) the 1 or more methodologies used by
17 the Secretary to determine compliance with sub-
18 section (d), including the performance standard
19 for comparing amounts received by the United
20 States derived from royalties in-kind to
21 amounts likely to have been received had roy-
22 alties been taken in-value;

23 (B) an explanation of the evaluation that
24 led the Secretary to take royalties in-kind from

1 a lease or group of leases, including the ex-
2 pected revenue effect of taking royalties in-kind;

3 (C) actual amounts received by the United
4 States derived from taking royalties in-kind and
5 costs and savings incurred by the United States
6 associated with taking royalties in-kind, includ-
7 ing administrative savings and any new or in-
8 creased administrative costs; and

9 (D) an evaluation of other relevant public
10 benefits or detriments associated with taking
11 royalties in-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 (43 U.S.C. 1337(g)) of revenues
17 derived from the sale of royalty production taken in-
18 kind from a lease, the Secretary shall deduct
19 amounts paid or deducted under subsections (b)(4)
20 and (c) and deposit the amount of the deductions in
21 the miscellaneous receipts of the Treasury.

22 (2) ACCOUNTING FOR DEDUCTIONS.—If the
23 Secretary allows the lessee to deduct transportation
24 or processing costs under subsection (c), the Sec-
25 retary may not reduce any payments to recipients of

1 revenues derived from any other Federal oil and gas
2 lease as a consequence of that deduction.

3 (g) CONSULTATION WITH STATES.—The Secretary—

4 (1) shall consult with a State before conducting
5 a royalty in-kind program under this subtitle within
6 the State;

7 (2) may delegate management of any portion of
8 the Federal royalty in-kind program to the State ex-
9 cept as otherwise prohibited by Federal law; and

10 (3) shall consult annually with any State from
11 which Federal oil or gas royalty is being taken in-
12 kind to ensure, to the maximum extent practicable,
13 that the royalty in-kind program provides revenues
14 to the State greater than or equal to the revenues
15 likely to have been received had royalties been taken
16 in-value.

17 (h) SMALL REFINERIES.—

18 (1) PREFERENCE.—If the Secretary finds that
19 sufficient supplies of crude oil are not available in
20 the open market to refineries that do not have their
21 own source of supply for crude oil, the Secretary
22 may grant preference to those refineries in the sale
23 of any royalty oil accruing or reserved to the United
24 States under Federal oil and gas leases issued under
25 any mineral leasing law, for processing or use in

1 those refineries at private sale at not less than the
2 market price.

3 (2) PRORATION AMONG REFINERIES IN PRO-
4 DUCTION AREA.—In disposing of oil under this sub-
5 section, the Secretary may, at the discretion of the
6 Secretary, prorate the oil among refineries described
7 in paragraph (1) in the area in which the oil is pro-
8 duced.

9 (i) DISPOSITION TO FEDERAL AGENCIES.—

10 (1) ONSHORE ROYALTY.—Any royalty oil or gas
11 taken by the Secretary in-kind from onshore oil and
12 gas leases may be sold at not less than the market
13 price to any Federal agency.

14 (2) OFFSHORE ROYALTY.—Any royalty oil or
15 gas taken in-kind from a Federal oil or gas lease on
16 the outer Continental Shelf may be disposed of only
17 under section 27 of the Outer Continental Shelf
18 Lands Act (43 U.S.C. 1353).

19 (j) FEDERAL LOW-INCOME ENERGY ASSISTANCE
20 PROGRAMS.—

21 (1) PREFERENCE.—In disposing of royalty oil
22 or gas taken in-kind under this section, the Sec-
23 retary may grant a preference to any person, includ-
24 ing any Federal or State agency, for the purpose of

1 providing additional resources to any Federal low-in-
2 come energy assistance program.

3 (2) REPORT.—Not later than 3 years after the
4 date of enactment of this Act, the Secretary shall
5 submit a report to Congress—

6 (A) assessing the effectiveness of granting
7 preferences specified in paragraph (1); and

8 (B) providing a specific recommendation
9 on the continuation of authority to grant pref-
10 erences.

11 **SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

12 (a) DEFINITION OF MARGINAL PROPERTY.—Until
13 such time as the Secretary issues regulations under sub-
14 section (e) that prescribe a different definition, in this sec-
15 tion, the term “marginal property” means an onshore
16 unit, communitization agreement, or lease not within a
17 unit or communitization agreement, that produces on av-
18 erage the combined equivalent of less than 15 barrels of
19 oil per well per day or 90,000,000 British thermal units
20 of gas per well per day calculated based on the average
21 over the 3 most recent production months, including only
22 wells that produce on more than half of the days during
23 those 3 production months.

24 (b) CONDITIONS FOR REDUCTION OF ROYALTY
25 RATE.—Until such time as the Secretary issues regula-

1 tions under subsection (e) that prescribe different stand-
2 ards or requirements, the Secretary shall reduce the roy-
3 alty rate on—

4 (1) oil production from marginal properties as
5 prescribed in subsection (c) if the spot price of West
6 Texas Intermediate crude oil at Cushing, Oklahoma,
7 is, on average, less than \$15 per barrel (adjusted in
8 accordance with the Consumer Price Index for all-
9 urban consumers, United States city average, as
10 published by the Bureau of Labor Statistics) for 90
11 consecutive trading days; and

12 (2) gas production from marginal properties as
13 prescribed in subsection (c) if the spot price of nat-
14 ural gas delivered at Henry Hub, Louisiana, is, on
15 average, less than \$2.00 per million British thermal
16 units (adjusted in accordance with the Consumer
17 Price Index for all-urban consumers, United States
18 city average, as published by the Bureau of Labor
19 Statistics) for 90 consecutive trading days.

20 (c) REDUCED ROYALTY RATE.—

21 (1) IN GENERAL.—When a marginal property
22 meets the conditions specified in subsection (b), the
23 royalty rate shall be the lesser of—

24 (A) 5 percent; or

1 (B) the applicable rate under any other
2 statutory or regulatory royalty relief provision
3 that applies to the affected production.

4 (2) PERIOD OF EFFECTIVENESS.—The reduced
5 royalty rate under this subsection shall be effective
6 beginning on the first day of the production month
7 following the date on which the applicable condition
8 specified in subsection (b) is met.

9 (d) TERMINATION OF REDUCED ROYALTY RATE.—
10 A royalty rate prescribed in subsection (c)(1)(A) shall
11 terminate—

12 (1) with respect to oil production from a mar-
13 ginal property, on the first day of the production
14 month following the date on which—

15 (A) the spot price of West Texas Inter-
16 mediate crude oil at Cushing, Oklahoma, on av-
17 erage, exceeds \$15 per barrel (adjusted in ac-
18 cordance with the Consumer Price Index for all-
19 urban consumers, United States city average,
20 as published by the Bureau of Labor Statistics)
21 for 90 consecutive trading days; or

22 (B) the property no longer qualifies as a
23 marginal property; and

1 (2) with respect to gas production from a mar-
2 ginal property, on the first day of the production
3 month following the date on which—

4 (A) the spot price of natural gas delivered
5 at Henry Hub, Louisiana, on average, exceeds
6 \$2.00 per million British thermal units (ad-
7 justed in accordance with the Consumer Price
8 Index for all-urban consumers, United States
9 city average, as published by the Bureau of
10 Labor Statistics) for 90 consecutive trading
11 days; or

12 (B) the property no longer qualifies as a
13 marginal property.

14 (e) REGULATIONS PRESCRIBING DIFFERENT RE-
15 LIEF.—

16 (1) DISCRETIONARY REGULATIONS.—The Sec-
17 retary may by regulation prescribe different param-
18 eters, standards, and requirements for, and a dif-
19 ferent degree or extent of, royalty relief for marginal
20 properties in lieu of those prescribed in subsections
21 (a) through (d).

22 (2) ROYALTY RELIEF FOR OFFSHORE WELLS.—
23 With respect to royalty relief for oil or gas produced
24 from wells located on the outer Continental Shelf,
25 the Secretary shall use authority available to the

1 Secretary as of the day before the date of enactment
2 of this Act—

3 (A) to accept and consider petitions from
4 persons seeking, and providing justification for,
5 royalty relief for 1 or more of those wells; and

6 (B) not later than 90 days after the date
7 of receipt of a petition, on a case-by-case
8 basis—

9 (i) approve the petition and provide
10 royalty relief or a royalty reduction for oil
11 or gas produced from the wells covered by
12 the petition; or

13 (ii) disapprove the petition.

14 (3) CONSIDERATIONS.—In issuing regulations
15 under this subsection, the Secretary may consider—

16 (A) oil and gas prices and market trends;

17 (B) production costs;

18 (C) abandonment costs;

19 (D) Federal and State tax provisions and
20 the effects of those provisions on production ec-
21 onomics;

22 (E) other royalty relief programs;

23 (F) regional differences in average well-
24 head prices;

25 (G) national energy security issues; and

1 (H) other relevant matters, as determined
2 by the Secretary.

3 (f) SAVINGS PROVISION.—Nothing in this section
4 prevents a lessee from receiving royalty relief or a royalty
5 reduction pursuant to any other law (including a regula-
6 tion) that provides more relief than the amounts provided
7 by this section.

8 **SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION**
9 **FROM DEEP WELLS IN THE SHALLOW WA-**
10 **TERS OF THE GULF OF MEXICO.**

11 (a) DEFINITIONS.—In this section:

12 (1) LEASE ISSUED IN SHALLOW WATERS.—The
13 term “lease issued in shallow waters” means—

14 (A) a lease entirely in water less than 200
15 meters deep; or

16 (B) a lease—

17 (i) partially in water less than 200
18 meters deep; and

19 (ii) to which no royalty relief provi-
20 sions in law or lease terms apply.

21 (2) SIDETRACK.—

22 (A) IN GENERAL.—The term “sidetrack”
23 means a well resulting from drilling an addi-
24 tional hole to a new objective bottom-hole loca-
25 tion by leaving a previously drilled hole.

1 (B) INCLUSION.—The term “sidetrack”
2 includes—

3 (i) drilling a well from a platform slot
4 reclaimed from a previously drilled well;

5 (ii) re-entering and deepening a pre-
6 viously drilled well; and

7 (iii) a bypass from a sidetrack, includ-
8 ing drilling around material blocking a hole
9 or drilling to straighten a crooked hole.

10 (3) ULTRA DEEP WELL.—The term “ultra deep
11 well” means a well drilled with a perforated interval,
12 the top of which is at least 20,000 feet true vertical
13 depth below the datum at mean sea level.

14 (b) REGULATIONS.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the date of enactment of this Act, in addition
17 to any other regulations that may provide royalty in-
18 centives for natural gas produced from deep wells on
19 oil and gas leases issued pursuant to, or regulated
20 under, the Outer Continental Shelf Lands Act (43
21 U.S.C. 1331 et seq.), the Secretary shall issue regu-
22 lations granting royalty relief suspension volumes of
23 not less than 35,000,000,000 cubic feet with respect
24 to the production of natural gas from ultra deep
25 wells on leases issued in shallow waters located in

1 the Gulf of Mexico wholly west of 87°, 30'' West lon-
2 gitude that are issued before the date that is 180
3 days after the date of enactment of this Act.

4 (2) SUSPENSION VOLUMES.—The Secretary
5 may grant suspension volumes of less than
6 35,000,000,000 cubic feet in any case in which—

7 (A) the ultra deep well is a sidetrack; or

8 (B) the lease has previously produced from
9 wells with a perforated interval the top of which
10 is at least 15,000 feet true vertical depth below
11 the datum at mean sea level.

12 (c) LIMITATION.—The Secretary shall not grant roy-
13 alty incentives under this section if the average annual
14 natural gas price on the New York Mercantile Exchange
15 exceeds a threshold price specified, and adjusted for infla-
16 tion, by the Secretary.

17 (d) APPLICABILITY.—

18 (1) IN GENERAL.—Royalty incentives under
19 this subsection apply only to natural gas production
20 from ultra deep wells that are drilled after the date
21 of enactment of this Act.

22 (2) REVIEW AND SUSPENSION.—Not earlier
23 than 10 years after the date of enactment of this
24 Act, the Secretary may—

1 (A) review the relief granted under this
2 section; and

3 (B) by regulation, modify or suspend the
4 relief.

5 **SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUC-**
6 **TION.**

7 (a) IN GENERAL.—Subject to subsections (b) and (c),
8 for each tract located in water depths of greater than 400
9 meters in the Western and Central Planning Area of the
10 Gulf of Mexico (including the portion of the Eastern Plan-
11 ning Area of the Gulf of Mexico encompassing whole lease
12 blocks lying west of 87 degrees, 30 minutes West lon-
13 gitude), any oil or gas lease sale under the Outer Conti-
14 nental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring
15 during the 5-year period beginning on the date of enact-
16 ment of this Act shall use the bidding system authorized
17 under section 8(a)(1)(H) of the Outer Continental Shelf
18 Lands Act (43 U.S.C. 1337(a)(1)(H)).

19 (b) SUSPENSION OF ROYALTIES.—The suspension of
20 royalties under subsection (a) shall be established at a vol-
21 ume of not less than—

22 (1) 5,000,000 barrels of oil equivalent for each
23 lease in water depths of 400 meters or more but less
24 than 800 meters;

1 (A) transferred to the Naval Petroleum
2 Reserves Production Act of 1976 (42 U.S.C.
3 6501 et seq.);

4 (B) redesignated as section 107 of that
5 Act; and

6 (C) moved so as to appear after section
7 106 of that Act (42 U.S.C. 6506).

8 (b) COMPETITIVE LEASING.—Section 107 of the
9 Naval Petroleum Reserves Production Act of 1976 (as
10 amended by subsection (a)(2)) is amended—

11 (1) by striking the heading and all that follows
12 through “*Provided, That (1) activities*” and insert-
13 ing the following:

14 **“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.**

15 “(a) IN GENERAL.—The Secretary shall conduct an
16 expeditious program of competitive leasing of oil and gas
17 in the Reserve in accordance with this Act.

18 “(b) MITIGATION OF ADVERSE EFFECTS.—

19 “(1) IN GENERAL.—Activities”;

20 (2) in subsection (b)(1) (as designated by para-
21 graph (1)), by striking “to mitigate” and inserting
22 “to prevent to the extent practicable, and to miti-
23 gate,”;

24 (3) by striking “Alaska (the Reserve); (2) the”
25 and inserting “Alaska.

1 “(2) CERTAIN RESOURCES AND FACILITIES.—

2 In carrying out the leasing program under this sec-
3 tion, the Secretary shall minimize, to the extent
4 practicable, the impact to surface resources and con-
5 solidate facilities.

6 “(c) LAND USE PLANNING; BLM WILDERNESS
7 STUDY.—The”;

8 (4) by striking “Reserve; (3) the” and inserting
9 “Reserve.

10 “(d) FIRST LEASE SALE.—The”;

11 (5) by striking “4332); (4) the” and inserting
12 “4321 et seq.).

13 “(e) WITHDRAWALS.—The”;

14 (6) by striking “herein; (5) bidding” and insert-
15 ing “under this section.

16 “(f) BIDDING SYSTEMS.—Bidding”;

17 (7) by striking “629); (6) lease” and inserting
18 “629).

19 “(g) GEOLOGICAL STRUCTURES.—Lease”;

20 (8) by striking “structures; (7) the” and insert-
21 ing “structures.

22 “(h) SIZE OF LEASE TRACTS.—The”;

23 (9) by striking “Secretary; (8)” and all that fol-
24 lows through “Drilling, production,” and inserting
25 “Secretary.

1 “(i) TERMS.—

2 “(1) IN GENERAL.—Each lease shall be issued
3 for an initial period of not more than 10 years, and
4 shall be extended for so long thereafter as oil or gas
5 is produced from the lease in paying quantities or
6 drilling or reworking operations, as approved by the
7 Secretary, are conducted on the leased land.

8 “(2) TERMINATION.—No lease issued under
9 this section covering lands capable of producing oil
10 or gas in paying quantities shall expire because the
11 lessee fails to produce the same unless the lessee is
12 allowed a reasonable time, which shall be not less
13 than 60 days after notice by registered or certified
14 mail, within which to place the lands in producing
15 status or unless, after such status is established,
16 production is discontinued on the leased premises
17 without permission granted by the Secretary under
18 the provisions of this Act.

19 “(3) RENEWAL OF LEASES WITHOUT DISCOV-
20 ERIES.—At the end of the primary term of a lease,
21 the Secretary shall renew for one additional 10-year
22 term a lease that does not meet the requirements of
23 paragraph (1) if the lessee submits to the Secretary
24 an application for renewal not later than 60 days be-
25 fore the expiration of the primary lease, pays the

1 Secretary a renewal fee of \$100 per acre of leased
2 land, and—

3 “(A) the lessee provides evidence, and the
4 Secretary agrees that, the lessee has diligently
5 pursued exploration that warrants continuation
6 with the intent of continued exploration or fu-
7 ture potential development of the leased land;
8 or

9 “(B) all or part of the lease

10 “(i) is part of a unit agreement cov-
11 ering a lease described in subparagraph
12 (A); and

13 “(ii) has not been previously con-
14 tracted out of the unit.

15 “(4) APPLICABILITY.—This subsection applies
16 to a lease that is in effect on or after the date of
17 enactment of the Energy Policy Act of 2005.

18 “(j) UNIT AGREEMENTS.—

19 “(1) IN GENERAL.—For the purpose of con-
20 servation of the natural resources of all or part of
21 any oil or gas pool, field, reservoir, or like area, les-
22 sees (including representatives) of the pool, field,
23 reservoir, or like area may unite with each other, or
24 jointly or separately with others, in collectively
25 adopting and operating under a unit agreement for

1 all or part of the pool, field, reservoir, or like area
2 (whether or not any other part of the oil or gas pool,
3 field, reservoir, or like area is already subject to any
4 cooperative or unit plan of development or oper-
5 ation), if the Secretary determines the action to be
6 necessary or advisable in the public interest. In de-
7 termining the public interest, the Secretary shall,
8 among other things, examine the extent to which the
9 unit agreement will minimize the impact to surface
10 resources of the leases and will facilitate consolida-
11 tion of facilities.

12 “(2) CONSULTATION.—In making a determina-
13 tion under paragraph (1), the Secretary shall consult
14 with the State of Alaska or a Regional Corporation
15 (as defined in section 3 of the Alaska Native Claims
16 Settlement Act (43 U.S.C. 1602)) with respect to
17 the creation or expansion of units that include acre-
18 age in which the State of Alaska or the Regional
19 Corporation has an interest in the mineral estate.

20 “(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production
21 allocation methodology for each participating area
22 within a unit that includes solely Federal land in the
23 Reserve.
24

1 “(B) The Secretary shall use a production allo-
2 cation methodology for each participating area with-
3 in a unit that includes Federal land in the Reserve
4 and non-Federal land based on the characteristics of
5 each specific oil or gas pool, field, reservoir, or like
6 area to take into account reservoir heterogeneity and
7 area variation in reservoir producibility across di-
8 verse leasehold interests. The implementation of the
9 foregoing production allocation methodology shall be
10 controlled by agreement among the affected lessors
11 and lessees.

12 “(4) BENEFIT OF OPERATIONS.—Drilling, pro-
13 duction,”;

14 (10) by striking “When separate” and inserting
15 the following:

16 “(5) POOLING.—If separate”;

17 (11) by inserting “(in consultation with the
18 owners of the other land)” after “determined by the
19 Secretary of the Interior”;

20 (12) by striking “thereto; (10) to” and all that
21 follows through “the terms provided therein” and in-
22 serting “to the agreement.

23 “(k) EXPLORATION INCENTIVES.—

24 “(1) IN GENERAL.—

1 “(A) WAIVER, SUSPENSION, OR REDUC-
2 TION.—To encourage the greatest ultimate re-
3 covery of oil or gas or in the interest of con-
4 servaion, the Secretary may waive, suspend, or
5 reduce the rental fees or minimum royalty, or
6 reduce the royalty on an entire leasehold (in-
7 cluding on any lease operated pursuant to a
8 unit agreement), whenever (after consultation
9 with the State of Alaska and the North Slope
10 Borough of Alaska and the concurrence of any
11 Regional Corporation for leases that include
12 land that was made available for acquisition by
13 the Regional Corporation under the provisions
14 of section 1431(o) of the Alaska National Inter-
15 est Lands Conservation Act (16 U.S.C. 3101 et
16 seq.)) in the judgment of the Secretary it is
17 necessary to do so to promote development, or
18 whenever in the judgment of the Secretary the
19 leases cannot be successfully operated under the
20 terms provided therein.

21 “(B) APPLICABILITY.—This paragraph ap-
22 plies to a lease that is in effect on or after the
23 date of enactment of the Energy Policy Act of
24 2005.”;

1 (13) by striking “The Secretary is authorized
2 to” and inserting the following:

3 “(2) SUSPENSION OF OPERATIONS AND PRO-
4 Duction.—The Secretary may”;

5 (14) by striking “In the event” and inserting
6 the following:

7 “(3) SUSPENSION OF PAYMENTS.—If”;

8 (15) by striking “thereto; and (11) all” and in-
9 serting “to the lease.

10 “(l) RECEIPTS.—All”;

11 (16) by redesignating subparagraphs (A), (B),
12 and (C) as paragraphs (1), (2), and (3), respectively;

13 (17) by striking “Any agency” and inserting
14 the following:

15 “(m) EXPLORATIONS.—Any agency”;

16 (18) by striking “Any action” and inserting the
17 following:

18 “(n) ENVIRONMENTAL IMPACT STATEMENTS.—

19 “(1) JUDICIAL REVIEW.—Any action”;

20 (19) by striking “The detailed” and inserting
21 the following:

22 “(2) INITIAL LEASE SALES.—The detailed”;

23 (20) by striking “of the Naval Petroleum Re-
24 serves Production Act of 1976 (90 Stat. 304; 42
25 U.S.C. 6504)”;

1 (21) by adding at the end the following:

2 “(o) REGULATIONS.—As soon as practicable after the
3 date of enactment of the Energy Policy Act of 2005, the
4 Secretary shall issue regulations to implement this section.

5 “(p) WAIVER OF ADMINISTRATION FOR CONVEYED
6 LANDS.—

7 “(1) IN GENERAL.—Notwithstanding section
8 14(g) of the Alaska Native Claims Settlement Act
9 (43 U.S.C. 1613(g)), the Secretary of the Interior
10 shall waive administration of any oil and gas lease
11 to the extent that the lease covers any land in the
12 Reserve in which all of the subsurface estate is con-
13 veyed to the Arctic Slope Regional Corporation (re-
14 ferred to in this subsection as the ‘Corporation’).

15 “(2) PARTIAL CONVEYANCE.—

16 “(A) IN GENERAL.—In a case in which a
17 conveyance of a subsurface estate described in
18 paragraph (1) does not include all of the land
19 covered by the oil and gas lease, the person that
20 owns the subsurface estate in any particular
21 portion of the land covered by the lease shall be
22 entitled to all of the revenues reserved under
23 the lease as to that portion, including, without
24 limitation, all the royalty payable with respect

1 to oil or gas produced from or allocated to that
2 portion.

3 “(B) SEGREGATION OF LEASE.—In a case
4 described in subparagraph (A), the Secretary of
5 the Interior shall—

6 “(i) segregate the lease into 2 leases,
7 1 of which shall cover only the subsurface
8 estate conveyed to the Corporation; and

9 “(ii) waive administration of the lease
10 that covers the subsurface estate conveyed
11 to the Corporation.

12 “(C) NO CHANGE IN LEASE OBLIGA-
13 TIONS.—The segregation of the lease described
14 in subparagraph (B)(i) has no effect on the ob-
15 ligations of the lessee under either of the result-
16 ing leases, including obligations relating to op-
17 erations, production, or other circumstances
18 (other than payment of rentals or royalties).

19 “(3) AUTHORITY TO MANAGE FEDERALLY
20 OWNED SURFACE ESTATE.—Nothing in this sub-
21 section limits the authority of the Secretary of the
22 Interior to manage the federally-owned surface es-
23 tate within the Reserve.”.

1 (c) CONFORMING AMENDMENTS.—Section 104 of the
2 Naval Petroleum Reserves Production Act of 1976 (42
3 U.S.C. 6504) is amended—

4 (1) by striking subsection (a); and

5 (2) by redesignating subsections (b) through (d)
6 as subsections (a) through (c), respectively.

7 **SEC. 318. NORTH SLOPE SCIENCE INITIATIVE.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—The Secretary of the Inte-
10 rior shall establish a long-term initiative to be known
11 as the “North Slope Science Initiative” (referred to
12 in this section as the “Initiative”).

13 (2) PURPOSE.—The purpose of the Initiative
14 shall be to implement efforts to coordinate collection
15 of scientific data that will provide a better under-
16 standing of the terrestrial, aquatic, and marine eco-
17 systems of the North Slope of Alaska.

18 (b) OBJECTIVES.—To ensure that the Initiative is
19 conducted through a comprehensive science strategy and
20 implementation plan, the Initiative shall, at a minimum—

21 (1) identify and prioritize information needs for
22 inventory, monitoring, and research activities to ad-
23 dress the individual and cumulative effects of past,
24 ongoing, and anticipated development activities and
25 environmental change on the North Slope;

1 (2) develop an understanding of information
2 needs for regulatory and land management agencies,
3 local governments, and the public;

4 (3) focus on prioritization of pressing natural
5 resource management and ecosystem information
6 needs, coordination, and cooperation among agencies
7 and organizations;

8 (4) coordinate ongoing and future inventory,
9 monitoring, and research activities to minimize du-
10 plication of effort, share financial resources and ex-
11 pertise, and assure the collection of quality informa-
12 tion;

13 (5) identify priority needs not addressed by
14 agency science programs in effect on the date of en-
15 actment of this Act and develop a funding strategy
16 to meet those needs;

17 (6) provide a consistent approach to high cal-
18 iber science, including inventory, monitoring, and re-
19 search;

20 (7) maintain and improve public and agency ac-
21 cess to—

22 (A) accumulated and ongoing research;

23 and

24 (B) contemporary and traditional local
25 knowledge; and

1 (8) ensure through appropriate peer review that
2 the science conducted by participating agencies and
3 organizations is of the highest technical quality.

4 (c) MEMBERSHIP.—

5 (1) IN GENERAL.—To ensure comprehensive
6 collection of scientific data, in carrying out the Ini-
7 tiative, the Secretary shall consult and coordinate
8 with Federal, State, and local agencies that have re-
9 sponsibilities for land and resource management
10 across the North Slope.

11 (2) COOPERATIVE AGREEMENTS.—The Sec-
12 retary shall enter into cooperative agreements with
13 the State of Alaska, the North Slope Borough, the
14 Arctic Slope Regional Corporation, and other Fed-
15 eral agencies as appropriate to coordinate efforts,
16 share resources, and fund projects under this sec-
17 tion.

18 (d) SCIENCE TECHNICAL ADVISORY PANEL.—

19 (1) IN GENERAL.—The Initiative shall include a
20 panel to provide advice on proposed inventory, moni-
21 toring, and research functions.

22 (2) MEMBERSHIP.—The panel described in
23 paragraph (1) shall consist of a representative group
24 of not more than 15 scientists and technical experts
25 from diverse professions and interests, including the

1 oil and gas industry, subsistence users, Native Alas-
2 kan entities, conservation organizations, wildlife
3 management organizations, and academia, as deter-
4 mined by the Secretary.

5 (e) REPORTS.—Not later than 3 years after the date
6 of enactment of this section and each year thereafter, the
7 Secretary shall publish a report that describes the studies
8 and findings of the Initiative.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as are nec-
11 essary to carry out this section.

12 **SEC. 319. ORPHANED, ABANDONED, OR IDLED WELLS ON**
13 **FEDERAL LAND.**

14 (a) IN GENERAL.—The Secretary, in cooperation
15 with the Secretary of Agriculture, shall establish a pro-
16 gram not later than 1 year after the date of enactment
17 of this Act to remediate, reclaim, and close orphaned,
18 abandoned, or idled oil and gas wells located on land ad-
19 ministered by the land management agencies within the
20 Department of the Interior and the Department of Agri-
21 culture.

22 (b) ACTIVITIES.—The program under subsection (a)
23 shall—

24 (1) include a means of ranking orphaned, aban-
25 doned, or idled wells sites for priority in remedi-

1 ation, reclamation, and closure, based on public
2 health and safety, potential environmental harm,
3 and other land use priorities;

4 (2) provide for identification and recovery of
5 the costs of remediation, reclamation, and closure
6 from persons or other entities currently providing a
7 bond or other financial assurance required under
8 State or Federal law for an oil or gas well that is
9 orphaned, abandoned, or idled; and

10 (3) provide for recovery from the persons or en-
11 tities identified under paragraph (2), or their sure-
12 ties or guarantors, of the costs of remediation, rec-
13 lamation, and closure of such wells.

14 (c) COOPERATION AND CONSULTATIONS.—In car-
15 rying out the program under subsection (a), the Secretary
16 shall—

17 (1) work cooperatively with the Secretary of Ag-
18 riculture and the States within which Federal land
19 is located; and

20 (2) consult with the Secretary of Energy and
21 the Interstate Oil and Gas Compact Commission.

22 (d) PLAN.—Not later than 1 year after the date of
23 enactment of this Act, the Secretary, in cooperation with
24 the Secretary of Agriculture, shall submit to Congress a
25 plan for carrying out the program under subsection (a).

1 (e) IDLED WELL.—For the purposes of this section,
2 a well is idled if—

3 (1) the well has been nonoperational for at least
4 7 years; and

5 (2) there is no anticipated beneficial use for the
6 well.

7 (f) TECHNICAL ASSISTANCE PROGRAM FOR NON-
8 FEDERAL LAND.—

9 (1) IN GENERAL.—The Secretary of Energy
10 shall establish a program to provide technical and fi-
11 nancial assistance to oil and gas producing States to
12 facilitate State efforts over a 10-year period to en-
13 sure a practical and economical remedy for environ-
14 mental problems caused by orphaned or abandoned
15 oil and gas exploration or production well sites on
16 State or private land.

17 (2) ASSISTANCE.—The Secretary of Energy
18 shall work with the States, through the Interstate
19 Oil and Gas Compact Commission, to assist the
20 States in quantifying and mitigating environmental
21 risks of onshore orphaned or abandoned oil or gas
22 wells on State and private land.

23 (3) ACTIVITIES.—The program under para-
24 graph (1) shall include—

1 (A) mechanisms to facilitate identification,
2 if feasible, of the persons currently providing a
3 bond or other form of financial assurance re-
4 quired under State or Federal law for an oil or
5 gas well that is orphaned or abandoned;

6 (B) criteria for ranking orphaned or aban-
7 doned well sites based on factors such as public
8 health and safety, potential environmental
9 harm, and other land use priorities;

10 (C) information and training programs on
11 best practices for remediation of different types
12 of sites; and

13 (D) funding of State mitigation efforts on
14 a cost-shared basis.

15 (g) AUTHORIZATION OF APPROPRIATIONS.—

16 (1) IN GENERAL.—There are authorized to be
17 appropriated to carry out this section \$25,000,000
18 for each of fiscal years 2006 through 2010.

19 (2) USE.—Of the amounts authorized under
20 paragraph (1), \$5,000,000 are authorized for each
21 fiscal year for activities under subsection (f).

22 **SEC. 320. COMBINED HYDROCARBON LEASING.**

23 (a) SPECIAL PROVISIONS REGARDING LEASING.—
24 Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C.
25 226(b)(2)) is amended—

1 (1) by inserting “(A)” after “(2)”;

2 (2) in the first sentence of subparagraph (A)
3 (as designated by paragraph (1)), by striking “they
4 shall be” and inserting “the lands may be”; and

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

6 “(B) For any area that contains any combination of
7 tar sand and oil or gas (or both), the Secretary may issue
8 under this Act, separately—

9 (i) a lease for exploration for and extraction of
10 tar sand; and

11 (ii) a lease for exploration for and development
12 of oil and gas.

13 “(C) A lease described in subparagraph (B) shall
14 have provisions addressing the appropriate accommoda-
15 tion of resources.

16 “(D) A lease issued for tar sand development shall
17 be issued using the same bidding process, annual rental,
18 and posting period as a lease issued for oil and gas, except
19 that the minimum acceptable bid required for a lease
20 issued for tar sand shall be \$2 per acre.”.

21 (b) CONFORMING AMENDMENT.—Section
22 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C.
23 226(b)(1)(B)) is amended in the second sentence by in-
24 serting “subject to paragraph (2)(B),” after “There-
25 after.”.

1 (c) REGULATIONS.—Not later than 45 days after the
2 date of enactment of this Act, the Secretary of the Interior
3 shall issue final regulations to implement the amendments
4 made by this section.

5 **SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE**
6 **OUTER CONTINENTAL SHELF.**

7 (a) AMENDMENT TO OUTER CONTINENTAL SHELF
8 LANDS ACT.—Section 8 of the Outer Continental Shelf
9 Lands Act (43 U.S.C. 1337) is amended by adding at the
10 end the following:

11 “(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR
12 ENERGY AND RELATED PURPOSES.—

13 “(1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Secretary of the Department in which
15 the Coast Guard is operating and other relevant de-
16 partments and agencies of the Federal Government,
17 may grant a lease, easement, or right-of-way on the
18 outer Continental Shelf for activities not otherwise
19 authorized in this Act, the Deepwater Port Act of
20 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal
21 Energy Conversion Act of 1980 (42 U.S.C. 9101 et
22 seq.), or other applicable law, if those activities—

23 “(A) support exploration, development, or
24 production of oil or natural gas, except that a
25 lease, easement, or right-of-way shall not be

1 granted in an area in which oil and gas
2 preleasing, leasing, and related activities are
3 prohibited by a moratorium;

4 “(B) support transportation of oil or nat-
5 ural gas, excluding shipping activities;

6 “(C) produce or support production, trans-
7 portation, or transmission of energy from
8 sources other than oil and gas; or

9 “(D) use, for energy-related purposes or
10 for other authorized marine-related purposes,
11 facilities currently or previously used for activi-
12 ties authorized under this Act, except that any
13 oil and gas energy-related uses shall not be au-
14 thorized in areas in which oil and gas
15 preleasing, leasing, and related activities are
16 prohibited by a moratorium.

17 “(2) PAYMENTS.—The Secretary shall establish
18 royalties, fees, rentals, bonus, or other payments to
19 ensure a fair return to the United States for any
20 lease, easement, or right-of-way granted under this
21 subsection.

22 “(3) COMPETITIVE OR NONCOMPETITIVE
23 BASIS.—Except with respect to projects that meet
24 the criteria established under section 321(d) of the
25 Energy Policy Act of 2005, the Secretary shall issue

1 a lease, easement, or right-of-way under paragraph
2 (1) on a competitive basis unless the Secretary de-
3 termines after public notice of a proposed lease,
4 easement, or right-of-way that there is no competi-
5 tive interest.

6 “(4) REQUIREMENTS.—The Secretary shall en-
7 sure that any activity under this subsection is car-
8 ried out in a manner that provides for—

9 “(A) safety;

10 “(B) protection of the environment;

11 “(C) prevention of waste;

12 “(D) conservation of the natural resources
13 of the outer Continental Shelf;

14 “(E) coordination with relevant Federal
15 agencies;

16 “(F) protection of national security inter-
17 ests of the United States;

18 “(G) protection of correlative rights in the
19 outer Continental Shelf;

20 “(H) a fair return to the United States for
21 any lease, easement, or right-of-way under this
22 subsection;

23 “(I) prevention of interference with reason-
24 able uses (as determined by the Secretary) of

1 the exclusive economic zone, the high seas, and
2 the territorial seas;

3 “(J) consideration of—

4 “(i) the location of, and any schedule
5 relating to, a lease, easement, or right-of-
6 way for an area of the outer Continental
7 Shelf; and

8 “(ii) any other use of the sea or sea-
9 bed, including use for a fishery, a sealane,
10 a potential site of a deepwater port, or
11 navigation;

12 “(K) public notice and comment on any
13 proposal submitted for a lease, easement, or
14 right-of-way under this subsection; and

15 “(L) oversight, inspection, research, moni-
16 toring, and enforcement relating to a lease,
17 easement, or right-of-way under this subsection.

18 “(5) LEASE DURATION, SUSPENSION, AND CAN-
19 CELLATION.—The Secretary shall provide for the
20 duration, issuance, transfer, renewal, suspension,
21 and cancellation of a lease, easement, or right-of-way
22 under this subsection.

23 “(6) SECURITY.—The Secretary shall require
24 the holder of a lease, easement, or right-of-way
25 granted under this subsection to—

1 “(A) furnish a surety bond or other form
2 of security, as prescribed by the Secretary;

3 “(B) comply with such other requirements
4 as the Secretary considers necessary to protect
5 the interests of the public and the United
6 States; and

7 “(C) provide for the restoration of the
8 lease, easement, or right-of-way.

9 “(7) COORDINATION AND CONSULTATION WITH
10 AFFECTED STATE AND LOCAL GOVERNMENTS.—The
11 Secretary shall provide for coordination and con-
12 sultation with the Governor of any State or the exec-
13 utive of any local government that may be affected
14 by a lease, easement, or right-of-way under this sub-
15 section.

16 “(8) REGULATIONS.—Not later than 270 days
17 after the date of enactment of the Energy Policy Act
18 of 2005, the Secretary, in consultation with the Sec-
19 retary of Defense, the Secretary of the Department
20 in which the Coast Guard is operating, the Secretary
21 of Commerce, heads of other relevant departments
22 and agencies of the Federal Government, and the
23 Governor of any affected State, shall issue any nec-
24 essary regulations to carry out this subsection.

1 “(9) EFFECT OF SUBSECTION.—Nothing in this
2 subsection displaces, supersedes, limits, or modifies
3 the jurisdiction, responsibility, or authority of any
4 Federal or State agency under any other Federal
5 law.

6 “(10) APPLICABILITY.—This subsection does
7 not apply to any area on the outer Continental Shelf
8 within the exterior boundaries of any unit of the Na-
9 tional Park System, National Wildlife Refuge Sys-
10 tem, or National Marine Sanctuary System, or any
11 National Monument.”.

12 (b) COORDINATED OCS MAPPING INITIATIVE.—

13 (1) IN GENERAL.—The Secretary, in coopera-
14 tion with the Secretary of Commerce, the Com-
15 mandant of the Coast Guard, and the Secretary of
16 Defense, shall establish an interagency comprehen-
17 sive digital mapping initiative for the outer Conti-
18 nental Shelf to assist in decisionmaking relating to
19 the siting of activities under subsection (p) of sec-
20 tion 8 of the Outer Continental Shelf Lands Act (43
21 U.S.C. 1337) (as added by subsection (a)).

22 (2) USE OF DATA.—The mapping initiative
23 shall use, and develop procedures for accessing, data
24 collected before the date on which the mapping ini-

1 initiative is established, to the maximum extent prac-
2 ticable.

3 (3) INCLUSIONS.—Mapping carried out under
4 the mapping initiative shall include an indication of
5 the locations on the outer Continental Shelf of—

6 (A) Federally-permitted activities;

7 (B) obstructions to navigation;

8 (C) submerged cultural resources;

9 (D) undersea cables;

10 (E) offshore aquaculture projects; and

11 (F) any area designated for the purpose of
12 safety, national security, environmental protec-
13 tion, or conservation and management of living
14 marine resources.

15 (c) CONFORMING AMENDMENT.—Section 8 of the
16 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is
17 amended by striking the section heading and inserting the
18 following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY
19 ON THE OUTER CONTINENTAL SHELF.—”.

20 (d) SAVINGS PROVISION.—Nothing in the amend-
21 ment made by subsection (a) requires the resubmittal of
22 any document that was previously submitted or the reau-
23 thorization of any action that was previously authorized
24 with respect to a project for which, before the date of en-
25 actment of this Act—

1 (1) an offshore test facility has been con-
2 structed; or

3 (2) a request for a proposal has been issued by
4 a public authority.

5 **SEC. 322. PRESERVATION OF GEOLOGICAL AND GEO-**
6 **PHYSICAL DATA.**

7 (a) **SHORT TITLE.**—This section may be cited as the
8 “National Geological and Geophysical Data Preservation
9 Program Act of 2005”.

10 (b) **PROGRAM.**—The Secretary shall carry out a Na-
11 tional Geological and Geophysical Data Preservation Pro-
12 gram in accordance with this section—

13 (1) to archive geologic, geophysical, and engi-
14 neering data, maps, well logs, and samples;

15 (2) to provide a national catalog of such archi-
16 val material; and

17 (3) to provide technical and financial assistance
18 related to the archival material.

19 (c) **PLAN.**—Not later than 1 year after the date of
20 enactment of this Act, the Secretary shall submit to Con-
21 gress a plan for the implementation of the Program.

22 (d) **DATA ARCHIVE SYSTEM.**—

23 (1) **ESTABLISHMENT.**—The Secretary shall es-
24 tablish, as a component of the Program, a data ar-
25 chive system to provide for the storage, preservation,

1 and archiving of subsurface, surface, geological, geo-
2 physical, and engineering data and samples. The
3 Secretary, in consultation with the Advisory Com-
4 mittee, shall develop guidelines relating to the data
5 archive system, including the types of data and sam-
6 ples to be preserved.

7 (2) SYSTEM COMPONENTS.—The system shall
8 be comprised of State agencies that elect to be part
9 of the system and agencies within the Department
10 of the Interior that maintain geological and geo-
11 physical data and samples that are designated by
12 the Secretary in accordance with this subsection.
13 The Program shall provide for the storage of data
14 and samples through data repositories operated by
15 such agencies.

16 (3) LIMITATION OF DESIGNATION.—The Sec-
17 retary may not designate a State agency as a com-
18 ponent of the data archive system unless that agency
19 is the agency that acts as the geological survey in
20 the State.

21 (4) DATA FROM FEDERAL LAND.—The data ar-
22 chive system shall provide for the archiving of rel-
23 evant subsurface data and samples obtained from
24 Federal land—

1 (A) in the most appropriate repository des-
2 igned under paragraph (2), with preference
3 being given to archiving data in the State in
4 which the data were collected; and

5 (B) consistent with all applicable law and
6 requirements relating to confidentiality and pro-
7 prietary data.

8 (e) NATIONAL CATALOG.—

9 (1) IN GENERAL.—As soon as practicable after
10 the date of enactment of this Act, the Secretary
11 shall develop and maintain, as a component of the
12 Program, a national catalog that identifies—

13 (A) data and samples available in the data
14 archive system established under subsection (d);

15 (B) the repository for particular material
16 in the system; and

17 (C) the means of accessing the material.

18 (2) AVAILABILITY.—The Secretary shall make
19 the national catalog accessible to the public on the
20 site of the Survey on the Internet, consistent with all
21 applicable requirements related to confidentiality
22 and proprietary data.

23 (f) ADVISORY COMMITTEE.—

1 (1) IN GENERAL.—The Advisory Committee
2 shall advise the Secretary on planning and imple-
3 mentation of the Program.

4 (2) NEW DUTIES.—In addition to its duties
5 under the National Geologic Mapping Act of 1992
6 (43 U.S.C. 31a et seq.), the Advisory Committee
7 shall perform the following duties:

8 (A) Advise the Secretary on developing
9 guidelines and procedures for providing assist-
10 ance for facilities under subsection (g)(1).

11 (B) Review and critique the draft imple-
12 mentation plan prepared by the Secretary under
13 subsection (c).

14 (C) Identify useful studies of data archived
15 under the Program that will advance under-
16 standing of the Nation's energy and mineral re-
17 sources, geologic hazards, and engineering geol-
18 ogy.

19 (D) Review the progress of the Program in
20 archiving significant data and preventing the
21 loss of such data, and the scientific progress of
22 the studies funded under the Program.

23 (E) Include in the annual report to the
24 Secretary required under section 5(b)(3) of the
25 National Geologic Mapping Act of 1992 (43

1 U.S.C. 31d(b)(3)) an evaluation of the progress
2 of the Program toward fulfilling the purposes of
3 the Program under subsection (b).

4 (g) FINANCIAL ASSISTANCE.—

5 (1) ARCHIVE FACILITIES.—Subject to the avail-
6 ability of appropriations, the Secretary shall provide
7 financial assistance to a State agency that is des-
8 ignated under subsection (d)(2) for providing facili-
9 ties to archive energy material.

10 (2) STUDIES.—Subject to the availability of ap-
11 propriations, the Secretary shall provide financial as-
12 sistance to any State agency designated under sub-
13 section (d)(2) for studies and technical assistance
14 activities that enhance understanding, interpreta-
15 tion, and use of materials archived in the data ar-
16 chive system established under subsection (d).

17 (3) FEDERAL SHARE.—The Federal share of
18 the cost of an activity carried out with assistance
19 under this subsection shall be not more than 50 per-
20 cent of the total cost of the activity.

21 (4) PRIVATE CONTRIBUTIONS.—The Secretary
22 shall apply to the non-Federal share of the cost of
23 an activity carried out with assistance under this
24 subsection the value of private contributions of prop-
25 erty and services used for that activity.

1 (h) REPORT.—The Secretary shall include in each re-
2 port under section 8 of the National Geologic Mapping Act
3 of 1992 (43 U.S.C. 31g)—

4 (1) a description of the status of the Program;

5 (2) an evaluation of the progress achieved in
6 developing the Program during the period covered by
7 the report; and

8 (3) any recommendations for legislative or other
9 action the Secretary considers necessary and appro-
10 priate to fulfill the purposes of the Program under
11 subsection (b).

12 (i) MAINTENANCE OF STATE EFFORT.—It is the in-
13 tent of Congress that the States not use this section as
14 an opportunity to reduce State resources applied to the
15 activities that are the subject of the Program.

16 (j) DEFINITIONS.—In this section:

17 (1) ADVISORY COMMITTEE.—The term “Advi-
18 sory Committee” means the advisory committee es-
19 tablished under section 5 of the National Geologic
20 Mapping Act of 1992 (43 U.S.C. 31d).

21 (2) PROGRAM.—The term “Program” means
22 the National Geological and Geophysical Data Pres-
23 ervation Program carried out under this section.

1 (1) the short- and long-term prospects for crude
2 oil supply disruption and price volatility and poten-
3 tial impacts on the economy of Hawaii;

4 (2) the economic relationship between oil-fired
5 generation of electricity from residual fuel and re-
6 fined petroleum products consumed for ground, ma-
7 rine, and air transportation;

8 (3) the technical and economic feasibility of in-
9 creasing the contribution of renewable energy re-
10 sources for generation of electricity, on an island-by-
11 island basis, including—

12 (A) siting and facility configuration;

13 (B) environmental, operational, and safety
14 considerations;

15 (C) the availability of technology;

16 (D) the effects on the utility system, in-
17 cluding reliability;

18 (E) infrastructure and transport require-
19 ments;

20 (F) community support; and

21 (G) other factors affecting the economic
22 impact of such an increase and any effect on
23 the economic relationship described in para-
24 graph (2);

1 (4) the technical and economic feasibility of
2 using liquefied natural gas to displace residual fuel
3 oil for electric generation, including neighbor island
4 opportunities, and the effect of the displacement on
5 the economic relationship described in paragraph
6 (2), including—

7 (A) the availability of supply;

8 (B) siting and facility configuration for on-
9 shore and offshore liquefied natural gas receiv-
10 ing terminals;

11 (C) the factors described in subparagraphs
12 (B) through (F) of paragraph (3); and

13 (D) other economic factors;

14 (5) the technical and economic feasibility of
15 using renewable energy sources (including hydrogen)
16 for ground, marine, and air transportation energy
17 applications to displace the use of refined petroleum
18 products, on an island-by-island basis, and the eco-
19 nomic impact of the displacement on the relationship
20 described in (2); and

21 (6) an island-by-island approach to—

22 (A) the development of hydrogen from re-
23 newable resources; and

24 (B) the application of hydrogen to the en-
25 ergy needs of Hawaii

1 (b) CONTRACTING AUTHORITY.—The Secretary may
2 carry out the assessment under subsection (a) directly or,
3 in whole or in part, through 1 or more contracts with
4 qualified public or private entities.

5 (c) REPORT.—Not later than 300 days after the date
6 of enactment of this Act, the Secretary shall prepare (in
7 consultation with agencies of the State of Hawaii and
8 other stakeholders, as appropriate), and submit to Con-
9 gress, a report describing the findings, conclusions, and
10 recommendations resulting from the assessment.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as are nec-
13 essary to carry out this section.

14 **SEC. 325. DENALI COMMISSION.**

15 (a) DEFINITION OF COMMISSION.—In this section,
16 the term “Commission” means the Denali Commission es-
17 tablished by the Denali Commission Act of 1998 (42
18 U.S.C. 3121 note; Public Law 105–277).

19 (b) ENERGY PROGRAMS.—The Commission shall use
20 amounts made available under subsection (d) to carry out
21 energy programs, including—

22 (1) energy generation and development,
23 including—

24 (A) fuel cells, hydroelectric, solar, wind,
25 wave, and tidal energy; and

- 1 (B) alternative energy sources;
- 2 (2) the construction of energy transmission, in-
- 3 cluding interties;
- 4 (3) the replacement and cleanup of fuel tanks;
- 5 (4) the construction of fuel transportation net-
- 6 works and related facilities;
- 7 (5) power cost equalization programs; and
- 8 (6) projects using coal as a fuel, including coal
- 9 gasification projects.

10 (c) OPEN MEETINGS.—

- 11 (1) IN GENERAL.—Except as provided in para-
- 12 graph (2), a meeting of the Commission shall be
- 13 open to the public if—

14 (A) the Commission members take action

15 on behalf of the Commission; or

16 (B) the deliberations of the Commission

17 determine, or result in the joint conduct or dis-

18 position of, official Commission business.

- 19 (2) EXCEPTIONS.—Paragraph (1) shall not
- 20 apply to any portion of a Commission meeting for
- 21 which the Commission, in public session, votes to
- 22 close the meeting for the reasons described in para-
- 23 graph (2), (4), (5), or (6) of subsection (c) of section
- 24 552b of title 5, United States Code.

- 25 (3) PUBLIC NOTICE.—

1 (A) IN GENERAL.—At least 1 week before
2 a meeting of the Commission, the Commission
3 shall make a public announcement of the meet-
4 ing that describes—

5 (i) the time, place, and subject matter
6 of the meeting;

7 (ii) whether the meeting is to be open
8 or closed to the public; and

9 (iii) the name and telephone number
10 of an appropriate person to respond to re-
11 quests for information about the meeting.

12 (B) ADDITIONAL NOTICE.—The Commis-
13 sion shall make a public announcement of any
14 change to the information made available under
15 subparagraph (A) at the earliest practicable
16 time.

17 (4) MINUTES.—The Commission shall keep,
18 and make available to the public, a transcript, elec-
19 tronic recording, or minutes from each Commission
20 meeting, except for portions of the meeting closed
21 under paragraph (2).

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to the Commission not more
24 than \$55,000,000 for each of fiscal years 2006 through
25 2015 to carry out subsection (b).

1 **SEC. 326. COMPREHENSIVE INVENTORY OF OCS OIL AND**
2 **NATURAL GAS RESOURCES.**

3 (a) IN GENERAL.—The Secretary of the Interior shall
4 conduct an inventory and analysis of oil and natural gas
5 resources beneath all of the waters of the United States
6 Outer Continental Shelf (“OCS”). The inventory and
7 analysis shall—

8 (1) use available data on oil and gas resources
9 in areas offshore of Mexico and Canada that will
10 provide information on trends of oil and gas accu-
11 mulation in areas of the OCS;

12 (2) use any available technology, except drilling,
13 but including 3–D seismic technology to obtain accu-
14 rate resource estimates;

15 (3) analyze how resource estimates in OCS
16 areas have changed over time in regards to gath-
17 ering geological and geophysical data, initial explo-
18 ration, or full field development, including areas
19 such as the deepwater and subsalt areas in the Gulf
20 of Mexico;

21 (4) estimate the effect that understated oil and
22 gas resource inventories have on domestic energy in-
23 vestments; and

24 (5) identify and explain how legislative, regu-
25 latory, and administrative programs or processes re-
26 strict or impede the development of identified re-

1 sources and the extent that they affect domestic sup-
2 ply, such as moratoria, lease terms and conditions,
3 operational stipulations and requirements, approval
4 delays by the Federal government and coastal
5 States, and local zoning restrictions for onshore
6 processing facilities and pipeline landings.

7 (b) REPORTS.—The Secretary of Interior shall sub-
8 mit a report to Congress on the inventory of estimates
9 and the analysis of restrictions or impediments, together
10 with any recommendations, within 6 months of the date
11 of enactment of the section. The report shall be publicly
12 available and updated at least every 5 years.

13 **SEC. 327. REVIEW AND DEMONSTRATION PROGRAM FOR**
14 **OIL AND NATURAL GAS PRODUCTION.**

15 (a) REVIEW.—

16 (1) IN GENERAL.—Not later than 18 months
17 after the date of enactment of this Act, the Sec-
18 retary of the Interior, in consultation with the Sec-
19 retary of Energy (referred to in this section as the
20 “Secretary”), shall carry out a review of, and submit
21 to Congress a report on opportunities to enhance
22 production of oil and natural gas from public land
23 and the outer Continental Shelf, and increase se-
24 questration of carbon dioxide through the provision
25 of royalty or other production incentives to lessees

1 that inject carbon dioxide as a means of enhanced
2 recovery.

3 (2) COMPONENTS.—The Secretary of the Inte-
4 rior shall describe in the review and report under
5 paragraph (1)—

6 (A) eligibility requirements for incentives;

7 (B) the appropriate level of royalty relief,
8 if any;

9 (C) other appropriate production incen-
10 tives, if any;

11 (D) an estimate of the increased quantity
12 of oil and gas production that could be achieved
13 through implementation of those incentives;

14 (E) an estimate of the quantity of carbon
15 sequestration that could be achieved through
16 implementation of those incentives;

17 (F) practices (and the extent of the use of
18 the practices) as of the date of enactment of
19 this Act that rely on carbon dioxide injection
20 for enhanced oil and gas recovery; and

21 (G) any recommendations for implementa-
22 tion of royalty relief or other production incen-
23 tives, including—

24 (i) the period of time during which
25 those incentives should be available; and

1 (ii) any geographic or other limita-
2 tions that should apply to the incentives.

3 (b) DEMONSTRATION PROGRAM.—

4 (1) ESTABLISHMENT.—

5 (A) IN GENERAL.—The Secretary shall es-
6 tablish a competitive grant program to provide
7 grants to producers of oil and gas to carry out
8 projects to inject carbon dioxide for the purpose
9 of enhancing recovery of oil or natural gas while
10 increasing the sequestration of carbon dioxide.

11 (B) PROJECTS.—The demonstration pro-
12 gram shall provide for—

13 (i) not more than 10 projects in the
14 Willistin Basin in North Dakota and Mon-
15 tana; and

16 (ii) 1 project in the Cook Inlet Basin
17 in Alaska.

18 (2) REQUIREMENTS.—

19 (A) IN GENERAL.—The Secretary shall
20 issue requirements relating to applications for
21 grants under paragraph (1).

22 (B) RULEMAKING.—The issuance of re-
23 quirements under subparagraph (A) shall not
24 require a rulemaking.

1 (C) MINIMUM REQUIREMENTS.—At a min-
2 imum, the Secretary shall require under sub-
3 paragraph (A) that an application for a grant
4 include—

5 (i) a description of the project pro-
6 posed in the application;

7 (ii) an estimate of the production in-
8 crease and the duration of the production
9 increase from the project, as compared to
10 conventional recovery techniques, including
11 water flooding;

12 (iii) an estimate of the carbon dioxide
13 sequestered by project, over the life of the
14 project;

15 (iv) a plan to collect and disseminate
16 data relating to each project to be funded
17 by the grant;

18 (v) a description of the means by
19 which the project will be sustainable with-
20 out Federal assistance after the completion
21 of the term of the grant;

22 (vi) a complete description of the
23 costs of the project, including acquisition,
24 construction, operation, and maintenance
25 costs over the expected life of the project;

1 (vii) a description of which costs of
2 the project will be supported by Federal
3 assistance under this section; and

4 (viii) a description of any secondary
5 or tertiary recovery efforts in the field and
6 the efficacy of water flood recovery tech-
7 niques used.

8 (3) PARTNERS.—An applicant for a grant
9 under paragraph (1) may carry out a project under
10 a pilot program in partnership with 1 or more other
11 public or private entities.

12 (4) SELECTION CRITERIA.—In evaluating appli-
13 cations under this subsection, the Secretary shall—

14 (A) consider the previous experience with
15 similar projects of each applicant;

16 (B) give priority consideration to applica-
17 tions that—

18 (i) are most likely to maximize pro-
19 duction of oil and gas in a cost-effective
20 manner;

21 (ii) sequester significant quantities of
22 carbon dioxide from anthropogenic sources;

23 (iii) demonstrate the greatest commit-
24 ment on the part of the applicant to ensure
25 funding for the proposed project and the

1 greatest likelihood that the project will be
2 maintained or expanded after Federal as-
3 sistance under this section is completed;
4 and

5 (iv) minimize any adverse environ-
6 mental effects from the project.

7 (5) DEMONSTRATION PROGRAM REQUIRE-
8 MENTS.—

9 (A) MAXIMUM AMOUNT.—The Secretary
10 shall not provide more than \$3,000,000 in Fed-
11 eral assistance under this subsection to any ap-
12 plicant.

13 (B) COST SHARING.—The Secretary shall
14 require cost-sharing in accordance with section
15 1002.

16 (C) PERIOD OF GRANTS.—

17 (i) IN GENERAL.—A project funded by
18 a grant under this subsection shall begin
19 construction not later than 2 years after
20 the date of provision of the grant, but in
21 any case not later than December 31,
22 2010.

23 (ii) TERM.—The Secretary shall not
24 provide grant funds to any applicant under

1 this subsection for a period of more than
2 5 years.

3 (6) TRANSFER OF INFORMATION AND KNOWL-
4 EDGE.—The Secretary shall establish mechanisms to
5 ensure that the information and knowledge gained
6 by participants in the program under this subsection
7 are transferred among other participants and inter-
8 ested parties, including other applicants that sub-
9 mitted applications for a grant under this sub-
10 section.

11 (7) SCHEDULE.—

12 (A) PUBLICATION.—Not later than 180
13 days after the date of enactment of this Act,
14 the Secretary shall publish in the Federal Reg-
15 ister, and elsewhere, as appropriate, a request
16 for applications to carry out projects under this
17 subsection.

18 (B) DATE FOR APPLICATIONS.—An appli-
19 cation for a grant under this subsection shall be
20 submitted not later than 180 days after the
21 date of publication of the request under sub-
22 paragraph (A).

23 (C) SELECTION.—After the date by which
24 applications for grants are required to be sub-
25 mitted under subparagraph (B), the Secretary,

1 in a timely manner, shall select, after peer re-
2 view and based on the criteria under paragraph
3 (4), those projects to be awarded a grant under
4 this subsection.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as are nec-
7 essary to carry out this section.

8 **Subtitle C—Access to Federal Land**

9 **SEC. 341. FEDERAL ONSHORE OIL AND GAS LEASING PRACTICES.** 10 **TICES.**

11 (a) REVIEW OF ONSHORE OIL AND GAS LEASING
12 PRACTICES.—The Secretary of the Interior shall make the
13 necessary arrangements with the National Academy of
14 Public Administration to commission the Academy to per-
15 form a review of Federal onshore oil and gas leasing prac-
16 tices. The Secretary of the Interior shall conduct an inter-
17 nal review concurrent with the work of the National Acad-
18 emy of Public Administration. The reviews shall include
19 the following:

20 (1) The process by which Federal land man-
21 agers accept or reject an offer to lease, including the
22 timeframes in which such offers are acted upon, and
23 any recommendations for improving and expediting
24 the process.

1 (2) The process for considering applications for
2 permits to drill, including the timeframes in which
3 such applications are considered, and any rec-
4 ommendations for improving and expediting the
5 process.

6 (3) The process for considering surface use
7 plans of operation, including the timeframes in
8 which such plans are considered, and any rec-
9 ommendations for improving and expediting the
10 process.

11 (4) The process for administrative appeal of de-
12 cisions or orders of officers or employees of the Bu-
13 reau of Land Management with respect to a Federal
14 oil or gas lease, including the timeframes in which
15 such appeals are heard and decided, and any rec-
16 ommendations for improving and expediting the
17 process.

18 (5) The process by which Federal land man-
19 agers identify stipulations to address site-specific
20 concerns and conditions, including those relating to
21 the environment and resource use conflicts, whether
22 stipulations are effective in addressing resource val-
23 ues, and any recommendations for expediting and
24 improving the identification and effectiveness of stip-
25 ulations.

1 (6) The process by which the Federal land
2 management agencies coordinate planning and anal-
3 ysis with planning of Federal, State, and local agen-
4 cies having jurisdiction over adjacent areas and
5 other land uses, and any recommendations for im-
6 proving and expediting the process.

7 (7) The documentation provided to lease appli-
8 cants and lessees with respect to determinations to
9 reject lease applications or to require modification of
10 proposed surface use plans of operation and rec-
11 ommendations regarding improvement of such docu-
12 mentation to more clearly set forth the basis for the
13 decision.

14 (8) The adequacy of resources available to the
15 Secretary of the Interior for administering the Fed-
16 eral onshore oil and gas leasing program.

17 (9) Actions taken by the Secretary under sec-
18 tion 3 of Executive Order No. 13212 (42 U.S.C.
19 13201 note).

20 (10) Actions taken by, or plans of, the Sec-
21 retary to improve the Federal onshore oil and gas
22 leasing program.

23 (b) REPORT.—The Secretary of the Interior and the
24 National Academy of Public Administration shall report
25 to the Committee on Resources of the House of Represent-

1 atives and to the Committee on Energy and Natural Re-
2 sources of the Senate not later than 18 months after the
3 date of the enactment of this Act, summarizing the find-
4 ings of their respective reviews undertaken pursuant to
5 this section and making recommendations with respect to
6 improvements in the Federal onshore oil and gas leasing
7 program.

8 **SEC. 342. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**
9 **ING PROGRAMS.**

10 (a) **TIMELY ACTION ON LEASES AND PERMITS.—**

11 (1) **SECRETARY OF THE INTERIOR.—**To ensure
12 timely action on oil and gas leases and applications
13 for permits to drill on land otherwise available for
14 leasing, the Secretary of the Interior (referred to in
15 this section as the “Secretary”) shall—

16 (A) ensure expeditious compliance with
17 section 102(2)(C) of the National Environ-
18 mental Policy Act of 1969 (42 U.S.C.
19 4332(2)(C)) and any other applicable environ-
20 mental and cultural resources laws;

21 (B) improve consultation and coordination
22 with the States and the public; and

23 (C) improve the collection, storage, and re-
24 trieval of information relating to the oil and gas
25 leasing activities.

1 (2) SECRETARY OF AGRICULTURE.—To ensure
2 timely action on oil and gas lease applications for
3 permits to drill on land otherwise available for leas-
4 ing, the Secretary of Agriculture shall—

5 (A) ensure expeditious compliance with all
6 applicable environmental and cultural resources
7 laws; and

8 (B) improve the collection, storage, and re-
9 trieval of information relating to the oil and gas
10 leasing activities.

11 (b) BEST MANAGEMENT PRACTICES.—

12 (1) IN GENERAL.—Not later than 18 months
13 after the date of enactment of this Act, the Sec-
14 retary shall develop and implement best manage-
15 ment practices to—

16 (A) improve the administration of the on-
17 shore oil and gas leasing program under the
18 Mineral Leasing Act (30 U.S.C. 181 et seq.);
19 and

20 (B) ensure timely action on oil and gas
21 leases and applications for permits to drill on
22 land otherwise available for leasing.

23 (2) REGULATIONS.—Not later than 180 days
24 after the development of the best management prac-
25 tices under paragraph (1), the Secretary shall pub-

1 lish, for public comment, proposed regulations that
2 set forth specific timeframes for processing leases
3 and applications in accordance with the best man-
4 agement practices, including deadlines for—

5 (A) approving or disapproving—

6 (i) resource management plans and
7 related documents;

8 (ii) lease applications;

9 (iii) applications for permits to drill;

10 and

11 (iv) surface use plans; and

12 (B) related administrative appeals.

13 (c) IMPROVED ENFORCEMENT.—The Secretary and
14 the Secretary Agriculture shall improve inspection and en-
15 forcement of oil and gas activities, including enforcement
16 of terms and conditions in permits to drill on land under
17 the jurisdiction of the Secretary and the Secretary of Agri-
18 culture, respectively.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
20 tion to amounts made available to carry out activities re-
21 lating to oil and gas leasing on public land administered
22 by the Secretary and National Forest System land admin-
23 istered by the Secretary of Agriculture, there are author-
24 ized to be appropriated for each of fiscal years 2006
25 through 2010—

1 (1) to the Secretary, acting through the Direc-
2 tor of the Bureau of Land Management—

3 (A) \$40,000,000 to carry out subsections
4 (a)(1) and (b); and

5 (B) \$20,000,000 to carry out subsection
6 (c);

7 (2) to the Secretary, acting through the Direc-
8 tor of the United States Fish and Wildlife Service,
9 \$5,000,000 to carry out subsection (a)(1); and

10 (3) to the Secretary of Agriculture, acting
11 through the Chief of the Forest Service, \$5,000,000
12 to carry out subsections (a)(2) and (c).

13 **SEC. 343. CONSULTATION REGARDING OIL AND GAS LEAS-**
14 **ING ON PUBLIC LAND.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of enactment of this Act, the Secretary of the Interior
17 and the Secretary of Agriculture shall enter into a memo-
18 randum of understanding regarding oil and gas leasing
19 on—

20 (1) public land under the jurisdiction of the
21 Secretary of the Interior; and

22 (2) National Forest System land under the ju-
23 risdiction of the Secretary of Agriculture.

24 (b) CONTENTS.—The memorandum of understanding
25 shall include provisions that—

- 1 (1) establish administrative procedures and
2 lines of authority that ensure timely processing of—
3 (A) oil and gas lease applications;
4 (B) surface use plans of operation, includ-
5 ing steps for processing surface use plans; and
6 (C) applications for permits to drill, includ-
7 ing applications for permits to drill consistent
8 with applicable timelines;
- 9 (2) eliminate duplication of effort by providing
10 for coordination of planning and environmental com-
11 pliance efforts;
- 12 (3) ensure that lease stipulations are—
13 (A) applied consistently;
14 (B) coordinated between agencies; and
15 (C) only as restrictive as necessary to pro-
16 tect the resource for which the stipulations are
17 applied;
- 18 (4) establish a joint data retrieval system that
19 is capable of—
20 (A) tracking applications and formal re-
21 quests made in accordance with procedures of
22 the Federal onshore oil and gas leasing pro-
23 gram; and
24 (B) providing information regarding the
25 status of the applications and requests within

1 the Department of the Interior and the Depart-
2 ment of Agriculture; and

3 (5) establish a joint geographic information sys-
4 tem mapping system for use in—

5 (A) tracking surface resource values to aid
6 in resource management; and

7 (B) processing surface use plans of oper-
8 ation and applications for permits to drill.

9 **SEC. 344. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**
10 **COORDINATION.**

11 (a) ESTABLISHMENT.—The Secretary of the Interior
12 (referred to in this section as the “Secretary”) shall estab-
13 lish a Federal Permit Streamlining Pilot Project (referred
14 to in this section as the “Pilot Project”).

15 (b) MEMORANDUM OF UNDERSTANDING.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of enactment of this Act, the Secretary
18 shall enter into a memorandum of understanding for
19 purposes of this section with—

20 (A) the Secretary of Agriculture;

21 (B) the Administrator of the Environ-
22 mental Protection Agency; and

23 (C) the Chief of Engineers.

24 (2) STATE PARTICIPATION.—The Secretary
25 may request that the Governors of Wyoming, Mon-

1 tana, Colorado, Utah, and New Mexico be signato-
2 ries to the memorandum of understanding.

3 (c) DESIGNATION OF QUALIFIED STAFF.—

4 (1) IN GENERAL.—Not later than 30 days after
5 the date of the signing of the memorandum of un-
6 derstanding under subsection (b), all Federal signa-
7 tory parties shall, if appropriate, assign to each of
8 the field offices identified in subsection (d) an em-
9 ployee who has expertise in the regulatory issues re-
10 lating to the office in which the employee is em-
11 ployed, including, as applicable, particular expertise
12 in—

13 (A) the consultations and the preparation
14 of biological opinions under section 7 of the En-
15 dangered Species Act of 1973 (16 U.S.C.
16 1536);

17 (B) permits under section 404 of Federal
18 Water Pollution Control Act (33 U.S.C. 1344);

19 (C) regulatory matters under the Clean Air
20 Act (42 U.S.C. 7401 et seq.);

21 (D) planning under the National Forest
22 Management Act of 1976 (16 U.S.C. 472a et
23 seq.); and

1 (E) the preparation of analyses under the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.).

4 (2) DUTIES.—Each employee assigned under
5 paragraph (1) shall—

6 (A) not later than 90 days after the date
7 of assignment, report to the Bureau of Land
8 Management Field Managers in the office to
9 which the employee is assigned;

10 (B) be responsible for all issues relating to
11 the jurisdiction of the home office or agency of
12 the employee; and

13 (C) participate as part of the team of per-
14 sonnel working on proposed energy projects,
15 planning, and environmental analyses.

16 (d) FIELD OFFICES.—The following Bureau of Land
17 Management Field Offices shall serve as the Pilot Project
18 offices:

19 (1) Rawlins, Wyoming.

20 (2) Buffalo, Wyoming.

21 (3) Miles City, Montana

22 (4) Farmington, New Mexico.

23 (5) Carlsbad, New Mexico.

24 (6) Grand Junction/Glenwood Springs, Colo-
25 rado.

1 (7) Vernal, Utah.

2 (e) REPORTS.—Not later than 3 years after the date
3 of enactment of this Act, the Secretary shall submit to
4 Congress a report that—

5 (1) outlines the results of the Pilot Project to
6 date; and

7 (2) makes a recommendation to the President
8 regarding whether the Pilot Project should be imple-
9 mented throughout the United States.

10 (f) ADDITIONAL PERSONNEL.—The Secretary shall
11 assign to each field office identified in subsection (d) any
12 additional personnel that are necessary to ensure the ef-
13 fective implementation of—

14 (1) the Pilot Project; and

15 (2) other programs administered by the field of-
16 fices, including inspection and enforcement relating
17 to energy development on Federal land, in accord-
18 ance with the multiple use mandate of the Federal
19 Land Policy and Management Act of 1976 (43
20 U.S.C. 1701 et seq).

21 (g) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to the Secretary such sums as are nec-
24 essary to carry out this section for each of fiscal
25 years 2006 through 2010.

1 (2) TRANSFER OF FUNDS.—For the purposes
2 of coordination and processing of oil and gas use au-
3 thorizations on Federal land under the administra-
4 tion of the Pilot Project offices identified in sub-
5 section (d), the Secretary may authorize the expendi-
6 ture or transfer of such funds as are necessary to—

7 (A) the United States Fish and Wildlife
8 Service;

9 (B) the Bureau of Indian Affairs;

10 (C) the Forest Service;

11 (D) the Environmental Protection Agency;

12 (E) the Corps of Engineers; and

13 (F) the States of Wyoming, Montana, Col-
14 orado, Utah, and New Mexico.

15 (h) SAVINGS PROVISION.—Nothing in this section
16 affects—

17 (1) the operation of any Federal or State law;

18 or

19 (2) any delegation of authority made by the
20 head of a Federal agency whose employees are par-
21 ticipating in the Pilot Project.

22 **SEC. 345. ENERGY FACILITY RIGHTS-OF-WAYS AND COR-**
23 **RIDORS ON FEDERAL LAND.**

24 (a) DEFINITIONS.—In this section:

1 (1) CORRIDOR.—In this section and section 503
2 of the Federal Land Policy and Management Act of
3 1976 (43 U.S.C. 1763), the term “corridor”
4 means—

5 (A) a linear strip of land—

6 (i) with a width determined with con-
7 sideration given to technological, environ-
8 mental, and topographical factors; and

9 (ii) that contains, or may in the fu-
10 ture contain, 1 or more utility facilities;

11 (B) a land use designation that is
12 established—

13 (i) by law;

14 (ii) by order of the head of a Federal
15 agency;

16 (iii) through the land use planning
17 process; or

18 (iv) by other management decision;

19 and

20 (C) a designation made for the purpose of
21 establishing the preferred location of a compat-
22 ible utility facility.

23 (2) FEDERAL AUTHORIZATION.—

24 (A) IN GENERAL.—The term “Federal au-
25 thorization” means any authorization required

1 under Federal law in order to site a utility facil-
2 ity.

3 (B) INCLUSIONS.—The term “Federal au-
4 thorization” includes such permits, special use
5 authorizations, certifications, opinions, or other
6 approvals as may be required, that are issued
7 by a Federal agency.

8 (3) FEDERAL LAND.—

9 (A) IN GENERAL.—The term “Federal
10 land” means all land owned by the United
11 States.

12 (B) EXCLUSIONS.—The term “Federal
13 land” does not include land—

14 (i) within the National Park System;

15 (ii) within the National Wilderness
16 Preservation System;

17 (iii) designated as a National Monu-
18 ment;

19 (iv) held in trust for an Indian or In-
20 dian tribe; or

21 (v) on the outer Continental Shelf.

22 (4) UTILITY CORRIDOR.—The term “utility cor-
23 ridor” means any linear strip of land across Federal
24 land referred to in subsection (b) of approved width,

1 but limited for use by a utility facility by techno-
2 logical, environmental, or topographical factors.

3 (5) UTILITY FACILITY.—The term “utility facil-
4 ity” means any privately-, publicly-, or cooperatively-
5 owned line, facility, or system—

6 (A) for the transportation of—

7 (i) oil or natural gas, synthetic liquid
8 or gaseous fuel, or any refined product
9 produced from any of those materials; or

10 (ii) products in support of production,
11 or for storage or terminal facilities in con-
12 nection with production; or

13 (B) for the generation, transmission, or
14 distribution of electric energy.

15 (b) UTILITY CORRIDORS.—

16 (1) IN GENERAL.—Not later than 2 years after
17 the document described in subsection (c)(3) is com-
18 pleted, the Secretary of the Interior, with respect to
19 public lands (as defined in section 103(e) of the
20 Federal Land Policy and Management Act of 1976
21 (43 U.S.C. 1702(e)), and the Secretary of Agri-
22 culture, with respect to National Forest System
23 land, shall designate utility corridors pursuant to—

24 (A) section 503 of the Federal Land Policy
25 and Management Act (43 U.S.C. 1763) in the

1 11 contiguous Western States (as identified in
2 section 103(o) of that Act (43 U.S.C.
3 1702(o))); and

4 (B) relevant departmental and agency land
5 use and resource management plans or equiva-
6 lent plans.

7 (2) COORDINATION.—The Secretary shall co-
8 ordinate with affected Federal agencies to jointly—

9 (A) identify potential utility corridors on
10 Federal land in States not described in para-
11 graph (1)(A); and

12 (B) develop a schedule for the designation,
13 environmental review, and incorporation of the
14 utility corridors into relevant departmental and
15 agency land use and resource management
16 plans or equivalent plans.

17 (3) SPECIFICATIONS OF CORRIDOR.—A corridor
18 designated under this section shall specify the cen-
19 terline, width, and compatible uses of the corridor.

20 (c) FEDERAL PERMIT COORDINATION.—

21 (1) IN GENERAL.—The Secretary shall enter
22 into a memorandum of understanding with the Sec-
23 retary of the Interior, the Secretary of Agriculture,
24 and the Secretary of Defense for the purpose of co-
25 ordinating all applicable Federal authorizations and

1 environmental reviews relating to a proposed or ex-
2 isting utility facility.

3 (2) ADDITIONAL ENTITIES.—To the maximum
4 extent practicable under applicable law, the Sec-
5 retary shall coordinate the process developed
6 through the memorandum of understanding under
7 paragraph (1) with any Indian tribes, multistate en-
8 tities, and State agencies that are responsible for
9 conducting any separate permitting and environ-
10 mental reviews of the affected utility facility to en-
11 sure timely review and permit decisions.

12 (3) CONTENTS OF MOU.—The memorandum of
13 understanding under paragraph (1) shall provide
14 for—

15 (A) coordination, among affected Federal
16 agencies, to ensure that the necessary Federal
17 authorizations—

18 (i) are conducted concurrently with
19 applicable State siting processes; and

20 (ii) are considered within a specific
21 time frame identified within the memo-
22 randum of understanding;

23 (B) an agreement among the affected Fed-
24 eral agencies to prepare a programmatic envi-
25 ronmental review document to be used as the

1 underlying basis for all Federal authorization
2 decisions; and

3 (C) a process to expedite applications to
4 construct or modify utility facilities within util-
5 ity corridors.

6 **SEC. 346. OIL SHALE LEASING.**

7 (a) **DECLARATION OF POLICY.**—Congress declares
8 that it is the policy of the United States that—

9 (1) United States oil shale and oil sands are
10 strategically important domestic resources that
11 should be developed through methods that help re-
12 duce the growing dependence of the United States
13 on politically and economically unstable sources of
14 foreign oil imports;

15 (2) the development of oil shale and oil sands,
16 for research and commercial development, should be
17 conducted in an environmentally sound and economi-
18 cally feasible manner; and

19 (3) development described in paragraph (2)
20 should occur at a deliberate pace, with an emphasis
21 on sustainability, to benefit the United States while
22 taking into account affected States and commu-
23 nities.

24 (b) **LEASING FOR RESEARCH AND DEVELOPMENT.**—

1 (1) IN GENERAL.—In accordance with section
2 21 of the Mineral Leasing Act (30 U.S.C. 241) and
3 any other applicable law, except as provided in this
4 section, not later than 1 year after the date of enact-
5 ment of this Act, from land otherwise available for
6 leasing, the Secretary of the Interior (referred to in
7 this section as the “Secretary”) shall, for a period
8 determined by the Secretary, make available for
9 leasing such land as the Secretary considers to be
10 necessary to conduct research and development ac-
11 tivities with respect to innovative technologies for
12 the recovery of shale oil from oil shale resources on
13 public land.

14 (2) APPLICATION.—The Secretary may offer to
15 lease the land to persons that submit an application
16 for the lease, if the Secretary determines that there
17 is no competitive interest in the land.

18 (3) ADMINISTRATION.—In carrying out this
19 subsection, the Secretary shall—

20 (A) provide for environmentally sound re-
21 search and development of oil shale;

22 (B) provide for an appropriate return to
23 the public, as determined by the Secretary;

24 (C) before carrying out any activity that
25 will disturb the surface of land, provide for an

1 adequate bond, surety, or other financial ar-
2 rangement to ensure reclamation;

3 (D) provide for a primary lease term of 10
4 years, after which the lease term may be ex-
5 tended if the Secretary determines that diligent
6 research and development activities are occur-
7 ring on the land leased;

8 (E) require the owner or operator of a
9 project under this subsection, within such pe-
10 riod as the Secretary may determine—

11 (i) to submit a plan of operations;

12 (ii) to develop an environmental pro-
13 tection plan; and

14 (iii) to undertake diligent research
15 and development activities;

16 (F) ensure that leases under this section
17 are not larger than necessary to conduct re-
18 search and development activities under an ap-
19 plication under paragraph (2);

20 (G) provide for consultation with affected
21 State and local governments; and

22 (H) provide for such requirements as the
23 Secretary determines to be in the public inter-
24 est.

1 (4) MONEYS RECEIVED.—Any moneys received
2 from a leasing activity under this subsection shall be
3 paid in accordance with section 35 of the Mineral
4 Leasing Act (30 U.S.C. 191).

5 (c) PROGRAMMATIC ENVIRONMENTAL IMPACT
6 STATEMENT.—Not later than 18 months after the date
7 of enactment of this Act, in accordance with section
8 102(2)(C) of the National Environmental Policy Act of
9 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall com-
10 plete a programmatic environmental impact statement
11 that analyzes potential leasing for commercial develop-
12 ment of oil shale resources on public land.

13 (d) ANALYSIS OF POTENTIAL LEASING PROGRAM.—

14 (1) IN GENERAL.—Not later than 18 months
15 after the date of enactment of this Act, the Sec-
16 retary shall submit to Congress a report (including
17 recommendations) analyzing a potential leasing pro-
18 gram for the commercial development of oil shale on
19 public land.

20 (2) INCLUSIONS.—The report under paragraph
21 (1) shall include—

22 (A) an analysis of technologies and re-
23 search and development programs for the pro-
24 duction of oil and other materials from oil shale

1 and tar sands in existence on the date on which
2 the report is prepared;

3 (B) an analysis of—

4 (i) whether leases under the program
5 should be issued on a competitive basis;

6 (ii) the term of the leases;

7 (iii) the maximum size of the leases;

8 (iv) the use and distribution of bonus
9 bid lease payments;

10 (v) the royalty rate to be applied, in-
11 cluding whether a sliding scale royalty rate
12 should be used;

13 (vi) whether an opportunity should be
14 provided to convert research and develop-
15 ment leases into leases for commercial de-
16 velopment, including the terms and condi-
17 tions that should apply to the conversion;

18 (vii) the maximum number of leases
19 and maximum acreage to be leased under
20 the leasing program to an individual; and

21 (vii) any infrastructure required to
22 support oil shale development in industry
23 and communities; and

24 (C) an analysis, developed in conjunction
25 with the appropriate State water resource agen-

1 cies, of the demand for, and availability of,
2 water with respect to the development of oil
3 shale.

4 (3) PUBLIC PARTICIPATION.—In preparing the
5 report under this subsection, the Secretary shall pro-
6 vide notice to, and solicit comment from—

7 (A) the public;

8 (B) representatives of local governments;

9 (C) representatives of industry; and

10 (D) other interested parties.

11 (4) PARTICIPATION BY CERTAIN STATES.—In
12 preparing the report under this subsection, the Sec-
13 retary shall—

14 (A) provide notice to, and solicit comment
15 from, the Governors of the States of Colorado,
16 Utah, and Wyoming; and

17 (B) incorporate into the report submitted
18 to Congress under paragraph (1) any response
19 of the Secretary to those comments.

20 (e) NATIONAL OIL SHALE ASSESSMENT.—

21 (1) ASSESSMENT.—

22 (A) IN GENERAL.—The Secretary shall
23 carry out a national assessment of oil shale re-
24 sources for the purposes of evaluating and map-

1 ping oil shale deposits, in the geographic areas
2 described in subparagraph (B).

3 (B) GEOGRAPHIC AREAS.—The geographic
4 areas referred to in subparagraph (A), listed in
5 the order in which the Secretary shall assign
6 priority, are—

7 (i) the Green River Region of the
8 States of Colorado, Utah, and Wyoming;

9 (ii) the Devonian oil shales of the
10 eastern United States; and

11 (iii) any remaining area in the central
12 and western United States (including the
13 State of Alaska) that contains oil shale, as
14 determined by the Secretary.

15 (2) USE OF STATE SURVEYS AND UNIVER-
16 SITIES.—In carrying out the assessment under para-
17 graph (1), the Secretary may request assistance
18 from any State-administered geological survey or
19 university.

20 (f) STATE WATER RIGHTS.—Nothing in this section
21 preempts or affects any State water law or interstate com-
22 pact relating to water.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as are nec-
25 essary to carry out this section.

1 **Subtitle D—Coastal Programs**

2 **SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.**

3 Section 31 of the Outer Continental Shelf Lands Act
4 (43 U.S.C. 1356a) is amended to read as follows:

5 **“SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.**

6 “(a) **DEFINITIONS.**—In this section:

7 “(1) **COASTAL POLITICAL SUBDIVISION.**—The
8 term ‘coastal political subdivision’ means a political
9 subdivision of a coastal State any part of which po-
10 litical subdivision is—

11 “(A) within the coastal zone (as defined in
12 section 304 of the Coastal Zone Management
13 Act of 1972 (16 U.S.C. 1453)) of the coastal
14 State; and

15 “(B) not more than 200 miles from the ge-
16 ographic center of any leased tract.

17 “(2) **COASTAL POPULATION.**—The term ‘coastal
18 population’ means the population, as determined by
19 the most recent official data of the Census Bureau,
20 of each political subdivision any part of which lies
21 within the designated coastal boundary of a State
22 (as defined in a State’s coastal zone management
23 program under the Coastal Zone Management Act of
24 1972 (16 U.S.C. 1451 et seq.)).

1 “(3) COASTAL STATE.—The term ‘coastal
2 State’ has the meaning given the term in section
3 304 of the Coastal Zone Management Act of 1972
4 (16 U.S.C. 1453).

5 “(4) COASTLINE.—The term ‘coastline’ has the
6 meaning given the term ‘coast line’ in section 2 of
7 the Submerged Lands Act (43 U.S.C. 1301).

8 “(5) DISTANCE.—The term ‘distance’ means
9 the minimum great circle distance, measured in stat-
10 ute miles.

11 “(6) LEASED TRACT.—The term ‘leased tract’
12 means a tract that is subject to a lease under section
13 6 or 8 for the purpose of drilling for, developing,
14 and producing oil or natural gas resources.

15 “(7) LEASING MORATORIA.—The term ‘leasing
16 moratoria’ means the prohibitions on preleasing,
17 leasing, and related activities on any geographic area
18 of the outer Continental Shelf as contained in sec-
19 tions 107 through 109 of division E of the Consoli-
20 dated Appropriations Act, 2005 (Public Law 108–
21 447; 118 Stat. 3063).

22 “(8) POLITICAL SUBDIVISION.—The term ‘polit-
23 ical subdivision’ means the local political jurisdiction
24 immediately below the level of State government, in-
25 cluding counties, parishes, and boroughs.

1 “(9) PRODUCING STATE.—

2 “(A) IN GENERAL.—The term ‘producing
3 State’ means a coastal State that has a coastal
4 seaward boundary within 200 miles of the geo-
5 graphic center of a leased tract within any area
6 of the outer Continental Shelf.

7 “(B) EXCLUSION.—The term ‘producing
8 State’ does not include a producing State, a
9 majority of the coastline of which is subject to
10 leasing moratoria.

11 “(10) QUALIFIED OUTER CONTINENTAL SHELF
12 REVENUES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 Outer Continental Shelf revenues’ means all
15 amounts received by the United States from
16 each leased tract or portion of a leased tract—

17 “(i) lying—

18 “(I) seaward of the zone covered
19 by section 8(g); or

20 “(II) within that zone, but to
21 which section 8(g) does not apply; and

22 “(ii) the geographic center of which
23 lies within a distance of 200 miles from
24 any part of the coastline of any coastal
25 State.

1 “(B) INCLUSIONS.—The term ‘qualified
2 Outer Continental Shelf revenues’ includes
3 bonus bids, rents, royalties (including payments
4 for royalty taken in kind and sold), net profit
5 share payments, and related late-payment inter-
6 est from natural gas and oil leases issued under
7 this Act.

8 “(C) EXCLUSION.—The term ‘qualified
9 Outer Continental Shelf revenues’ does not in-
10 clude any revenues from a leased tract or por-
11 tion of a leased tract that is located in a geo-
12 graphic area subject to a leasing moratorium on
13 January 1, 2005.

14 “(b) PAYMENTS TO PRODUCING STATES AND COAST-
15 AL POLITICAL SUBDIVISIONS.—

16 “(1) IN GENERAL.—From revenues deposited
17 under section 9, there is authorized to be appro-
18 priated to the Secretary to disburse funds to pro-
19 ducing States and coastal political subdivisions in
20 accordance with this section \$500,000,000 for each
21 of fiscal years 2006 through 2010.

22 “(2) DISBURSEMENT.—In each fiscal year, the
23 Secretary shall, subject to appropriations, disburse
24 to each producing State for which the Secretary has
25 approved a plan under subsection (c), and to coastal

1 political subdivisions under paragraph (5), such
2 funds as are allocated to the producing State or
3 coastal political subdivision, respectively, under this
4 section for the fiscal year.

5 “(3) TRANSFER OF AMOUNTS.—

6 “(A) IN GENERAL.—From qualified outer
7 Continental Shelf revenues deposited in the
8 Treasury under this Act for a fiscal year, sub-
9 ject to appropriations, the Secretary of the
10 Treasury shall transfer to the Secretary to pro-
11 vide disbursements to producing States and
12 coastal political subdivisions under this section
13 \$500,000,000 for each of fiscal years 2006
14 through 2010.

15 “(B) DISBURSEMENT.—For each fiscal
16 year, the Secretary shall, subject to the avail-
17 ability of appropriations under subparagraph
18 (A), disburse to each producing State for which
19 the Secretary has an approved plan under para-
20 graph (4), and to coastal political subdivisions
21 under paragraph (5), the funds allocated to the
22 producing State or coastal political subdivision
23 under this section for the fiscal year.

24 “(4) ALLOCATION AMONG PRODUCING
25 STATES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (C) and subject to subparagraph
3 (D), the amounts available under paragraph (1)
4 shall be allocated to each producing State based
5 on the ratio that—

6 “(i) the amount of qualified outer
7 Continental Shelf revenues generated off
8 the coastline of the producing State; bears
9 to

10 “(ii) the amount of qualified outer
11 Continental Shelf revenues generated off
12 the coastline of all producing States.

13 “(B) AMOUNT OF OUTER CONTINENTAL
14 SHELF REVENUES.—For purposes of subpara-
15 graph (A)—

16 “(i) the amount of qualified outer
17 Continental Shelf revenues for each of fis-
18 cal years 2006 through 2008 shall be de-
19 termined using qualified outer Continental
20 Shelf revenues received for fiscal year
21 2005; and

22 “(ii) the amount of qualified outer
23 Continental Shelf revenues for each of fis-
24 cal years 2009 through 2011 shall be de-
25 termined using qualified outer Continental

1 Shelf revenues received for fiscal year
2 2008.

3 “(C) MULTIPLE PRODUCING STATES.—In
4 a case in which more than 1 producing State is
5 located within 200 miles of any portion of a
6 leased tract, the amount allocated to each pro-
7 ducing State for the leased tract shall be in-
8 versely proportional to the distance between—

9 “(i) the nearest point on the coastline
10 of the producing State; and

11 “(ii) the geographic center of the
12 leased tract.

13 “(D) MINIMUM ALLOCATION.—The
14 amount allocated to a producing State under
15 subparagraph (A) shall be at least 1 percent of
16 the amounts available under paragraph (1).

17 “(5) PAYMENTS TO COASTAL POLITICAL SUB-
18 DIVISIONS.—

19 “(A) IN GENERAL.—The Secretary shall
20 pay 35 percent of the amount allocated under
21 paragraph (3) to the coastal political subdivi-
22 sions in the producing State.

23 “(B) FORMULA.—Of the amount paid by
24 the Secretary to coastal political subdivisions
25 under subparagraph (A)—

1 “(i) 25 percent shall be allocated to
2 each coastal political subdivision in the
3 proportion that—

4 “(I) the coastal population of the
5 coastal political subdivision; bears to

6 “(II) the coastal population of all
7 coastal political subdivisions in the
8 producing State;

9 “(ii) 25 percent shall be allocated to
10 each coastal political subdivision in the
11 proportion that—

12 “(I) the number of miles of
13 coastline of the coastal political sub-
14 division; bears to

15 “(II) the number of miles of
16 coastline of all coastal political sub-
17 divisions in the producing State; and

18 “(iii) 50 percent shall be allocated in
19 amounts that are inversely proportional to
20 the respective distances between the points
21 in each coastal political subdivision that
22 are closest to the geographic center of each
23 leased tract, as determined by the Sec-
24 retary.

1 “(C) EXCEPTION FOR THE STATE OF LOU-
2 ISIANA.—For the purposes of subparagraph
3 (B)(ii), the coastline for coastal political sub-
4 divisions in the State of Louisiana without a
5 coastline shall be the average length of the
6 coastline of all coastal political subdivisions
7 with a coastline in the State of Louisiana.

8 “(D) EXCEPTION FOR THE STATE OF
9 ALASKA.—For the purposes of carrying out
10 subparagraph (B)(iii) in the State of Alaska,
11 the amounts allocated shall be divided equally
12 among the 2 coastal political subdivisions that
13 are closest to the geographic center of a leased
14 tract.

15 “(E) EXCLUSION OF CERTAIN LEASED
16 TRACTS.—For purposes of subparagraph
17 (B)(iii), a leased tract or portion of a leased
18 tract shall be excluded if the tract or portion of
19 a leased tract is located in a geographic area
20 subject to a leasing moratorium on January 1,
21 2005.

22 “(6) NO APPROVED PLAN.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B) and except as provided in subpara-
25 graph (C), in a case in which any amount allo-

1 cated to a producing State or coastal political
2 subdivision under paragraph (4) or (5) is not
3 disbursed because the producing State does not
4 have in effect a plan that has been approved by
5 the Secretary under subsection (c), the Sec-
6 retary shall allocate the undisbursed amount
7 equally among all other producing States.

8 “(B) RETENTION OF ALLOCATION.—The
9 Secretary shall hold in escrow an undisbursed
10 amount described in subparagraph (A) until
11 such date as the final appeal regarding the dis-
12 approval of a plan submitted under subsection
13 (c) is decided.

14 “(C) WAIVER.—The Secretary may waive
15 subparagraph (A) with respect to an allocated
16 share of a producing State and hold the allo-
17 cable share in escrow if the Secretary deter-
18 mines that the producing State is making a
19 good faith effort to develop and submit, or up-
20 date, a plan in accordance with subsection (c).

21 “(c) COASTAL IMPACT ASSISTANCE PLAN.—

22 “(1) SUBMISSION OF STATE PLANS.—

23 “(A) IN GENERAL.—Not later than July 1,
24 2008, the Governor of a producing State shall

1 submit to the Secretary a coastal impact assist-
2 ance plan.

3 “(B) PUBLIC PARTICIPATION.—In carrying
4 out subparagraph (A), the Governor shall solicit
5 local input and provide for public participation
6 in the development of the plan.

7 “(2) APPROVAL.—

8 “(A) IN GENERAL.—The Secretary shall
9 approve a plan of a producing State submitted
10 under paragraph (1) before disbursing any
11 amount to the producing State, or to a coastal
12 political subdivision located in the producing
13 State, under this section.

14 “(B) COMPONENTS.—The Secretary shall
15 approve a plan submitted under paragraph (1)
16 if—

17 “(i) the Secretary determines that the
18 plan is consistent with the uses described
19 in subsection (d); and

20 “(ii) the plan contains—

21 “(I) the name of the State agen-
22 cy that will have the authority to rep-
23 resent and act on behalf of the pro-
24 ducing State in dealing with the Sec-
25 retary for purposes of this section;

1 “(II) a program for the imple-
2 mentation of the plan that describes
3 how the amounts provided under this
4 section to the producing State will be
5 used;

6 “(III) for each coastal political
7 subdivision that receives an amount
8 under this section—

9 “(aa) the name of a contact
10 person; and

11 “(bb) a description of how
12 the coastal political subdivision
13 will use amounts provided under
14 this section;

15 “(IV) a certification by the Gov-
16 ernor that ample opportunity has been
17 provided for public participation in
18 the development and revision of the
19 plan; and

20 “(V) a description of measures
21 that will be taken to determine the
22 availability of assistance from other
23 relevant Federal resources and pro-
24 grams.

1 “(3) AMENDMENT.—Any amendment to a plan
2 submitted under paragraph (1) shall be—

3 “(A) developed in accordance with this
4 subsection; and

5 “(B) submitted to the Secretary for ap-
6 proval or disapproval under paragraph (4).

7 “(4) PROCEDURE.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), not later than 90 days after
10 the date on which a plan or amendment to a
11 plan is submitted under paragraph (1) or (3),
12 the Secretary shall approve or disapprove the
13 plan or amendment.

14 “(B) EXCEPTION.—For fiscal year 2006,
15 the Secretary shall approve or disapprove a
16 plan submitted under paragraph (1) not later
17 than December 31, 2006.

18 “(d) AUTHORIZED USES.—

19 “(1) IN GENERAL.—A producing State or coast-
20 al political subdivision shall use all amounts received
21 under this section, including any amount deposited
22 in a trust fund that is administered by the State or
23 coastal political subdivision and dedicated to uses
24 consistent with this section, in accordance with all

1 applicable Federal and State law, only for 1 or more
2 of the following purposes:

3 “(A) Projects and activities for the con-
4 servation, protection, or restoration of coastal
5 areas, including wetland.

6 “(B) Mitigation of damage to fish, wildlife,
7 or natural resources.

8 “(C) Planning assistance and the adminis-
9 trative costs of complying with this section.

10 “(D) Implementation of a federally-ap-
11 proved marine, coastal, or comprehensive con-
12 servation management plan.

13 “(E) Mitigation of the impact of outer
14 Continental Shelf activities through funding of
15 onshore infrastructure projects and public serv-
16 ice needs.

17 “(2) COMPLIANCE WITH AUTHORIZED USES.—
18 If the Secretary determines that any expenditure
19 made by a producing State or coastal political sub-
20 division is not consistent with this subsection, the
21 Secretary shall not disburse any additional amount
22 under this section to the producing State or the
23 coastal political subdivision until such time as all
24 amounts obligated for unauthorized uses have been
25 repaid or reobligated for authorized uses.”.

1 **Subtitle E—Natural Gas**

2 **SEC. 381. EXPORTATION OR IMPORTATION OF NATURAL**
3 **GAS.**

4 Section 3 of the Natural Gas Act (15 U.S.C. 717b)
5 is amended by adding at the end the following:

6 “(d) Except as specifically provided in this part, noth-
7 ing in this Act affects the rights of States under—

8 “(1) the Coastal Zone Management Act of 1972
9 (16 U.S.C. 1451 et seq.)

10 “(2) the Clean Air Act (42 U.S.C. 7401 et
11 seq.); or

12 “(3) the Federal Water Pollution Control Act
13 (33 U.S.C. 1251 et seq.).

14 “(e)(1) No facilities located onshore or in State wa-
15 ters for the import of natural gas from a foreign country,
16 or the export of natural gas to a foreign country, shall
17 be sited, constructed, expanded, or operated, unless the
18 Commission has authorized such acts or operations.

19 “(2) The Commission shall have the exclusive author-
20 ity to approve or deny an application for the siting, con-
21 struction, expansion, or operation of facilities located on-
22 shore or in State waters for the import of natural gas from
23 a foreign county or the export of natural gas to a foreign
24 country.

1 “(3)(A) Except as provided in subparagraph (B), the
2 Commission may approve an application described in para-
3 graph (2), in whole or part, with such modifications and
4 upon such terms and conditions as the Commission finds
5 appropriate.

6 “(B) The Commission shall not—

7 “(i) deny an application solely on the basis that
8 the applicant proposes to use the liquefied natural
9 gas import facility exclusively or partially for gas
10 that the applicant or an affiliate of the applicant will
11 supply to the facility; or

12 “(ii) condition an order on—

13 “(I) a requirement that the liquefied nat-
14 ural gas import facility offer service to cus-
15 tomers other than the applicant, or any affiliate
16 of the applicant, securing the order;

17 “(II) any regulation of the rates, charges,
18 terms, or conditions of service of the liquefied
19 natural gas import facility; or

20 “(III) a requirement to file with the Com-
21 mission schedules or contracts related to the
22 rates, charges, terms, or conditions of service of
23 the liquefied natural gas import facility.

24 “(4) An order issued for a liquefied natural gas im-
25 port facility that also offers service to customers on an

1 open access basis shall not result in subsidization of ex-
2 pansion capacity by existing customers, degradation of
3 service to existing customers, or undue discrimination
4 against existing customers as to their terms or conditions
5 of service at the facility, as all of those terms are defined
6 by the Commission.”.

7 **SEC. 382. NEW NATURAL GAS STORAGE FACILITIES.**

8 Section 4 of the Natural Gas Act (15 U.S.C. 717e)
9 is amended by adding at the end the following:

10 “(f)(1) In exercising its authority under this Act or
11 the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et
12 seq.), the Commission may authorize a natural gas com-
13 pany (or any person that will be a natural gas company
14 on completion of any proposed construction) to provide
15 storage and storage-related services at market-based rates
16 for new storage capacity placed in service after the date
17 of enactment of the Energy Policy Act of 2005, notwith-
18 standing the fact that the company is unable to dem-
19 onstrate that the company lacks market power, if the
20 Commission determines that—

21 “(A) market-based rates are in the public inter-
22 est and necessary to encourage the construction of
23 storage capacity in areas needing storage services;
24 and

25 “(B) customers are adequately protected.

1 “(2) The Commission shall ensure that reasonable
2 terms and conditions are in place to protect consumers.

3 “(3) If the Commission authorizes a natural gas com-
4 pany to charge market-based rates under this subsection,
5 the Commission shall review periodically (but not more
6 frequently than triennially) whether the market-based rate
7 is just, reasonable, and not unduly discriminatory or pref-
8 erential.”.

9 **SEC. 383. PROCESS COORDINATION; HEARINGS; RULES OF**
10 **PROCEDURES.**

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

13 (1) by striking the section heading and insert-
14 ing the following:

15 “PROCESS COORDINATION; HEARINGS; RULES OF
16 PROCEDURE”;

17 (2) by redesignating subsections (a) and (b) as
18 subsections (e) and (f), respectively;

19 (3) by striking “SEC. 15.” and inserting the fol-
20 lowing:

21 “SEC. 15. (a) In this section, the term ‘Federal
22 authorization’—

23 “(1) means any authorization required under
24 Federal law with respect to an application for au-
25 thorization under section 3 or a certificate of public
26 convenience and necessity under section 7; and

1 “(2) includes any permits, special use author-
2 izations, certifications, opinions, or other approvals
3 as may be required under Federal law with respect
4 to an application for authorization under section 3
5 or a certificate of public convenience and necessity
6 under section 7.

7 “(b)(1) With respect to an application for Federal au-
8 thorization, the Commission shall, unless the Commission
9 orders otherwise, be the lead agency for purposes of com-
10 plying with the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.).

12 “(2) As lead agency, the Commission, in consultation
13 with affected agencies, shall prepare a single environ-
14 mental review document, which shall be used as a basis
15 for all decisions under Federal law on—

16 “(A) an application for authorization under sec-
17 tion 3; or

18 “(B) a certificate of public convenience and ne-
19 cessity under section 7.

20 “(c)(1) The Commission shall, in consultation with
21 agencies responsible for Federal authorizations, and with
22 due consideration of recommendations by the agencies, es-
23 tablish a schedule for all Federal authorizations required
24 to be completed before an application under section 3 or
25 7 may be approved.

1 “(2) In establishing a schedule, the Commission shall
2 comply with applicable schedules established by Federal
3 law.

4 “(3) All Federal and State agencies with jurisdiction
5 over natural gas infrastructure shall seek to coordinate
6 their proceedings within the timeframes established by the
7 Commission with respect to an application for authoriza-
8 tion under section 3 or a certificate of public convenience
9 and necessity under section 7.

10 “(d)(1) In a case in which an administrative agency
11 or officer has failed to act by the deadline established by
12 the Commission under this section for deciding whether
13 to issue the authorization, the applicant or any State in
14 which the facility would be located may file an appeal with
15 the President, who shall, in consultation with the affected
16 agency, take action on the pending application.

17 “(2) Based on the overall record and in consultation
18 with the affected agency, the President may—

19 “(A) issue the necessary authorization with any
20 appropriate conditions; or

21 “(B) deny the application.

22 “(3) Not later than 90 days after the filing of an
23 appeal, the President shall issue a decision as to that ap-
24 peal.

1 “(4) In making a decision under this subsection, the
2 President shall comply with applicable requirements of
3 Federal law, including—

4 “(A) the Endangered Species Act of 1973 (16
5 U.S.C. 1531 et seq.)

6 “(B) the Federal Water Pollution Control Act
7 (33 U.S.C. 1251 et seq.);

8 “(C) the National Forest Management Act of
9 1976 (16 U.S.C. 472a et seq.);

10 “(D) the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.);

12 “(E) the Federal Land Policy and Management
13 Act of 1976 (43 U.S.C. 1701 et seq.);

14 “(F) the Coastal Zone Management Act of
15 1972 (16 U.S.C. 1451 et seq.); and

16 “(G) the Clean Air Act (42 U.S.C. 7401 et
17 seq.).”.

18 **SEC. 384. PENALTIES.**

19 (a) CRIMINAL PENALTIES.—

20 (1) NATURAL GAS ACT.—Section 21 of the Nat-
21 ural Gas Act (15 U.S.C. 717t) is amended—

22 (A) in subsection (a)—

23 (i) by striking “\$5,000” and inserting
24 “\$1,000,000”; and

1 (ii) by striking “two years” and in-
2 serting “5 years”; and

3 (B) in subsection (b), by striking “\$500”
4 and inserting “\$50,000”.

5 (2) NATURAL GAS POLICY ACT OF 1978.—Sec-
6 tion 504(c) of the Natural Gas Policy Act of 1978
7 (15 U.S.C. 3414(c)) is amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 “\$5,000” and inserting “\$1,000,000”;

11 (ii) in subparagraph (B), by striking
12 “two years” and inserting “5 years”; and

13 (B) in paragraph (2), by striking “\$500
14 for each violation” and inserting “\$50,000 for
15 each day on which the offense occurs”.

16 (b) CIVIL PENALTIES.—

17 (1) NATURAL GAS ACT.—The Natural Gas Act
18 (15 U.S.C. 717 et seq.) is amended—

19 (A) by redesignating sections 22 through
20 24 as sections 24 through 26, respectively; and

21 (B) by inserting after section 21 (15
22 U.S.C. 717t) the following:

23 “CIVIL PENALTY AUTHORITY

24 “SEC. 22. (a) Any person that violates this Act, or
25 any rule, regulation, restriction, condition, or order made
26 or imposed by the Commission under authority of this Act,

1 shall be subject to a civil penalty of not more than
2 \$1,000,000 per day per violation for as long as the viola-
3 tion continues.

4 “(b) The penalty shall be assessed by the Commission
5 after notice and opportunity for public hearing.

6 “(c) In determining the amount of a proposed pen-
7 alty, the Commission shall take into consideration the na-
8 ture and seriousness of the violation and the efforts to
9 remedy the violation.”.

10 (2) NATURAL GAS POLICY ACT OF 1978.—Sec-
11 tion 504(b)(6)(A) of the Natural Gas Policy Act of
12 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

13 (A) in clause (i), by striking “\$5,000” and
14 inserting “\$1,000,000”; and

15 (B) in clause (ii), by striking “\$25,000”
16 and inserting “\$1,000,000”.

17 **SEC. 385. MARKET MANIPULATION.**

18 The Natural Gas Act is amended by inserting after
19 section 4 (15 U.S.C. 717c) the following:

20 “PROHIBITION ON MARKET MANIPULATION

21 “SEC. 4A. It shall be unlawful for any entity, directly
22 or indirectly, to use or employ, in connection with the pur-
23 chase or sale of natural gas or the purchase or sale of
24 transportation services subject to the jurisdiction of the
25 Commission, any manipulative or deceptive device or con-
26 trivance (as those terms are used in section 10(b) of the

1 Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) in
2 contravention of such rules and regulations as the Com-
3 mission may prescribe as necessary in the public interest
4 or for the protection of natural gas ratepayers.”

5 **SEC. 386. NATURAL GAS MARKET TRANSPARENCY RULES.**

6 The Natural Gas Act (15 U.S.C. 717 et seq.) (as
7 amended by section 385(b)(1)) is amended by inserting
8 after section 22 the following:

9 “NATURAL GAS MARKET TRANSPARENCY RULES

10 “SEC. 23. (a)(1) The Commission may issue such
11 rules as the Commission considers to be appropriate to
12 establish an electronic information system to provide the
13 Commission and the public with access to such informa-
14 tion as is necessary to facilitate price transparency and
15 participation in markets for the sale or transportation of
16 natural gas in interstate commerce.

17 “(2) The system under paragraph (1) shall provide,
18 on a timely basis, information about the availability and
19 prices of natural gas sold at wholesale and in interstate
20 commerce to the Commission, State commissions, buyers
21 and sellers of wholesale natural gas, and the public.

22 “(3) The Commission may—

23 “(A) obtain information described in paragraph
24 (2) from any market participant; and

25 “(B) rely on an entity other than the Commis-
26 sion to receive and make public the information.

1 “(b)(1) Rules described in subsection (a)(1), if adopt-
2 ed, shall exempt from disclosure information the Commis-
3 sion determines would, if disclosed, be detrimental to the
4 operation of an effective market or jeopardize system secu-
5 rity.

6 “(2) In determining the information to be made avail-
7 able under this section and time to make the information
8 available, the Commission shall seek to ensure that con-
9 sumers and competitive markets are protected from the
10 adverse effects of potential collusion or other anticompeti-
11 tive behaviors that can be facilitated by untimely public
12 disclosure of transaction-specific information.

13 “(c)(1) This section shall not affect the exclusive ju-
14 risdiction of the Commodity Futures Trading Commission
15 with respect to accounts, agreements, contracts, or trans-
16 actions in commodities under the Commodity Exchange
17 Act (7 U.S.C. 1 et seq.).

18 “(2) Any request for information to a designated con-
19 tract market, registered derivatives transaction execution
20 facility, board of trade, exchange, or market involving ac-
21 counts, agreements, contracts, or transactions in commod-
22 ities (including natural gas, electricity and other energy
23 commodities) within the exclusive jurisdiction of the Com-
24 modity Futures Trading Commission shall be directed to
25 the Commodity Futures Trading Commission, which shall

1 cooperate in responding to any information request by the
2 Commission.

3 “(d) In carrying out this section, the Commission
4 shall not—

5 “(1) compete with, or displace from the market
6 place, any price publisher (including any electronic
7 price publisher);

8 “(2) regulate price publishers (including any
9 electronic price publisher); or

10 “(3) impose any requirements on the publica-
11 tion of information by price publishers (including
12 any electronic price publisher).

13 “(e)(1) The Commission shall not condition access to
14 interstate pipeline transportation on the reporting require-
15 ments of this section.

16 “(2) The Commission shall not require natural gas
17 producers, processors, or users who have a de minimis
18 market presence to comply with the reporting require-
19 ments of this section.

20 “(f)(1) Except as provided in paragraph (2), no per-
21 son shall be subject to any civil penalty under this section
22 with respect to any violation occurring more than 3 years
23 before the date on which the person is provided notice of
24 the proposed penalty under section 22(b).

1 “(2) Paragraph (1) shall not apply in any case in
2 which the Commission finds that a seller that has entered
3 into a contract for the transportation or sale of natural
4 gas subject to the jurisdiction of the Commission has en-
5 gaged in fraudulent market manipulation activities materi-
6 ally affecting the contract in violation of section 4A.”.

7 **SEC. 387. DEADLINE FOR DECISION ON APPEALS OF CON-**
8 **SISTENCY DETERMINATION UNDER THE**
9 **COASTAL ZONE MANAGEMENT ACT OF 1972.**

10 (a) IN GENERAL.—Section 319 of the Coastal Zone
11 Management Act of 1972 (16 U.S.C. 1465) is amended
12 to read as follows:

13 “APPEALS TO THE SECRETARY

14 “SEC. 319. (a) NOTICE.—Not later than 30 days
15 after the date of the filing of an appeal to the Secretary
16 of a consistency determination under section 307, the Sec-
17 retary shall publish an initial notice in the Federal Reg-
18 ister.

19 “(b) CLOSURE OF RECORD.—

20 “(1) IN GENERAL.—Not later than the end of
21 the 270-day period beginning on the date of publica-
22 tion of an initial notice under subsection (a), except
23 as provided in paragraph (3), the Secretary shall im-
24 mediately close the decision record and receive no
25 more filings on the appeal.

1 “(2) NOTICE.—After closing the administrative
2 record, the Secretary shall immediately publish a no-
3 tice in the Federal Register that the administrative
4 record has been closed.

5 “(3) EXCEPTION.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), during the 270-day period described
8 in paragraph (1), the Secretary may stay the
9 closing of the decision record—

10 “(i) for a specific period mutually
11 agreed to in writing by the appellant and
12 the State agency; or

13 “(ii) as the Secretary determines nec-
14 essary to receive, on an expedited basis—

15 “(I) any supplemental informa-
16 tion specifically requested by the Sec-
17 retary to complete a consistency re-
18 view under this Act; or

19 “(II) any clarifying information
20 submitted by a party to the pro-
21 ceeding related to information already
22 existing in the sole record.

23 “(B) APPLICABILITY.—The Secretary may
24 only stay the 270-day period described in para-
25 graph (1) for a period not to exceed 60 days.

1 “(c) DEADLINE FOR DECISION.—

2 “(1) IN GENERAL.—Not later than 90 days
3 after the date of publication of a Federal Register
4 notice stating when the decision record for an appeal
5 has been closed, the Secretary shall issue a decision
6 or publish a notice in the Federal Register explain-
7 ing why a decision cannot be issued at that time.

8 “(2) SUBSEQUENT DECISION.—Not later than
9 45 days after the date of publication of a Federal
10 Register notice explaining why a decision cannot be
11 issued within the 90-day period, the Secretary shall
12 issue a decision.”.

13 **SEC. 388. FEDERAL-STATE LIQUEFIED NATURAL GAS FO-**
14 **RUMS.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of this Act, the Secretary, in coopera-
17 tion and consultation with the Secretary of Transpor-
18 tation, the Secretary of Homeland Security, the Federal
19 Energy Regulatory Commission, and the Governors of the
20 Coastal States, shall convene not less than 3 forums on
21 liquefied natural gas.

22 (b) REQUIREMENTS.—The forums shall—

23 (1) be located in areas where liquefied natural
24 gas facilities are under consideration;

1 (2) be designed to foster dialogue among Fed-
2 eral officials, State and local officials, the general
3 public, independent experts, and industry represent-
4 atives; and

5 (3) at a minimum, provide an opportunity for
6 public education and dialogue on—

7 (A) the role of liquefied natural gas in
8 meeting current and future United States en-
9 ergy supply requirements and demand, in the
10 context of the full range of energy supply op-
11 tions;

12 (B) the Federal and State siting and per-
13 mitting processes;

14 (C) the potential risks and rewards associ-
15 ated with importing liquefied natural gas;

16 (D) the Federal safety and environmental
17 requirements (including regulations) applicable
18 to liquefied natural gas;

19 (E) prevention, mitigation, and response
20 strategies for liquefied natural gas hazards; and

21 (F) additional issues as appropriate.

22 (c) PURPOSE.—The purpose of the forums shall be
23 to identify and develop best practices for addressing the
24 issues and challenges associated with liquefied natural gas
25 imports, building on existing cooperative efforts.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.

4 **SEC. 389. PROHIBITION OF TRADING AND SERVING BY CER-**
5 **TAIN PERSONS.**

6 Section 20 of the Natural Gas Act (15 U.S.C. 717s)
7 is amended by adding at the end the following:

8 “(d) In any proceedings under subsection (a), the
9 court may prohibit, conditionally or unconditionally, and
10 permanently or for such period of time as the court deter-
11 mines, any person who is engaged or has engaged in prac-
12 tices constituting a violation of section 4A (including re-
13 lated rules and regulations) from—

14 “(1) acting as an officer or director of a natural
15 gas company; or

16 “(2) engaging in the business of—

17 “(A) the purchasing or selling of natural
18 gas; or

19 “(B) the purchasing or selling of trans-
20 mission services subject to the jurisdiction of
21 the Commission.”.

1 **Subtitle F—Federal Coalbed**
2 **Methane Regulation**

3 **SEC. 391. FEDERAL COALBED METHANE REGULATION.**

4 Any State that, as of the date of enactment of this
5 Act, is included on the list of affected States established
6 under section 1339(b) of the Energy Policy Act of 1992
7 (42 U.S.C. 13368(b)) shall be removed from the list if,
8 not later than 3 years after the date of enactment of this
9 Act, the State takes, or prior to that date of enactment,
10 has taken, any of the actions required for removal from
11 the list under that section.

12 **TITLE IV—COAL**
13 **Subtitle A—Clean Coal Power**
14 **Initiative**

15 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) CLEAN COAL POWER INITIATIVE.—There is au-
17 thorized to be appropriated to the Secretary to carry out
18 the activities authorized by this subtitle \$200,000,000 for
19 each of fiscal years 2006 through 2014, to remain avail-
20 able until expended.

21 (b) REPORT.—Not later than March 31, 2006, the
22 Secretary shall submit to Congress a report that includes
23 an 8-year plan containing—

24 (1) a detailed assessment of whether the aggre-
25 gate assistance levels provided under subsection (a)

1 are the appropriate assistance levels for the clean
2 coal power initiative;

3 (2) a detailed description of how proposals for
4 assistance under the clean coal power initiative will
5 be solicited and evaluated, including a list of all ac-
6 tivities expected to be undertaken;

7 (3) a detailed list of technical milestones for
8 each coal and related technology that will be pursued
9 under the clean coal power initiative; and

10 (4) a detailed description of how the clean coal
11 power initiative will avoid problems enumerated in
12 Government Accountability Office reports on the
13 Clean Coal Technology Program of the Department,
14 including problems that have resulted in unspent
15 funds and projects that failed either financially or
16 scientifically.

17 **SEC. 402. PROJECT CRITERIA.**

18 (a) IN GENERAL.—To be eligible to receive assistance
19 under this subtitle, a project shall advance efficiency, envi-
20 ronmental performance, and cost competitiveness well be-
21 yond the level of technologies that are in commercial serv-
22 ice or have been demonstrated on a scale that the Sec-
23 retary determines is sufficient to demonstrate that com-
24 mercial service is viable as of the date of enactment of
25 this Act.

1 (b) TECHNICAL CRITERIA FOR CLEAN COAL POWER
2 INITIATIVE.—

3 (1) GASIFICATION PROJECTS.—

4 (A) IN GENERAL.—In allocating the funds
5 made available under section 401(a), the Sec-
6 retary shall ensure that at least 80 percent of
7 the funds are used only to fund projects on
8 coal-based gasification technologies, including—

- 9 (i) gasification combined cycle;
10 (ii) gasification fuel cells;
11 (iii) gasification coproduction; and
12 (iv) hybrid gasification or combustion.

13 (B) TECHNICAL MILESTONES.—

14 (i) PERIODIC DETERMINATION.—

15 (I) IN GENERAL.—The Secretary
16 shall periodically set technical mile-
17 stones specifying the emission and
18 thermal efficiency levels that coal gas-
19 ification projects under this subtitle
20 shall be designed, and reasonably ex-
21 pected, to achieve.

22 (II) RESTRICTIVE MILE-
23 STONES.—The technical milestones
24 shall become more restrictive during

1 the period of the clean coal power ini-
2 tiative.

3 (ii) 2020 GOALS.—The Secretary shall
4 establish the periodic milestones so as to
5 achieve by the year 2020 coal gasification
6 projects able—

7 (I) to remove at least 99 percent
8 of sulfur dioxide;

9 (II) to emit not more than .05
10 lbs of NO_x per million Btu;

11 (III) to achieve substantial reduc-
12 tions in mercury emissions; and

13 (IV) to achieve a thermal effi-
14 ciency of at least—

15 (aa) 60 percent for coal of
16 more than 9,000 Btu;

17 (bb) 59 percent for coal of
18 7,000 to 9,000 Btu; and

19 (cc) 50 percent for coal of
20 less than 7,000 Btu.

21 (2) OTHER PROJECTS.—

22 (A) ALLOCATION OF FUNDS.—The Sec-
23 retary shall ensure that up to 20 percent of the
24 funds made available under section 401(a) are

1 used to fund projects other than those described
2 in paragraph (1).

3 (B) TECHNICAL MILESTONES.—

4 (i) PERIODIC DETERMINATION.—

5 (I) IN GENERAL.—The Secretary
6 shall periodically establish technical
7 milestones specifying the emission and
8 thermal efficiency levels that projects
9 funded under this paragraph shall be
10 designed, and reasonably expected, to
11 achieve.

12 (II) RESTRICTIVE MILE-
13 STONES.—The technical milestones
14 shall become more restrictive during
15 the period of the clean coal power ini-
16 tiative.

17 (ii) 2010 GOALS.—The Secretary shall
18 set the periodic milestones so as to achieve
19 by the year 2010 projects able—

20 (I) to remove at least 97 percent
21 of sulfur dioxide;

22 (II) to emit no more than .08 lbs
23 of NO_x per million Btu;

24 (III) to achieve substantial reduc-
25 tions in mercury emissions; and

333

1 (IV) to achieve a thermal effi-
2 ciency of at least—

3 (aa) 45 percent for coal of
4 more than 9,000 Btu;

5 (bb) 44 percent for coal of
6 7,000 to 9,000 Btu; and

7 (cc) 40 percent for coal of
8 less than 7,000 Btu.

9 (3) CONSULTATION.—Before setting the tech-
10 nical milestones under paragraphs (1)(B) and
11 (2)(B), the Secretary shall consult with—

12 (A) the Administrator of the Environ-
13 mental Protection Agency; and

14 (B) interested entities, including—

15 (i) coal producers;

16 (ii) industries using coal;

17 (iii) organizations that promote coal
18 or advanced coal technologies;

19 (iv) environmental organizations; and

20 (v) organizations representing work-
21 ers.

22 (4) EXISTING UNITS.—In the case of projects
23 at units in existence on the date of enactment of this
24 Act, in lieu of the thermal efficiency requirements
25 described in paragraphs (1)(B)(ii)(IV) and

1 (2)(B)(ii)(IV), the milestones shall be designed to
2 achieve an overall thermal design efficiency improve-
3 ment, compared to the efficiency of the unit as oper-
4 ated, of not less than—

5 (A) 7 percent for coal of more than 9,000
6 Btu;

7 (B) 6 percent for coal of 7,000 to 9,000
8 Btu; or

9 (C) 4 percent for coal of less than 7,000
10 Btu.

11 (5) ADMINISTRATION.—

12 (A) ELEVATION OF SITE.—In evaluating
13 project proposals to achieve thermal efficiency
14 levels established under paragraphs (1)(B)(i)
15 and (2)(B)(i) and in determining progress to-
16 wards thermal efficiency milestones under para-
17 graphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4),
18 the Secretary shall take into account and make
19 adjustments for the elevation of the site at
20 which a project is proposed to be constructed.

21 (B) APPLICABILITY OF MILESTONES.—The
22 thermal efficiency milestones under paragraphs
23 (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) shall not
24 apply to projects that separate and capture at

1 least 50 percent of the potential emissions of
2 carbon dioxide by a facility.

3 (C) PRIORITY.—In carrying out this sub-
4 title, the Secretary shall give priority to projects
5 that include, as part of the project, the separa-
6 tion and capture of carbon dioxide.

7 (c) FINANCIAL CRITERIA.—The Secretary shall not
8 provide financial assistance under this subtitle for a
9 project unless the recipient documents to the satisfaction
10 of the Secretary that—

11 (1) the receipt of Federal assistance for the
12 project is not required for the recipient to be finan-
13 cially viable;

14 (2) the recipient will provide sufficient informa-
15 tion to the Secretary to enable the Secretary to en-
16 sure that the funds are spent efficiently and effec-
17 tively; and

18 (3) a market exists for the technology being
19 demonstrated or applied, as evidenced by statements
20 of interest in writing from potential purchasers of
21 the technology.

22 (d) FINANCIAL ASSISTANCE.—The Secretary shall
23 provide financial assistance to projects that, as determined
24 by the Secretary—

1 (1) meet the requirements of subsections (a),
2 (b), and (c); and

3 (2) are likely—

4 (A) to achieve overall cost reductions in
5 the use of coal to generate useful forms of en-
6 ergy;

7 (B) to improve the competitiveness of coal
8 among various forms of energy in order to
9 maintain a diversity of fuel choices in the
10 United States to meet electricity generation re-
11 quirements; and

12 (C) to demonstrate methods and equip-
13 ment that are applicable to 25 percent of the
14 electricity generating facilities, using various
15 types of coal, that use coal as the primary feed-
16 stock as of the date of enactment of this Act.

17 (e) COST-SHARING.—In carrying out this subtitle,
18 the Secretary shall require cost sharing in accordance with
19 section 1002.

20 (f) APPLICABILITY.—No technology, or level of emis-
21 sion reduction, solely by reason of the use of the tech-
22 nology, or the achievement of the emission reduction, by
23 1 or more facilities receiving assistance under this Act,
24 shall be considered to be—

1 (1) adequately demonstrated for purposes of
2 section 111 of the Clean Air Act (42 U.S.C. 7411);

3 (2) achievable for purposes of section 169 of
4 that Act (42 U.S.C. 7479); or

5 (3) achievable in practice for purposes of sec-
6 tion 171 of that Act (42 U.S.C. 7501).

7 **SEC. 403. REPORT.**

8 Not later than 1 year after the date of enactment
9 of this Act, and once every 2 years thereafter through
10 2012, the Secretary, in consultation with other appro-
11 priate Federal agencies, shall submit to Congress a report
12 describing—

13 (1)(A) the technical milestones described in sec-
14 tion 402; and

15 (B) how those milestones ensure progress to-
16 ward meeting the requirements of subsections
17 (b)(1)(B) and (b)(2)(B) of section 402; and

18 (2) the status of projects that receive assistance
19 under this subtitle.

20 **SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.**

21 (a) IN GENERAL.—As part of the clean coal power
22 initiative, the Secretary shall award competitive, merit-
23 based grants to institutions of higher education for the
24 establishment of centers of excellence for energy systems
25 of the future.

1 (b) BASIS FOR GRANTS.— The Secretary shall award
2 grants under this section to institutions of higher edu-
3 cation that show the greatest potential for advancing new
4 clean coal technologies.

5 **SEC. 405. INTEGRATED COAL/RENEWABLE ENERGY SYS-**
6 **TEM.**

7 (a) IN GENERAL.—Subject to the availability of ap-
8 propriations, the Secretary may provide loan guarantees
9 for a project to produce energy from coal of less than
10 7,000 Btu/lb using appropriate advanced integrated gasifi-
11 cation combined cycle technology, including repowering of
12 existing facilities, that—

13 (1) is combined with wind and other renewable
14 sources;

15 (2) minimizes and offers the potential to se-
16 quester carbon dioxide emissions; and

17 (3) provides a ready source of hydrogen for
18 near-site fuel cell demonstrations.

19 (b) REQUIREMENTS.—The facility—

20 (1) may be built in stages;

21 (2) shall have a combined output of at least
22 200 megawatts at successively more competitive
23 rates; and

24 (3) shall be located in the Upper Great Plains.

1 (c) TECHNICAL CRITERIA.—Technical criteria de-
2 scribed in section 402(b) shall apply to the facility.

3 (d) FEDERAL COST SHARE.—The Federal cost share
4 for the facility shall not exceed 50 percent.

5 (e) INVESTMENT TAX CREDITS.—

6 (1) IN GENERAL.—The loan guarantees pro-
7 vided under this section do not preclude the facility
8 from receiving an allocation for investment tax cred-
9 its under section 48A of the Internal Revenue Code
10 of 1986.

11 (2) OTHER FUNDING.—Use of the investment
12 tax credit described in paragraph (1) does not pro-
13 hibit the use of other clean coal program funding.

14 **SEC. 406. LOAN TO PLACE ALASKA CLEAN COAL TECH-**
15 **NOLOGY FACILITY IN SERVICE.**

16 (a) DEFINITIONS.—In this section:

17 (1) BORROWER.—The term “borrower” means
18 the owner of the clean coal technology plant.

19 (2) CLEAN COAL TECHNOLOGY PLANT.—The
20 term “clean coal technology plant” means the plant
21 located near Healy, Alaska, constructed under De-
22 partment cooperative agreement number DE-FC-
23 22-91PC90544.

24 (3) COST OF A DIRECT LOAN.—The term “cost
25 of a direct loan” has the meaning given the term in

1 section 502(5)(B) of the Federal Credit Reform Act
2 of 1990 (2 U.S.C. 661a(5)(B)).

3 (b) AUTHORIZATION.—Subject to subsection (c), the
4 Secretary shall use amounts made available under sub-
5 section (e) to provide the cost of a direct loan to the bor-
6 rower for purposes of placing the clean coal technology
7 plant into reliable operation for the generation of elec-
8 tricity.

9 (c) REQUIREMENTS.—

10 (1) MAXIMUM LOAN AMOUNT.—The amount of
11 the direct loan provided under subsection (b) shall
12 not exceed \$80,000,000.

13 (2) DETERMINATIONS BY SECRETARY.—Before
14 providing the direct loan to the borrower under sub-
15 section (b), the Secretary shall determine that—

16 (A) the plan of the borrower for placing
17 the clean coal technology plant in reliable oper-
18 ation has a reasonable prospect of success;

19 (B) the amount of the loan (when com-
20 bined with amounts available to the borrower
21 from other sources) will be sufficient to carry
22 out the project; and

23 (C) there is a reasonable prospect that the
24 borrower will repay the principal and interest
25 on the loan.

1 (3) INTEREST; TERM.—The direct loan pro-
2 vided under subsection (b) shall bear interest at a
3 rate and for a term that the Secretary determines
4 appropriate, after consultation with the Secretary of
5 the Treasury, taking into account the needs and ca-
6 pacities of the borrower and the prevailing rate of
7 interest for similar loans made by public and private
8 lenders.

9 (4) ADDITIONAL TERMS AND CONDITIONS.—
10 The Secretary may require any other terms and con-
11 ditions that the Secretary determines to be appro-
12 priate.

13 (d) USE OF PAYMENTS.—The Secretary shall retain
14 any payments of principal and interest on the direct loan
15 provided under subsection (b) to support energy research
16 and development activities, to remain available until ex-
17 pended, subject to any other conditions in an applicable
18 appropriations Act.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as are nec-
21 essary to provide the cost of a direct loan under subsection
22 (b).

1 **SEC. 407. WESTERN INTEGRATED COAL GASIFICATION**
2 **DEMONSTRATION PROJECT.**

3 (a) IN GENERAL.—Subject to the availability of ap-
4 propriations, the Secretary shall carry out a demonstra-
5 tion project to produce energy from coal (of not more than
6 9,000 Btu/lb) mined in the western United States using
7 integrated gasification combined cycle technology, includ-
8 ing repowering of existing facilities, that is capable of se-
9 questering carbon dioxide emissions (referred to in this
10 section as the “demonstration project”).

11 (b) LOCATION.—The demonstration project shall be
12 located in a western State at an altitude of greater than
13 4,000 feet above sea level.

14 (c) COST SHARING.—The Federal share of the cost
15 of the demonstration project shall be determined in ac-
16 cordance with section 1002.

17 (d) LOAN GUARANTEES.—Notwithstanding title XIV,
18 the demonstration project shall not be eligible for Federal
19 loan guarantees.

20 **Subtitle B—Federal Coal Leases**

21 **SEC. 411. REPEAL OF THE 160-ACRE LIMITATION FOR COAL**
22 **LEASES.**

23 Section 3 of the Mineral Leasing Act (30 U.S.C. 203)
24 is amended—

25 (1) in the first sentence, by striking “Any per-
26 son” and inserting the following: “(a)(1) Except as

1 provided in paragraph (3), on a finding by the Sec-
2 retary under paragraph (2), any person”;

3 (2) in the second sentence, by striking “The
4 Secretary” and inserting the following:

5 “(b) The Secretary”;

6 (3) in the third sentence, by striking “The min-
7 imum” and inserting the following:

8 “(c) The minimum”;

9 (4) in subsection (a) (as designated by para-
10 graph (1))—

11 (A) by striking “upon” and all that follows
12 and inserting the following: “secure modifica-
13 tions of the original coal lease by including ad-
14 ditional coal lands or coal deposits contiguous
15 or cornering to those embraced in the lease.”;
16 and

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

18 “(2) A finding referred to in paragraph (1) is a find-
19 ing by the Secretary that the modifications—

20 “(A) would be in the interest of the United
21 States;

22 “(B) would not displace a competitive interest
23 in the lands; and

1 “(C) would not include lands or deposits that
2 can be developed as part of another potential or ex-
3 isting operation.

4 “(3) In no case shall the total area added by modi-
5 fications to an existing coal lease under paragraph (1)—

6 “(A) exceed 320 acres; or

7 “(B) add acreage larger than that in the origi-
8 nal lease.”.

9 **SEC. 412. MINING PLANS.**

10 Section 2(d)(2) of the Mineral Leasing Act (30
11 U.S.C. 202a(2)) is amended—

12 (1) by inserting “(A)” after “(2)”; and

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

14 “(B) The Secretary may establish a period of
15 more than 40 years if the Secretary determines
16 that—

17 “(i) the longer period will ensure the max-
18 imum economic recovery of a coal deposit; or

19 “(ii) the longer period is in the interest of
20 the orderly, efficient, or economic development
21 of a coal resource.”.

22 **SEC. 413. PAYMENT OF ADVANCE ROYALTIES UNDER COAL**
23 **LEASES.**

24 Section 7(b) of the Mineral Leasing Act (30 U.S.C.
25 207(b)) is amended—

1 (1) in the first sentence, by striking “Each
2 lease” and inserting the following: “(1) Each lease”;

3 (2) in the second sentence, by striking “The
4 Secretary” and inserting the following:
5 “(2) The Secretary”;

6 (3) in the third sentence, by striking “Such ad-
7 vance royalties” and inserting the following:
8 “(3) Advance royalties described in paragraph (2)”;

9 (4) in the seventh sentence, by striking “The
10 Secretary” and inserting the following:
11 “(6) The Secretary”;

12 (5) in the last sentence, by striking “Nothing”
13 and inserting the following:
14 “(7) Nothing”;

15 (6) by striking the fourth, fifth, and sixth sen-
16 tences; and

17 (7) by inserting after paragraph (3) (as des-
18 ignated by paragraph (3)) the following:

19 “(4) The aggregate number of years during the pe-
20 riod of any lease for which advance royalties may be ac-
21 cepted in lieu of the condition of continued operation shall
22 not exceed 20 years.

23 “(5) The amount of any production royalty paid for
24 any year shall be reduced (but not below 0) by the amount
25 of any advance royalties paid under a lease described in

1 paragraph (4) to the extent that the advance royalties
2 have not been used to reduce production royalties for a
3 prior year.”.

4 **SEC. 414. ELIMINATION OF DEADLINE FOR SUBMISSION OF**
5 **COAL LEASE OPERATION AND RECLAMATION**
6 **PLAN.**

7 Section 7(c) of the Mineral Leasing Act (30 U.S.C.
8 207(c)) is amended by striking “and not later than three
9 years after a lease is issued,”.

10 **SEC. 415. APPLICATION OF AMENDMENTS.**

11 (a) IN GENERAL.—The amendments made by this
12 subtitle apply to any coal lease issued on or after the date
13 of enactment of this Act.

14 (b) COAL LEASES ISSUED BEFORE DATE OF ENACT-
15 MENT.—With respect to any coal lease issued before the
16 date of enactment of this Act, the amendments made by
17 this subtitle apply—

18 (1) on the date of readjustment of the lease as
19 provided under section 7(a) of the Mineral Leasing
20 Act (30 U.S.C. 207); or

21 (2) on request by the lessee, prior to that date.

22 **TITLE V—INDIAN ENERGY**

23 **SEC. 501. SHORT TITLE.**

24 This title may be cited as the “Indian Tribal Energy
25 Development and Self-Determination Act of 2005”.

1 **SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PRO-**
2 **GRAMS.**

3 (a) IN GENERAL.—Title II of the Department of En-
4 ergy Organization Act (42 U.S.C. 7131 et seq.) is amend-
5 ed by adding at the end the following:

6 “OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

7 “SEC. 217. (a) ESTABLISHMENT.—

8 “(1) There is established within the Depart-
9 ment an Office of Indian Energy Policy and Pro-
10 grams (referred to in this section as the ‘Office’).

11 “(2) The Office shall be headed by a Director,
12 to be appointed by the Secretary and compensated
13 at a rate equal to that of level IV of the Executive
14 Schedule under section 5315 of title 5, United
15 States Code.

16 “(b) DUTIES OF DIRECTOR.—The Director, in ac-
17 cordance with Federal policies promoting Indian self-de-
18 termination and the purposes of this Act, shall provide,
19 direct, foster, coordinate, and implement energy planning,
20 education, management, conservation, and delivery pro-
21 grams of the Department that—

22 “(1) promote Indian tribal energy development,
23 efficiency, and use;

24 “(2) reduce or stabilize energy costs;

1 ergy.” after “Inspector General, Department of En-
2 ergy.”.

3 **SEC. 503. INDIAN ENERGY.**

4 (a) IN GENERAL.—Title XXVI of the Energy Policy
5 Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read
6 as follows:

7 **“TITLE XXVI—INDIAN ENERGY**

8 **“SEC. 2601. DEFINITIONS.**

9 “In this title:

10 “(1) The term ‘Director’ means the Director of
11 the Office of Indian Energy Policy and Programs,
12 Department of Energy.

13 “(2) The term ‘Indian land’ means—

14 “(A) any land located within the bound-
15 aries of an Indian reservation, pueblo, or
16 rancheria;

17 “(B) any land not located within the
18 boundaries of an Indian reservation, pueblo, or
19 rancheria, the title to which is held—

20 “(i) in trust by the United States for
21 the benefit of an Indian tribe or an indi-
22 vidual Indian;

23 “(ii) by an Indian tribe or an indi-
24 vidual Indian, subject to restriction against

1 alienation under laws of the United States;

2 or

3 “(iii) by a dependent Indian commu-
4 nity; and

5 “(C) land that is owned by an Indian tribe
6 and was conveyed by the United States to a
7 Native Corporation pursuant to the Alaska Na-
8 tive Claims Settlement Act (43 U.S.C. 1601 et
9 seq.), or that was conveyed by the United
10 States to a Native Corporation in exchange for
11 such land.

12 “(3) The term ‘Indian reservation’ includes—

13 “(A) an Indian reservation in existence in
14 any State as of the date of enactment of this
15 paragraph;

16 “(B) a public domain Indian allotment;
17 and

18 “(C) a dependent Indian community lo-
19 cated within the borders of the United States,
20 regardless of whether the community is
21 located—

22 “(i) on original or acquired territory
23 of the community; or

24 “(ii) within or outside the boundaries
25 of any particular State.

1 “(4)(A) The term ‘Indian tribe’ has the mean-
2 ing given the term in section 4 of the Indian Self-
3 Determination and Education Assistance Act (25
4 U.S.C. 450b).

5 “(B) For the purpose of paragraph (12) and
6 sections 2603(b)(1)(C) and 2604, the term ‘Indian
7 tribe’ does not include any Native Corporation.

8 “(5) The term ‘integration of energy resources’
9 means any project or activity that promotes the loca-
10 tion and operation of a facility (including any pipe-
11 line, gathering system, transportation system or fa-
12 cility, or electric transmission or distribution facility)
13 on or near Indian land to process, refine, generate
14 electricity from, or otherwise develop energy re-
15 sources on, Indian land.

16 “(6) The term ‘Native Corporation’ has the
17 meaning given the term in section 3 of the Alaska
18 Native Claims Settlement Act (43 U.S.C. 1602).

19 “(7) The term ‘organization’ means a partner-
20 ship, joint venture, limited liability company, or
21 other unincorporated association or entity that is es-
22 tablished to develop Indian energy resources.

23 “(8) The term ‘Program’ means the Indian en-
24 ergy resource development program established
25 under section 2602(a).

1 “(9) The term ‘Secretary’ means the Secretary
2 of the Interior.

3 “(10) The term ‘sequestration’ means the long-
4 term separation, isolation, or removal of greenhouse
5 gases from the atmosphere, including through a bio-
6 logical or geologic method such as reforestation or
7 an underground reservoir.

8 “(11) The term ‘tribal energy resource develop-
9 ment organization’ means an organization of 2 or
10 more entities, at least 1 of which is an Indian tribe,
11 that has the written consent of the governing bodies
12 of all Indian tribes participating in the organization
13 to apply for a grant, loan, or other assistance under
14 section 2602.

15 “(12) The term ‘tribal land’ means any land or
16 interests in land owned by any Indian tribe, title to
17 which is held in trust by the United States, or is
18 subject to a restriction against alienation under laws
19 of the United States.

20 **“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
21 **MENT.**

22 “(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

23 “(1) To assist Indian tribes in the development
24 of energy resources and further the goal of Indian
25 self-determination, the Secretary shall establish and

1 implement an Indian energy resource development
2 program to assist consenting Indian tribes and tribal
3 energy resource development organizations in achiev-
4 ing the purposes of this title.

5 “(2) In carrying out the Program, the Sec-
6 retary shall—

7 “(A) provide development grants to Indian
8 tribes and tribal energy resource development
9 organizations for use in developing or obtaining
10 the managerial and technical capacity needed to
11 develop energy resources on Indian land, and to
12 properly account for resulting energy produc-
13 tion and revenues;

14 “(B) provide grants to Indian tribes and
15 tribal energy resource development organiza-
16 tions for use in carrying out projects to pro-
17 mote the integration of energy resources, and to
18 process, use, or develop those energy resources,
19 on Indian land; and

20 “(C) provide low-interest loans to Indian
21 tribes and tribal energy resource development
22 organizations for use in the promotion of en-
23 ergy resource development on Indian land and
24 integration of energy resources.

1 “(3) There are authorized to be appropriated to
2 carry out this subsection such sums as are necessary
3 for each of fiscal years 2006 through 2016.

4 “(b) DEPARTMENT OF ENERGY INDIAN ENERGY
5 EDUCATION PLANNING AND MANAGEMENT ASSISTANCE
6 PROGRAM.—

7 “(1) The Director shall establish programs to
8 assist consenting Indian tribes in meeting energy
9 education, research and development, planning, and
10 management needs.

11 “(2) In carrying out this subsection, the Direc-
12 tor may provide grants, on a competitive basis, to an
13 Indian tribe or tribal energy resource development
14 organization for use in carrying out—

15 “(A) energy, energy efficiency, and energy
16 conservation programs;

17 “(B) studies and other activities sup-
18 porting tribal acquisitions of energy supplies,
19 services, and facilities, including the creation of
20 tribal utilities to assist in securing electricity to
21 promote electrification of homes and businesses
22 on Indian land;

23 “(C) planning, construction, development,
24 operation, maintenance, and improvement of
25 tribal electrical generation, transmission, and

1 distribution facilities located on Indian land;
2 and

3 “(D) development, construction, and inter-
4 connection of electric power transmission facili-
5 ties located on Indian land with other electric
6 transmission facilities.

7 “(3)(A) The Director shall develop a program
8 to support and implement research projects that
9 provide Indian tribes with opportunities to partici-
10 pate in carbon sequestration practices on Indian
11 land, including—

12 “(i) geologic sequestration;

13 “(ii) forest sequestration;

14 “(iii) agricultural sequestration; and

15 “(iv) any other sequestration opportunities
16 the Director considers to be appropriate.

17 “(B) The activities carried out under subpara-
18 graph (A) shall be—

19 “(i) coordinated with other carbon seques-
20 tration research and development programs
21 conducted by the Secretary of Energy;

22 “(ii) conducted to determine methods con-
23 sistent with existing standardized measurement
24 protocols to account and report the quantity of
25 carbon dioxide or other greenhouse gases se-

1 questered in projects that may be implemented
2 on tribal land; and

3 “(iii) reviewed periodically to collect and
4 distribute to Indian tribes information on car-
5 bon sequestration practices that will increase
6 the sequestration of carbon without threatening
7 the social and economic well-being of Indian
8 tribes.

9 “(4)(A) The Director, in consultation with In-
10 dian tribes, may develop a formula for providing
11 grants under this subsection.

12 “(B) In providing a grant under this sub-
13 section, the Director shall give priority to any appli-
14 cation received from an Indian tribe with inadequate
15 electric service (as determined by the Director).

16 “(5) The Secretary of Energy may issue such
17 regulations as the Secretary determines to be nec-
18 essary to carry out this subsection.

19 “(6) There is authorized to be appropriated to
20 carry out this subsection \$20,000,000 for each of
21 fiscal years 2006 through 2016.

22 “(c) DEPARTMENT OF ENERGY LOAN GUARANTEE
23 PROGRAM.—

24 “(1) Subject to paragraphs (2) and (4), the
25 Secretary of Energy may provide loan guarantees

1 (as defined in section 502 of the Federal Credit Re-
2 form Act of 1990 (2 U.S.C. 661a)) for an amount
3 equal to not more than 90 percent of the unpaid
4 principal and interest due on any loan made to an
5 Indian tribe for energy development.

6 “(2) In evaluating energy development pro-
7 posals for which the Secretary of Energy may pro-
8 vide a loan guarantee under paragraph (1), the Sec-
9 retary of Energy shall give priority to any project
10 that uses a new technology, such as coal gasification,
11 carbon capture and sequestration, or renewable en-
12 ergy-based electricity generation, if competing pro-
13 posals are similar with respect to the level at which
14 the proposals meet or exceed the criteria established
15 by the Secretary of Energy for the loan guarantee
16 program.

17 “(3) A loan guarantee under this subsection
18 shall be made by—

19 “(A) a financial institution subject to ex-
20 amination by the Secretary of Energy; or

21 “(B) an Indian tribe, from funds of the In-
22 dian tribe.

23 “(4) The aggregate outstanding amount guar-
24 anteed by the Secretary of Energy at any time under
25 this subsection shall not exceed \$2,000,000,000.

1 “(5) The Secretary of Energy may issue such
2 regulations as the Secretary of Energy determines
3 are necessary to carry out this subsection.

4 “(6) There are authorized to be appropriated
5 such sums as are necessary to carry out this sub-
6 section, to remain available until expended.

7 “(7) Not later than 1 year after the date of en-
8 actment of this section, the Secretary of Energy
9 shall submit to Congress a report on the financing
10 requirements of Indian tribes for energy develop-
11 ment on Indian land.

12 “(d) PREFERENCE.—

13 “(1) In purchasing electricity or any other en-
14 ergy product or byproduct, a Federal agency or de-
15 partment may give preference to an energy and re-
16 source production enterprise, partnership, consor-
17 tium, corporation, or other type of business organi-
18 zation the majority of the interest in which is owned
19 and controlled by 1 or more Indian tribes.

20 “(2) In carrying out this subsection, a Federal
21 agency or department shall not—

22 “(A) pay more than the prevailing market
23 price for an energy product or byproduct; or

24 “(B) obtain less than prevailing market
25 terms and conditions.

1 **“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
2 **TION.**

3 “(a) GRANTS.—The Secretary may provide to Indian
4 tribes, on an annual basis, grants for use in accordance
5 with subsection (b).

6 “(b) USE OF FUNDS.—Funds from a grant provided
7 under this section may be used—

8 “(1)(A) by an Indian tribe for the development
9 of a tribal energy resource inventory or tribal energy
10 resource on Indian land;

11 “(B) by an Indian tribe for the development of
12 a feasibility study or other report necessary to the
13 development of energy resources on Indian land;

14 “(C) by an Indian tribe (other than an Indian
15 Tribe in the State of Alaska, except the Metlakatla
16 Indian Community) for—

17 “(i) the development and enforcement of
18 tribal laws (including regulations) relating to
19 tribal energy resource development; and

20 “(ii) the development of technical infra-
21 structure to protect the environment under ap-
22 plicable law; or

23 “(D) by a Native Corporation for the develop-
24 ment and implementation of corporate policies and
25 the development of technical infrastructure to pro-
26 tect the environment under applicable law; and

1 “(2) by an Indian tribe for the training of em-
2 ployees that—

3 “(A) are engaged in the development of en-
4 ergy resources on Indian land; or

5 “(B) are responsible for protecting the en-
6 vironment.

7 “(c) OTHER ASSISTANCE.—

8 “(1) In carrying out the obligations of the
9 United States under this title, the Secretary shall
10 ensure, to the maximum extent practicable and to
11 the extent of available resources, that on the request
12 of an Indian tribe, the Indian tribe shall have avail-
13 able scientific and technical information and exper-
14 tise, for use in the regulation, development, and
15 management of energy resources of the Indian tribe
16 on Indian land.

17 “(2) The Secretary may carry out paragraph
18 (1)—

19 “(A) directly, through the use of Federal
20 officials; or

21 “(B) indirectly, by providing financial as-
22 sistance to an Indian tribe to secure inde-
23 pendent assistance.

1 **“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-**
2 **OF-WAY INVOLVING ENERGY DEVELOPMENT**
3 **OR TRANSMISSION.**

4 “(a) LEASES AND BUSINESS AGREEMENTS.—In ac-
5 cordance with this section—

6 “(1) an Indian tribe may, at the discretion of
7 the Indian tribe, enter into a lease or business
8 agreement for the purpose of energy resource devel-
9 opment on tribal land, including a lease or business
10 agreement for—

11 “(A) exploration for, extraction of, proc-
12 essing of, or other development of the energy
13 mineral resources of the Indian tribe located on
14 tribal land; or

15 “(B) construction or operation of—

16 “(i) an electric generation, trans-
17 mission, or distribution facility located on
18 tribal land; or

19 “(ii) a facility to process or refine en-
20 ergy resources developed on tribal land;
21 and

22 “(2) a lease or business agreement described in
23 paragraph (1) shall not require the approval of the
24 Secretary under section 2103 of the Revised Stat-
25 utes (25 U.S.C. 81), or any other provision of law,
26 if—

1 “(A) the lease or business agreement is ex-
2 ecuted pursuant to a tribal energy resource
3 agreement approved by the Secretary under
4 subsection (e);

5 “(B) the term of the lease or business
6 agreement does not exceed—

7 “(i) 30 years; or

8 “(ii) in the case of a lease for the pro-
9 duction of oil resources, gas resources, or
10 both, 10 years and as long thereafter as oil
11 or gas is produced in paying quantities;
12 and

13 “(C) the Indian tribe has entered into a
14 tribal energy resource agreement with the Sec-
15 retary, as described in subsection (e), relating
16 to the development of energy resources on tribal
17 land (including the periodic review and evalua-
18 tion of the activities of the Indian tribe under
19 the agreement, to be conducted pursuant to
20 subsection (e)(2)(D)(i)).

21 “(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC
22 TRANSMISSION OR DISTRIBUTION LINES.—An Indian
23 tribe may grant a right-of-way over tribal land for a pipe-
24 line or an electric transmission or distribution line without
25 approval by the Secretary if—

1 “(1) the right-of-way is executed in accordance
2 with a tribal energy resource agreement approved by
3 the Secretary under subsection (e);

4 “(2) the term of the right-of-way does not ex-
5 ceed 30 years;

6 “(3) the pipeline or electric transmission or dis-
7 tribution line serves—

8 “(A) an electric generation, transmission,
9 or distribution facility located on tribal land; or

10 “(B) a facility located on tribal land that
11 processes or refines energy resources developed
12 on tribal land; and

13 “(4) the Indian tribe has entered into a tribal
14 energy resource agreement with the Secretary, as de-
15 scribed in subsection (e), relating to the development
16 of energy resources on tribal land (including the
17 periodic review and evaluation of the activities of the
18 Indian tribe under an agreement described in sub-
19 paragraphs (D) and (E) of subsection (e)(2)).

20 “(c) RENEWALS.—A lease or business agreement en-
21 tered into, or a right-of-way granted, by an Indian tribe
22 under this section may be renewed at the discretion of the
23 Indian tribe in accordance with this section.

24 “(d) VALIDITY.—No lease, business agreement, or
25 right-of-way relating to the development of tribal energy

1 resources under this section shall be valid unless the lease,
2 business agreement, or right-of-way is authorized by a
3 tribal energy resource agreement approved by the Sec-
4 retary under subsection (e)(2).

5 “(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

6 “(1) On the date on which regulations are pro-
7 mulgated under paragraph (8), an Indian tribe may
8 submit to the Secretary for approval a tribal energy
9 resource agreement governing leases, business agree-
10 ments, and rights-of-way under this section.

11 “(2)(A) Not later than 1 year after the date on
12 which the Secretary receives a tribal energy resource
13 agreement from an Indian tribe under paragraph
14 (1), or not later than 60 days after the Secretary re-
15 ceives a revised tribal energy resource agreement
16 from an Indian tribe under paragraph (4)(C) (or a
17 later date, as agreed to by the Secretary and the In-
18 dian tribe), the Secretary shall approve or dis-
19 approve the tribal energy resource agreement.

20 “(B) The Secretary shall approve a tribal en-
21 ergy resource agreement submitted under paragraph
22 (1) if—

23 “(i) the Secretary determines that the In-
24 dian tribe has demonstrated that the Indian
25 tribe has sufficient capacity to regulate the de-

1 velopment of energy resources of the Indian
2 tribe;

3 “(ii) the tribal energy resource agreement
4 includes provisions required under subpara-
5 graph (D); and

6 “(iii) the tribal energy resource agreement
7 includes provisions that, with respect to a lease,
8 business agreement, or right-of-way under this
9 section—

10 “(I) ensure the acquisition of nec-
11 essary information from the applicant for
12 the lease, business agreement, or right-of-
13 way;

14 “(II) address the term of the lease or
15 business agreement or the term of convey-
16 ance of the right-of-way;

17 “(III) address amendments and re-
18 newals;

19 “(IV) address the economic return to
20 the Indian tribe under leases, business
21 agreements, and rights-of-way;

22 “(V) address technical or other rel-
23 evant requirements;

1 “(VI) establish requirements for envi-
2 ronmental review in accordance with sub-
3 paragraph (C);

4 “(VII) ensure compliance with all ap-
5 plicable environmental laws, including a re-
6 quirement that each lease, business agree-
7 ment, and right-of-way state that the les-
8 see, operator, or right-of-way grantee shall
9 comply with all such laws;

10 “(VIII) identify final approval author-
11 ity;

12 “(IX) provide for public notification of
13 final approvals;

14 “(X) establish a process for consulta-
15 tion with any affected States regarding off-
16 reservation impacts, if any, identified
17 under subparagraph (C)(i);

18 “(XI) describe the remedies for
19 breach of the lease, business agreement, or
20 right-of-way;

21 “(XII) require each lease, business
22 agreement, and right-of-way to include a
23 statement that, if any of its provisions vio-
24 lates an express term or requirement of the
25 tribal energy resource agreement pursuant

1 to which the lease, business agreement, or
2 right-of-way was executed—

3 “(aa) the provision shall be null
4 and void; and

5 “(bb) if the Secretary determines
6 the provision to be material, the Sec-
7 retary may suspend or rescind the
8 lease, business agreement, or right-of-
9 way or take other appropriate action
10 that the Secretary determines to be in
11 the best interest of the Indian tribe;

12 “(XIII) require each lease, business
13 agreement, and right-of-way to provide
14 that it will become effective on the date on
15 which a copy of the executed lease, busi-
16 ness agreement, or right-of-way is deliv-
17 ered to the Secretary in accordance with
18 regulations promulgated under paragraph
19 (8);

20 “(XIV) include citations to tribal
21 laws, regulations, or procedures, if any,
22 that set out tribal remedies that must be
23 exhausted before a petition may be sub-
24 mitted to the Secretary under paragraph
25 (7)(B);

1 “(XV) specify the financial assistance,
2 if any, to be provided by the Secretary to
3 the Indian tribe to assist in implementa-
4 tion of the tribal energy resource agree-
5 ment, including environmental review of in-
6 dividual projects; and

7 “(XVI) in accordance with the regula-
8 tions promulgated by the Secretary under
9 paragraph (8), require that the Indian
10 tribe, as soon as practicable after receipt
11 of a notice by the Indian tribe, give written
12 notice to the Secretary of—

13 “(aa) any breach or other viola-
14 tion by another party of any provision
15 in a lease, business agreement, or
16 right-of-way entered into under the
17 tribal energy resource agreement; and

18 “(bb) any activity or occurrence
19 under a lease, business agreement, or
20 right-of-way that constitutes a viola-
21 tion of Federal or tribal environ-
22 mental laws.

23 “(C) Tribal energy resource agreements
24 submitted under paragraph (1) shall establish,
25 and include provisions to ensure compliance

1 with, an environmental review process that,
2 with respect to a lease, business agreement, or
3 right-of-way under this section, provides for, at
4 a minimum—

5 “(i) the identification and evaluation
6 of all significant environmental effects (as
7 compared to a no-action alternative), in-
8 cluding effects on cultural resources;

9 “(ii) the identification of proposed
10 mitigation measures, if any, and incorpora-
11 tion of the mitigation measures into the
12 lease, business agreement, or right-of-way;

13 “(iii) a process for ensuring that—

14 “(I) the public is informed of,
15 and has an opportunity to comment
16 on, the environmental impacts of the
17 proposed action; and

18 “(II) responses to relevant and
19 substantive comments are provided,
20 before tribal approval of the lease,
21 business agreement, or right-of-way;

22 “(iv) sufficient administrative support
23 and technical capability to carry out the
24 environmental review process; and

1 “(v) oversight by the Indian tribe of
2 energy development activities by any other
3 party under any lease, business agreement,
4 or right-of-way entered into pursuant to
5 the tribal energy resource agreement, to
6 determine whether the activities are in
7 compliance with the tribal energy resource
8 agreement and applicable Federal environ-
9 mental laws.

10 “(D) A tribal energy resource agreement
11 between the Secretary and an Indian tribe
12 under this subsection shall include—

13 “(i) provisions requiring the Secretary
14 to conduct a periodic review and evaluation
15 to monitor the performance of the activi-
16 ties of the Indian tribe associated with the
17 development of energy resources under the
18 tribal energy resource agreement; and

19 “(ii) if a periodic review and evalua-
20 tion, or an investigation, by the Secretary
21 of any breach or violation described in a
22 notice provided by the Indian tribe to the
23 Secretary in accordance with subparagraph
24 (B)(iii)(XVI), results in a finding by the
25 Secretary of imminent jeopardy to a phys-

1 ical trust asset arising from a violation of
2 the tribal energy resource agreement or ap-
3 plicable Federal laws, provisions author-
4 izing the Secretary to take actions deter-
5 mined by the Secretary to be necessary to
6 protect the asset, including reassumption
7 of responsibility for activities associated
8 with the development of energy resources
9 on tribal land until the violation and any
10 condition that caused the jeopardy are cor-
11 rected.

12 “(E) Periodic review and evaluation under
13 subparagraph (D) shall be conducted on an an-
14 nual basis, except that, after the third annual
15 review and evaluation, the Secretary and the
16 Indian tribe may mutually agree to amend the
17 tribal energy resource agreement to authorize
18 the review and evaluation under subparagraph
19 (D) to be conducted once every 2 years.

20 “(3) The Secretary shall provide notice and op-
21 portunity for public comment on tribal energy re-
22 source agreements submitted for approval under
23 paragraph (1).

24 “(4) If the Secretary disapproves a tribal en-
25 ergy resource agreement submitted by an Indian

1 tribe under paragraph (1), the Secretary shall, not
2 later than 10 days after the date of disapproval—

3 “(A) notify the Indian tribe in writing of
4 the basis for the disapproval;

5 “(B) identify what changes or other ac-
6 tions are required to address the concerns of
7 the Secretary; and

8 “(C) provide the Indian tribe with an op-
9 portunity to revise and resubmit the tribal en-
10 ergy resource agreement.

11 “(5) If an Indian tribe executes a lease or busi-
12 ness agreement, or grants a right-of-way, in accord-
13 ance with a tribal energy resource agreement ap-
14 proved under this subsection, the Indian tribe shall,
15 in accordance with the process and requirements
16 under regulations promulgated under paragraph (8),
17 provide to the Secretary—

18 “(A) a copy of the lease, business agree-
19 ment, or right-of-way document (including all
20 amendments to and renewals of the document);
21 and

22 “(B) in the case of a tribal energy resource
23 agreement or a lease, business agreement, or
24 right-of-way that permits payments to be made
25 directly to the Indian tribe, information and

1 documentation of those payments sufficient to
2 enable the Secretary to discharge the trust re-
3 sponsibility of the United States to enforce the
4 terms of, and protect the rights of the Indian
5 tribe under, the lease, business agreement, or
6 right-of-way.

7 “(6)(A) In carrying out this section, the Sec-
8 retary shall—

9 “(i) act in accordance with the trust re-
10 sponsibility of the United States relating to
11 mineral and other trust resources; and

12 “(ii) act in good faith and in the best in-
13 terests of the Indian tribes.

14 “(B) Subject to the provisions of subsections
15 (a)(2), (b), and (c) waiving the requirement of Sec-
16 retarial approval of leases, business agreements, and
17 rights-of-way executed pursuant to tribal energy re-
18 source agreements approved under this section, and
19 the provisions of subparagraph (D), nothing in this
20 section shall absolve the United States from any re-
21 sponsibility to Indians or Indian tribes, including,
22 but not limited to, those which derive from the trust
23 relationship or from any treaties, statutes, and other
24 laws of the United States, Executive Orders, or

1 agreements between the United States and any In-
2 dian tribe.

3 “(C) The Secretary shall continue to fulfill the
4 trust obligation of the United States to ensure that
5 the rights and interests of an Indian tribe are pro-
6 tected if—

7 “(i) any other party to a lease, business
8 agreement, or right-of-way violates any applica-
9 ble Federal law or the terms of any lease, busi-
10 ness agreement, or right-of-way under this sec-
11 tion; or

12 “(ii) any provision in a lease, business
13 agreement, or right-of-way violates the tribal
14 energy resource agreement pursuant to which
15 the lease, business agreement, or right-of-way
16 was executed.

17 “(D)(i) In this subparagraph, the term ‘nego-
18 tiated term’ means any term or provision that is ne-
19 gotiated by an Indian tribe and any other party to
20 a lease, business agreement, or right-of-way entered
21 into pursuant to an approved tribal energy resource
22 agreement.

23 “(ii) Notwithstanding subparagraph (B), the
24 United States shall not be liable to any party (in-
25 cluding any Indian tribe) for any negotiated term of,

1 or any loss resulting from the negotiated terms of,
2 a lease, business agreement, or right-of-way executed
3 pursuant to and in accordance with a tribal energy
4 resource agreement approved by the Secretary under
5 paragraph (2).

6 “(7)(A) In this paragraph, the term ‘interested
7 party’ means any person (including an entity) that
8 has demonstrated that an interest of the person has
9 sustained, or will sustain, an adverse environmental
10 impact as a result of the failure of an Indian tribe
11 to comply with a tribal energy resource agreement of
12 the Indian tribe approved by the Secretary under
13 paragraph (2).

14 “(B) After exhaustion of any tribal remedy, and
15 in accordance with regulations promulgated by the
16 Secretary under paragraph (8), an interested party
17 may submit to the Secretary a petition to review the
18 compliance by an Indian tribe with a tribal energy
19 resource agreement of the Indian tribe approved by
20 the Secretary under paragraph (2).

21 “(C)(i) Not later than 20 days after the date on
22 which the Secretary receives a petition under sub-
23 paragraph (B), the Secretary shall—

24 “(I) provide to the Indian tribe a copy of
25 the petition; and

1 “(II) consult with the Indian tribe regard-
2 ing any noncompliance alleged in the petition.

3 “(ii) Not later than 45 days after the date on
4 which a consultation under clause (i)(II) takes place,
5 the Indian tribe shall respond to any claim made in
6 a petition under subparagraph (B).

7 “(iii) The Secretary shall act in accordance with
8 subparagraphs (D) and (E) only if the Indian
9 tribe—

10 “(I) denies, or fails to respond to, each
11 claim made in the petition within the period de-
12 scribed in clause (ii); or

13 “(II) fails, refuses, or is unable to cure or
14 otherwise resolve each claim made in the peti-
15 tion within a reasonable period, as determined
16 by the Secretary, after the expiration of the pe-
17 riod described in clause (ii).

18 “(D)(i) Not later than 120 days after the date
19 on which the Secretary receives a petition under sub-
20 paragraph (B), the Secretary shall determine wheth-
21 er the Indian tribe is not in compliance with the
22 tribal energy resource agreement.

23 “(ii) The Secretary may adopt procedures
24 under paragraph (8) authorizing an extension of
25 time, not to exceed 120 days, for making the deter-

1 mination under clause (i) in any case in which the
2 Secretary determines that additional time is nec-
3 essary to evaluate the allegations of the petition.

4 “(iii) Subject to subparagraph (E), if the Sec-
5 retary determines that the Indian tribe is not in
6 compliance with the tribal energy resource agree-
7 ment, the Secretary shall take such action as the
8 Secretary determines to be necessary to ensure com-
9 pliance with the tribal energy resource agreement,
10 including—

11 “(I) temporarily suspending any activity
12 under a lease, business agreement, or right-of-
13 way under this section until the Indian tribe is
14 in compliance with the approved tribal energy
15 resource agreement; or

16 “(II) rescinding approval of all or part of
17 the tribal energy resource agreement, and if all
18 of the agreement is rescinded, reassuming the
19 responsibility for approval of any future leases,
20 business agreements, or rights-of-way described
21 in subsection (a) or (b).

22 “(E) Before taking an action described in sub-
23 paragraph (D)(iii), the Secretary shall—

1 “(i) make a written determination that de-
2 scribes the manner in which the tribal energy
3 resource agreement has been violated;

4 “(ii) provide the Indian tribe with a writ-
5 ten notice of the violations together with the
6 written determination; and

7 “(iii) before taking any action described in
8 subparagraph (D)(iii) or seeking any other rem-
9 edy, provide the Indian tribe with a hearing and
10 a reasonable opportunity to attain compliance
11 with the tribal energy resource agreement.

12 “(F) An Indian tribe described in subparagraph
13 (E) shall retain all rights to appeal under any regu-
14 lation promulgated by the Secretary.

15 “(8) Not later than 1 year after the date of en-
16 actment of the Energy Policy Act of 2005, the Sec-
17 retary shall promulgate regulations that implement
18 this subsection, including—

19 “(A) criteria to be used in determining the
20 capacity of an Indian tribe under paragraph
21 (2)(B)(i), including the experience of the Indian
22 tribe in managing natural resources and finan-
23 cial and administrative resources available for
24 use by the Indian tribe in implementing the ap-

1 proved tribal energy resource agreement of the
2 Indian tribe;

3 “(B) a process and requirements in accord-
4 ance with which an Indian tribe may—

5 “(i) voluntarily rescind a tribal energy
6 resource agreement approved by the Sec-
7 retary under this subsection; and

8 “(ii) return to the Secretary the re-
9 sponsibility to approve any future lease,
10 business agreement, or right-of-way under
11 this subsection;

12 “(C) provisions establishing the scope of,
13 and procedures for, the periodic review and
14 evaluation described in subparagraphs (D) and
15 (E) of paragraph (2), including provisions for
16 review of transactions, reports, site inspections,
17 and any other review activities the Secretary
18 determines to be appropriate; and

19 “(D) provisions describing final agency ac-
20 tions after exhaustion of administrative appeals
21 from determinations of the Secretary under
22 paragraph (7).

23 “(f) NO EFFECT ON OTHER LAW.—Nothing in this
24 section affects the application of—

25 “(1) any Federal environmental law;

1 “(C) any other power administration the
2 power allocation of which is used by or for the
3 benefit of an Indian tribe located in the service
4 area of the administration.

5 “(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY
6 DEVELOPMENT.—Each Administrator shall encourage In-
7 dian tribal energy development by taking such actions as
8 the Administrators determine to be appropriate, including
9 administration of programs of the power marketing ad-
10 ministration, in accordance with this section.

11 “(c) ACTION BY ADMINISTRATORS.—In carrying out
12 this section, in accordance with laws in existence on the
13 date of enactment of the Energy Policy Act of 2005—

14 “(1) each Administrator shall consider the
15 unique relationship that exists between the United
16 States and Indian tribes;

17 “(2) power allocations from the Western Area
18 Power Administration to Indian tribes may be used
19 to meet firming and reserve needs of Indian-owned
20 energy projects on Indian land;

21 “(3) the Administrator of the Western Area
22 Power Administration may purchase non-federally
23 generated power from Indian tribes to meet the
24 firming and reserve requirements of the Western
25 Area Power Administration; and

1 “(4) each Administrator shall not—

2 “(A) pay more than the prevailing market
3 price for an energy product; or

4 “(B) obtain less than prevailing market
5 terms and conditions.

6 “(d) ASSISTANCE FOR TRANSMISSION SYSTEM
7 USE.—

8 “(1) An Administrator may provide technical
9 assistance to Indian tribes seeking to use the high-
10 voltage transmission system for delivery of electric
11 power.

12 “(2) The costs of technical assistance provided
13 under paragraph (1) shall be funded—

14 “(A) by the Secretary of Energy using
15 nonreimbursable funds appropriated for that
16 purpose; or

17 “(B) by any appropriate Indian tribe.

18 “(e) POWER ALLOCATION STUDY.—Not later than 2
19 years after the date of enactment of the Energy Policy
20 Act of 2005, the Secretary of Energy shall submit to Con-
21 gress a report that—

22 “(1) describes the use by Indian tribes of Fed-
23 eral power allocations of the power marketing ad-
24 ministration (or power sold by the Southwestern
25 Power Administration) to or for the benefit of In-

1 dian tribes in a service area of the power marketing
2 administration; and

3 “(2) identifies—

4 “(A) the quantity of power allocated to, or
5 used for the benefit of, Indian tribes by the
6 Western Area Power Administration;

7 “(B) the quantity of power sold to Indian
8 tribes by any other power marketing adminis-
9 tration; and

10 “(C) barriers that impede tribal access to
11 and use of Federal power, including an assess-
12 ment of opportunities to remove those barriers
13 and improve the ability of power marketing ad-
14 ministrations to deliver Federal power.

15 “(f) **AUTHORIZATION OF APPROPRIATIONS.**—There
16 are authorized to be appropriated to carry out this section
17 \$750,000, non-reimbursable, to remain available until ex-
18 pended.

19 **“SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.**

20 “(a) **STUDY.**—The Secretary of Energy, in coordina-
21 tion with the Secretary of the Army and the Secretary,
22 shall conduct a study of the cost and feasibility of devel-
23 oping a demonstration project that uses wind energy gen-
24 erated by Indian tribes and hydropower generated by the

1 Army Corps of Engineers on the Missouri River to supply
2 firming power to the Western Area Power Administration.

3 “(b) SCOPE OF STUDY.—The study shall—

4 “(1) determine the feasibility of blending wind
5 energy and hydropower generated from the Missouri
6 River dams operated by the Army Corps of Engi-
7 neers;

8 “(2) review historical and projected require-
9 ments for, and patterns of availability and use of,
10 firming power;

11 “(3) assess the wind energy resource potential
12 on tribal land and projected cost savings through a
13 blend of wind and hydropower over a 30-year period;

14 “(4) determine seasonal capacity needs and as-
15 sociated transmission upgrades for integration of
16 tribal wind generation; and

17 “(5) include an independent tribal engineer as
18 a study team member.

19 “(c) REPORT.—Not later than 1 year after the date
20 of enactment of the Energy Policy Act of 2005, the Sec-
21 retary and the Secretary of the Army shall submit to Con-
22 gress a report that describes the results of the study,
23 including—

24 “(1) an analysis of the potential energy cost or
25 benefits to the customers of the Western Area Power

1 Administration through the use of combined wind
2 and hydropower;

3 “(2) an evaluation of whether a combined wind
4 and hydropower system can reduce reservoir fluctua-
5 tion, enhance efficient and reliable energy produc-
6 tion, and provide Missouri River management flexi-
7 bility;

8 “(3) recommendations for a demonstration
9 project to be carried out by the Western Area Power
10 Administration, in partnership with an Indian tribal
11 government or tribal energy resource development
12 organization, to demonstrate the feasibility and po-
13 tential of using wind energy produced on Indian
14 land to supply firming energy to the Western Area
15 Power Administration or any other Federal power
16 marketing agency; and

17 “(4) an identification of—

18 “(A) the economic and environmental costs
19 of, or benefits to be realized through, a Fed-
20 eral-tribal partnership; and

21 “(B) the manner in which a Federal-tribal
22 partnership could contribute to the energy secu-
23 rity of the United States.

24 “(d) FUNDING.—

1 “(1) AUTHORIZATION OF APPROPRIATIONS.—
2 There is authorized to be appropriated to carry out
3 this section \$1,000,000, to remain available until ex-
4 pended.

5 “(2) NONREIMBURSABILITY.—Costs incurred
6 by the Secretary in carrying out this section shall be
7 nonreimbursable.”.

8 (b) CONFORMING AMENDMENTS.—The table of con-
9 tents for the Energy Policy Act of 1992 is amended by
10 striking the items relating to title XXVI and inserting the
11 following:

 “Sec. 2601. Definitions.

 “Sec. 2602. Indian tribal energy resource development.

 “Sec. 2603. Indian tribal energy resource regulation.

 “Sec. 2604. Leases, business agreements, and rights-of-way in-
 volving energy development or transmission.

 “Sec. 2605. Federal Power Marketing Administrations.

 “Sec. 2606. Wind and hydropower feasibility study.”.

12 **SEC. 504. FOUR CORNERS TRANSMISSION LINE PROJECT**
13 **AND ELECTRIFICATION.**

14 (a) TRANSMISSION LINE PROJECT.—The Dine
15 Power Authority, an enterprise of the Navajo Nation, shall
16 be eligible to receive grants and other assistance under
17 section 217 of the Department of Energy Organization
18 Act, as added by section 502, and section 2602 of the En-
19 ergy Policy Act of 1992, as amended by this Act, for ac-
20 tivities associated with the development of a transmission
21 line from the Four Corners Area to southern Nevada, in-
22 cluding related power generation opportunities.

1 (b) NAVAJO ELECTRIFICATION.—Section 602 of
2 Public Law 106-511 (114 Stat. 2376) is amended—

3 (1) in subsection (a)—

4 (A) in the first sentence, by striking “5-
5 year” and inserting “10-year”; and

6 (B) in the third sentence, by striking
7 “2006” and inserting “2011”; and

8 (2) in the first sentence of subsection (e) by
9 striking “2006” and inserting “2011”.

10 **SEC. 505. ENERGY EFFICIENCY IN FEDERALLY ASSISTED**
11 **HOUSING.**

12 (a) IN GENERAL.—The Secretary of Housing and
13 Urban Development shall promote energy conservation in
14 housing that is located on Indian land and assisted with
15 Federal resources through—

16 (1) the use of energy-efficient technologies and
17 innovations (including the procurement of energy-ef-
18 ficient refrigerators and other appliances);

19 (2) the promotion of shared savings contracts;
20 and

21 (3) the use and implementation of such other
22 similar technologies and innovations as the Secretary
23 of Housing and Urban Development considers to be
24 appropriate.

1 (b) AMENDMENT.—Section 202(2) of the Native
2 American Housing and Self-Determination Act of 1996
3 (25 U.S.C. 4132(2)) is amended by inserting “improve-
4 ment to achieve greater energy efficiency,” after “plan-
5 ning,”.

6 **SEC. 506. CONSULTATION WITH INDIAN TRIBES.**

7 In carrying out this Act and the amendments made
8 by this Act, the Secretary of Energy and the Secretary
9 shall, as appropriate and to the maximum extent prac-
10 ticable, involve and consult with Indian tribes in a manner
11 that is consistent with the Federal trust and the govern-
12 ment-to-government relationships between Indian tribes
13 and the United States.

14 **TITLE VI—NUCLEAR MATTERS**
15 **Subtitle A—Price-Anderson Act**
16 **Amendments**

17 **SEC. 601. SHORT TITLE.**

18 This subtitle may be cited as the “Price-Anderson
19 Amendments Act of 2005”.

20 **SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.**

21 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
22 COMMISSION LICENSEES.—Section 170 c. of the Atomic
23 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—
24 (1) in the subsection heading, by striking “LI-
25 CENSES” and inserting “LICENSEES”; and

1 (2) by striking “December 31, 2003” each
2 place it appears and inserting “December 31,
3 2025”.

4 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
5 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
6 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
7 by striking “December 31, 2006” and inserting “Decem-
8 ber 31, 2025”.

9 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
10 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
11 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-
12 gust 1, 2002” each place it appears and inserting “Decem-
13 ber 31, 2025”.

14 **SEC. 603. MAXIMUM ASSESSMENT.**

15 Section 170 of the Atomic Energy Act of 1954 (42
16 U.S.C. 2210) is amended—

17 (1) in the second proviso of the third sentence
18 of subsection b.(1)—

19 (A) by striking “\$63,000,000” and insert-
20 ing “\$95,800,000”; and

21 (B) by striking “\$10,000,000 in any 1
22 year” and inserting “\$15,000,000 in any 1 year
23 (subject to adjustment for inflation under sub-
24 section t.)”; and

25 (2) in subsection t.(1)—

1 (A) by inserting “total and annual” after
2 “amount of the maximum”;

3 (B) by striking “the date of the enactment
4 of the Price-Anderson Amendments Act of
5 1988” and inserting “August 20, 2003”; and

6 (C) in subparagraph (A), by striking “such
7 date of enactment” and inserting “August 20,
8 2003”.

9 **SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

10 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
11 CONTRACTORS.—Section 170 d. of the Atomic Energy Act
12 of 1954 (42 U.S.C. 2210(d)) (as amended by section
13 602(b)) is amended by striking paragraph (2) and insert-
14 ing the following:

15 “(2) In an agreement of indemnification entered into
16 under paragraph (1), the Secretary—

17 “(A) may require the contractor to provide and
18 maintain financial protection of such a type and in
19 such amounts as the Secretary determines to be ap-
20 propriate to cover public liability arising out of or in
21 connection with the contractual activity; and

22 “(B) shall indemnify the persons indemnified
23 against the liability above the amount of the finan-
24 cial protection required, in the amount of
25 \$10,000,000,000 (subject to adjustment for inflation

1 under subsection t.) in the aggregate, for all persons
2 indemnified in connection with the contract and for
3 each nuclear incident, including such legal expenses
4 incurred by the contractor as are approved by the
5 Secretary.”.

6 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
7 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as
8 amended by section 602(b)) is amended by striking para-
9 graph (3) and inserting the following:

10 “(3) All agreements of indemnification under which
11 the Department of Energy (or predecessor agencies) may
12 be required to indemnify any person under this section
13 shall be considered to be amended, on the date of enact-
14 ment of the Price-Anderson Amendments Act of 2005, to
15 reflect the amount of indemnity for public liability and any
16 applicable financial protection required of the contractor
17 under this subsection.”.

18 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
19 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
20 amended—

21 (1) by striking “the maximum amount of finan-
22 cial protection required under subsection b. or”;

23 (2) by striking “paragraph (3) of subsection d.,
24 whichever amount is more” and inserting “para-
25 graph (2) of subsection d.”.

1 **SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.**

2 (a) AMOUNT OF INDEMNIFICATION.—Section 170
3 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
4 2210(d)(5)) is amended by striking “\$100,000,000” and
5 inserting “\$500,000,000”.

6 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
7 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
8 amended by striking “\$100,000,000” and inserting
9 “\$500,000,000”.

10 **SEC. 606. REPORTS.**

11 Section 170 p. of the Atomic Energy Act of 1954 (42
12 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
13 and inserting “December 31, 2021”.

14 **SEC. 607. INFLATION ADJUSTMENT.**

15 Section 170 t. of the Atomic Energy Act of 1954 (42
16 U.S.C. 2210(t)) (as amended by section 603(2)) is
17 amended—

18 (1) by redesignating paragraph (2) as para-
19 graph (3); and

20 (2) by inserting after paragraph (1) the fol-
21 lowing:

22 “(2) The Secretary shall adjust the amount of indem-
23 nification provided under an agreement of indemnification
24 under subsection d. not less than once during each 5-year
25 period following July 1, 2003, in accordance with the ag-

1 aggregate percentage change in the Consumer Price Index
2 since—

3 “(A) that date, in the case of the first adjust-
4 ment under this paragraph; or

5 “(B) the previous adjustment under this para-
6 graph.”.

7 **SEC. 608. TREATMENT OF MODULAR REACTORS.**

8 Section 170 b. of the Atomic Energy Act of 1954 (42
9 U.S.C. 2210(b)) (as amended by section 603) is amended
10 by adding at the end the following:

11 “(5)(A) For purposes of this section only, the Com-
12 mission shall consider a combination of facilities described
13 in subparagraph (B) to be a single facility having a rated
14 capacity of 100,000 electrical kilowatts or more.

15 “(B) A combination of facilities referred to in sub-
16 paragraph (A) is 2 or more facilities located at a single
17 site, each of which has a rated capacity of not less than
18 100,000 electrical kilowatts and not more than 300,000
19 electrical kilowatts, with a combined rated capacity of not
20 more than 1,300,000 electrical kilowatts.”.

21 **SEC. 609. APPLICABILITY.**

22 The amendments made by sections 603, 604, and 605
23 do not apply to a nuclear incident that occurs before the
24 date of enactment of this Act.

1 **SEC. 610. CIVIL PENALTIES.**

2 (a) REPEAL OF AUTOMATIC REMISSION.—Section
3 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.
4 2282a(b)(2)) is amended by striking the last sentence.

5 (b) LIMITATION FOR NOT-FOR-PROFIT INSTITU-
6 TIONS.—Section 234A of the Atomic Energy Act of 1954
7 (42 U.S.C. 2282a) is amended by striking subsection d.
8 and inserting the following:

9 “d.(1) Notwithstanding subsection a., in the case of
10 any not-for-profit contractor, subcontractor, or supplier,
11 the total amount of civil penalties paid under subsection
12 a. may not exceed the total amount of fees paid within
13 any 1-year period (as determined by the Secretary) under
14 the contract under which the violation occurs.

15 “(2) In this section, the term ‘not-for-profit’ means
16 that no part of the net earnings of the contractor, subcon-
17 tractor, or supplier inures to the benefit of any natural
18 person or for-profit artificial person.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall not apply to any violation of the Atomic
21 Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring
22 under a contract entered into before the date of enactment
23 of this Act.

1 **Subtitle B—General Nuclear**
2 **Matters**

3 **SEC. 621. MEDICAL ISOTOPE PRODUCTION.**

4 Section 134 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2160d) is amended—

6 (1) by redesignating subsections a. and b. as
7 subsection b. and a., respectively, and moving the
8 subsections so as to appear in alphabetical order;

9 (2) in subsection a. (as redesignated by para-
10 graph (1)), by striking “a. As used in this section—
11 ” and inserting the following:

12 “a. DEFINITIONS.—In this section—”;

13 (3) in subsection b. (as redesignated by para-
14 graph (1)), by striking “b. The Commission” and in-
15 serting the following:

16 “b. RESTRICTIONS ON EXPORTS.—Except as pro-
17 vided in subsection c., the Commission”; and

18 (4) by adding at the end the following:

19 “c. MEDICAL ISOTOPE PRODUCTION.—

20 “(1) DEFINITIONS.—In this subsection:

21 “(A) MEDICAL ISOTOPE.—The term ‘med-
22 ical isotope’ includes Molybdenum 99, Iodine
23 131, Xenon 133, and other radioactive mate-
24 rials used to produce a radiopharmaceutical for

1 diagnostic, therapeutic procedures or for re-
2 search and development.

3 “(B) **RADIOPHARMACEUTICAL.**—The term
4 ‘radiopharmaceutical’ means a radioactive iso-
5 tope that—

6 “(i) contains byproduct material com-
7 bined with chemical or biological material;
8 and

9 “(ii) is designed to accumulate tempo-
10 rarily in a part of the body for—

11 “(I) therapeutic purposes; or

12 “(II) enabling the production of
13 a useful image for use in a diagnosis
14 of a medical condition.

15 “(C) **RECIPIENT COUNTRY.**—The term ‘re-
16 cipient country’ means Canada, Belgium,
17 France, Germany, and the Netherlands.

18 “(2) **LICENSES.**—The Commission may issue a
19 license authorizing the export (including shipment to
20 and use at intermediate and ultimate consignees
21 specified in the license) to a recipient country of
22 highly enriched uranium for medical isotope produc-
23 tion if, in addition to any other requirements of this
24 Act (except subsection b.), the Commission deter-
25 mines that—

1 “(A) a recipient country that supplies an
2 assurance letter to the United States in connec-
3 tion with the consideration by the Commission
4 of the export license application has informed
5 the United States that any intermediate con-
6 signees and the ultimate consignee specified in
7 the application are required to use the highly
8 enriched uranium solely to produce medical iso-
9 topes; and

10 “(B) the highly enriched uranium for med-
11 ical isotope production will be irradiated only in
12 a reactor in a recipient country that—

13 “(i) uses an alternative nuclear reac-
14 tor fuel; or

15 “(ii) is the subject of an agreement
16 with the United States to convert to an al-
17 ternative nuclear reactor fuel when alter-
18 native nuclear reactor fuel can be used in
19 the reactor.

20 “(3) REVIEW OF PHYSICAL PROTECTION RE-
21 QUIREMENTS.—

22 “(A) IN GENERAL.—The Commission shall
23 review the adequacy of physical protection re-
24 quirements that, as of the date of an applica-
25 tion under paragraph (2), are applicable to the

1 transportation and storage of highly enriched
2 uranium for medical isotope production or con-
3 trol of residual material after irradiation and
4 extraction of medical isotopes.

5 “(B) IMPOSITION OF ADDITIONAL RE-
6 QUIREMENTS.—If the Commission determines
7 that additional physical protection requirements
8 are necessary (including a limit on the quantity
9 of highly enriched uranium that may be con-
10 tained in a single shipment), the Commission
11 shall impose the requirements as license condi-
12 tions or through other appropriate means.

13 “(4) FIRST REPORT TO CONGRESS.—

14 “(A) NAS STUDY.—The Secretary shall
15 enter into an arrangement with the National
16 Academy of Sciences under which the National
17 Academy of Sciences shall conduct a study to
18 determine—

19 “(i) the feasibility of procuring sup-
20 plies of medical isotopes from commercial
21 sources that do not use highly enriched
22 uranium;

23 “(ii) the current and projected de-
24 mand and availability of medical isotopes
25 in regular current domestic use;

1 “(iii) the progress being made by the
2 Department of Energy and other agencies
3 and entities to eliminate all use of highly
4 enriched uranium in reactor fuel, reactor
5 targets, and medical isotope production fa-
6 cilities; and

7 “(iv) the potential cost differential in
8 medical isotope production in the reactors
9 and target processing facilities if the prod-
10 ucts were derived from production systems
11 that do not involve fuels and targets with
12 highly enriched uranium.

13 “(B) FEASIBILITY.—For the purpose of
14 this subsection, the use of low enriched uranium
15 to produce medical isotopes shall be determined
16 to be feasible if—

17 “(i) low enriched uranium targets
18 have been developed and demonstrated for
19 use in the reactors and target processing
20 facilities that produce significant quantities
21 of medical isotopes to serve United States
22 needs for such isotopes;

23 “(ii) sufficient quantities of medical
24 isotopes are available from low enriched

1 uranium targets and fuel to meet United
2 States domestic needs; and

3 “(iii) the average anticipated total
4 cost increase from production of medical
5 isotopes in the facilities without use of
6 highly enriched uranium is less than 10
7 percent.

8 “(C) REPORT BY THE SECRETARY.—Not
9 later than 5 years after the date of enactment
10 of the Energy Policy Act of 2005, the Secretary
11 shall submit to Congress a report that—

12 “(i) contains the findings of the Na-
13 tional Academy of Sciences made in the
14 study under subparagraph (A); and

15 “(ii) discloses the existence of any
16 commitments from commercial producers
17 to provide, not later than the date that is
18 4 years after the date of submission of the
19 report, domestic requirements for medical
20 isotopes without use of highly enriched
21 uranium consistent with the feasibility cri-
22 teria described in subparagraph (B).

23 “(5) SECOND REPORT TO CONGRESS.—If the
24 National Academy of Sciences determines in the
25 study under paragraph (4)(A) that the procurement

1 of supplies of medical isotopes from commercial
2 sources that do not use highly enriched uranium is
3 feasible, but the Secretary is unable to report the ex-
4 istence of commitments under paragraph (4)(C)(ii),
5 not later than the date that is 6 years after the date
6 of enactment of the Energy Policy Act of 2005, the
7 Secretary shall submit to Congress a report that de-
8 scribes options for developing domestic supplies of
9 medical isotopes in quantities that are adequate to
10 meet domestic demand without the use of highly en-
11 riched uranium consistent with the cost increase de-
12 scribed in paragraph (4)(B)(iii).

13 “(6) CERTIFICATION.—At such time as com-
14 mercial facilities that do not use highly enriched
15 uranium are capable of meeting domestic require-
16 ments for medical isotopes, within the cost increase
17 described in paragraph (4)(B)(iii) and without im-
18 pairing the reliable supply of medical isotopes for
19 domestic use, the Secretary shall submit to Congress
20 a certification to that effect.

21 “(7) TERMINATION OF REVIEW.—After the Sec-
22 retary submits a certification under paragraph (6),
23 the Commission shall, by rule, terminate the review
24 by the Commission of export license applications
25 under this subsection.”.

1 **SEC. 622. SAFE DISPOSAL OF GREATER-THAN-CLASS C RA-**
2 **DIOACTIVE WASTE.**

3 (a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE
4 STORAGE FACILITY.—The Secretary shall provide to Con-
5 gress official notification of the final designation of an en-
6 tity within the Department to have the responsibility of
7 completing activities needed to provide a facility for safely
8 disposing of all greater-than-Class C low-level radioactive
9 waste.

10 (b) REPORTS AND PLANS.—

11 (1) REPORT ON PERMANENT DISPOSAL FACIL-
12 ITY.—

13 (A) PLAN REGARDING COST AND SCHED-
14 ULE FOR COMPLETION OF EIS AND ROD.—Not
15 later than 1 year after the date of enactment of
16 this Act, the Secretary, in consultation with
17 Congress, shall submit to Congress a report
18 containing an estimate of the cost and a pro-
19 posed schedule to complete an environmental
20 impact statement and record of decision for a
21 permanent disposal facility for greater-than-
22 Class C radioactive waste.

23 (B) ANALYSIS OF ALTERNATIVES.—Before
24 the Secretary makes a final decision on the dis-
25 posal alternative or alternatives to be imple-
26 mented, the Secretary shall—

1 (i) submit to Congress a report that
2 describes all alternatives under consider-
3 ation, including all information required in
4 the comprehensive report making rec-
5 ommendations for ensuring the safe dis-
6 posal of all greater-than-Class C low-level
7 radioactive waste that was submitted by
8 the Secretary to Congress in February
9 1987; and

10 (ii) await action by Congress.

11 (2) SHORT-TERM PLAN FOR RECOVERY AND
12 STORAGE.—

13 (A) IN GENERAL.—Not later than 180
14 days after the date of enactment of this Act,
15 the Secretary shall submit to Congress a plan
16 to ensure the continued recovery and storage of
17 greater-than-Class C low-level radioactive sealed
18 sources that pose a security threat until a per-
19 manent disposal facility is available.

20 (B) CONTENTS.—The plan shall address
21 estimated cost, resource, and facility needs.

22 **SEC. 623. PROHIBITION ON NUCLEAR EXPORTS TO COUN-**
23 **TRIES THAT SPONSOR TERRORISM.**

24 (a) IN GENERAL.—Section 129 of the Atomic Energy
25 Act of 1954 (42 U.S.C. 2158) is amended—

1 (1) by inserting “a.” before “No nuclear mate-
2 rials and equipment”; and

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

4 “b.(1)(A) Notwithstanding any other provision of
5 law, including section 121, and except as provided in para-
6 graphs (2) and (3), no nuclear materials and equipment
7 or sensitive nuclear technology, including items and assist-
8 ance authorized by section 57 b. and regulated under part
9 810 of title 10, Code of Federal Regulations (or a suc-
10 cessor regulation), and nuclear-related items on the Com-
11 merce Control List maintained under part 774 of title 15
12 of the Code of Federal Regulations (or a successor regula-
13 tion), shall be exported or reexported, or transferred or
14 retransferred, whether directly or indirectly, and no Fed-
15 eral agency shall issue any license, approval, or authoriza-
16 tion for the export or reexport, or transfer, or retransfer,
17 whether directly or indirectly, of the items or assistance
18 described in this paragraph to any country the government
19 of which has been identified by the Secretary of State as
20 engaged in state sponsorship of terrorist activities.

21 “(B) Countries described in subparagraph (A) spe-
22 cifically include any country the government of which has
23 been determined by the Secretary of State to have repeat-
24 edly provided support for acts of international terrorism
25 under—

1 “(i) section 620A(a) of the Foreign Assistance
2 Act of 1961 (22 U.S.C. 2371(a));

3 “(ii) section 6(j)(1) of the Export Administra-
4 tion Act of 1979 (50 U.S.C. App. 2405(j)(1)); or

5 “(iii) section 40(d) of the Arms Export Control
6 Act (22 U.S.C. 2780(d)).

7 “(2) This subsection does not apply to exports, reex-
8 ports, transfers, or retransfers of radiation monitoring
9 technologies, surveillance equipment, seals, cameras, tam-
10 per-indication devices, nuclear detectors, monitoring sys-
11 tems, or equipment necessary to safely store, transport,
12 or remove hazardous materials, whether such items, serv-
13 ices, or information are regulated by the Department of
14 Energy, the Department of Commerce, or the Commis-
15 sion, except to the extent that the technologies, equipment,
16 seals, cameras, devices, detectors, or systems are available
17 for use in the design or construction of nuclear reactors
18 or nuclear weapons.

19 “(3) The President may waive the application of
20 paragraph (1) to a country if the President determines
21 and certifies to Congress that—

22 “(A) the waiver will not result in any increased
23 risk that the country receiving the waiver will ac-
24 quire nuclear weapons, nuclear reactors, or any ma-
25 terials or components of nuclear weapons; and

1 “(B)(i) the government of the country has not
2 within the preceding 12-month period willfully aided
3 or abetted the international proliferation of nuclear
4 explosive devices to individuals or groups or willfully
5 aided and abetted an individual or groups in acquir-
6 ing unsafeguarded nuclear materials;

7 “(ii) in the judgment of the President, the gov-
8 ernment of the country has provided adequate,
9 verifiable assurances that the country will cease its
10 support for acts of international terrorism;

11 “(iii) the waiver of paragraph (1) is in the vital
12 national security interest of the United States; or

13 “(iv) the waiver of paragraph (1) is essential to
14 prevent or respond to a serious radiological hazard
15 in the country receiving the waiver that may or does
16 threaten public health and safety.”.

17 (b) APPLICABILITY TO EXPORTS APPROVED FOR
18 TRANSFER BUT NOT TRANSFERRED.—Subsection b. of
19 section 129 of Atomic Energy Act of 1954 (as added by
20 subsection (a)), shall apply with respect to exports that
21 have been approved for transfer as of the date of enact-
22 ment of this Act but have not yet been transferred as of
23 that date.

1 **SEC. 624. DECOMMISSIONING PILOT PROGRAM.**

2 (a) PILOT PROGRAM.—The Secretary shall establish
3 a decommissioning pilot program under which the Sec-
4 retary shall decommission and decontaminate the sodium-
5 cooled fast breeder experimental test-site reactor located
6 in northwest Arkansas, in accordance with the decommis-
7 sioning activities contained in the report of the Depart-
8 ment relating to the reactor, dated August 31, 1998.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the Secretary to carry
11 out this section \$16,000,000.

12 **Subtitle C—Next Generation**
13 **Nuclear Plant Project**

14 **SEC. 631. PROJECT ESTABLISHMENT.**

15 (a) ESTABLISHMENT.—The Secretary shall establish
16 a project to be known as the “Next Generation Nuclear
17 Plant Project” (referred to in this subtitle as the
18 “Project”).

19 (b) CONTENT.—The Project shall consist of the re-
20 search, development, design, construction, and operation
21 of a prototype plant, including a nuclear reactor that—

22 (1) is based on research and development activi-
23 ties supported by the Generation IV Nuclear Energy
24 Systems Initiative under section 942(d); and

25 (2) shall be used—

26 (A) to generate electricity;

- 1 (B) to produce hydrogen; or
2 (C) both to generate electricity and to
3 produce hydrogen.

4 **SEC. 632. PROJECT MANAGEMENT.**

5 (a) DEPARTMENTAL MANAGEMENT.—

6 (1) IN GENERAL.—The Project shall be man-
7 aged in the Department by the Office of Nuclear
8 Energy, Science, and Technology.

9 (2) GENERATION IV NUCLEAR ENERGY SYS-
10 TEMS PROGRAM.—The Secretary may combine the
11 Project with the Generation IV Nuclear Energy Sys-
12 tems Initiative.

13 (3) EXISTING DOE PROJECT MANAGEMENT EX-
14 PERTISE.—The Secretary may utilize capabilities for
15 review of construction projects for advanced sci-
16 entific facilities within the Office of Science to track
17 the progress of the Project.

18 (b) LABORATORY MANAGEMENT.—

19 (1) LEAD LABORATORY.—The Idaho National
20 Laboratory shall be the lead National Laboratory for
21 the Project and shall collaborate with other National
22 Laboratories, institutions of higher education, other
23 research institutes, industrial researchers, and inter-
24 national researchers to carry out the Project.

25 (2) INDUSTRIAL PARTNERSHIPS.—

1 (A) IN GENERAL.—The Idaho National
2 Laboratory shall organize a consortium of ap-
3 propriate industrial partners that will carry out
4 cost-shared research, development, design, and
5 construction activities, and operate research fa-
6 cilities, on behalf of the Project.

7 (B) COST-SHARING.—Activities of indus-
8 trial partners funded by the Project shall be
9 cost-shared in accordance with section 1002.

10 (C) PREFERENCE.—Preference in deter-
11 mining the final structure of the consortium or
12 any partnerships under this subtitle shall be
13 given to a structure (including designating as a
14 lead industrial partner an entity incorporated in
15 the United States) that retains United States
16 technological leadership in the Project while
17 maximizing cost sharing opportunities and
18 minimizing Federal funding responsibilities.

19 (3) PROTOTYPE PLANT SITING.—The prototype
20 nuclear reactor and associated plant shall be sited at
21 the Idaho National Laboratory in Idaho.

22 (4) REACTOR TEST CAPABILITIES.—The
23 Project shall use, if appropriate, reactor test capa-
24 bilities at the Idaho National Laboratory.

1 (5) OTHER LABORATORY CAPABILITIES.—The
2 Project may use, if appropriate, facilities at other
3 National Laboratories.

4 **SEC. 633. PROJECT ORGANIZATION.**

5 (a) MAJOR PROJECT ELEMENTS.—The Project shall
6 consist of the following major program elements:

7 (1) High-temperature hydrogen production
8 technology development and validation.

9 (2) Energy conversion technology development
10 and validation.

11 (3) Nuclear fuel development, characterization,
12 and qualification.

13 (4) Materials selection, development, testing,
14 and qualification.

15 (5) Reactor and balance-of-plant design, engi-
16 neering, safety analysis, and qualification.

17 (b) PROJECT PHASES.—The Project shall be con-
18 ducted in the following phases:

19 (1) FIRST PROJECT PHASE.—A first project
20 phase shall be conducted to—

21 (A) select and validate the appropriate
22 technology under subsection (a)(1);

23 (B) carry out enabling research, develop-
24 ment, and demonstration activities on tech-

1 nologies and components under paragraphs (2)
2 through (4) of subsection (a);

3 (C) determine whether it is appropriate to
4 combine electricity generation and hydrogen
5 production in a single prototype nuclear reactor
6 and plant; and

7 (D) carry out initial design activities for a
8 prototype nuclear reactor and plant, including
9 development of design methods and safety ana-
10 lytical methods and studies under subsection
11 (a)(5)

12 (2) SECOND PROJECT PHASE.—A second
13 project phase shall be conducted to—

14 (A) continue appropriate activities under
15 paragraphs (1) through (5) of subsection (a);

16 (B) develop, through a competitive process,
17 a final design for the prototype nuclear reactor
18 and plant;

19 (C) apply for licenses to construct and op-
20 erate the prototype nuclear reactor from the
21 Nuclear Regulatory Commission; and

22 (D) construct and start up operations of
23 the prototype nuclear reactor and its associated
24 hydrogen or electricity production facilities.

25 (c) PROJECT REQUIREMENTS.—

1 (1) IN GENERAL.—The Secretary shall ensure
2 that the Project is structured so as to maximize the
3 technical interchange and transfer of technologies
4 and ideas into the Project from other sources of rel-
5 evant expertise, including—

6 (A) the nuclear power industry, including
7 nuclear powerplant construction firms, particu-
8 larly with respect to issues associated with
9 plant design, construction, and operational and
10 safety issues;

11 (B) the chemical processing industry, par-
12 ticularly with respect to issues relating to—

13 (i) the use of process energy for pro-
14 duction of hydrogen; and

15 (ii) the integration of technologies de-
16 veloped by the Project into chemical proc-
17 essing environments; and

18 (C) international efforts in areas related to
19 the Project, particularly with respect to hydro-
20 gen production technologies.

21 (2) INTERNATIONAL COLLABORATION.—

22 (A) IN GENERAL.—The Secretary shall
23 seek international cooperation, participation,
24 and financial contributions for the Project.

1 (B) ASSISTANCE FROM INTERNATIONAL
2 PARTNERS.—The Secretary, through the Idaho
3 National Laboratory, may contract for assist-
4 ance from specialists or facilities from member
5 countries of the Generation IV International
6 Forum, the Russian Federation, or other inter-
7 national partners if the specialists or facilities
8 provide access to cost-effective and relevant
9 skills or test capabilities.

10 (C) PARTNER NATIONS.—The Project may
11 involve demonstration of selected project objec-
12 tives in a partner country.

13 (D) GENERATION IV INTERNATIONAL
14 FORUM.—The Secretary shall ensure that inter-
15 national activities of the Project are coordinated
16 with the Generation IV International Forum.

17 (3) REVIEW BY NUCLEAR ENERGY RESEARCH
18 ADVISORY COMMITTEE.—

19 (A) IN GENERAL.—The Nuclear Energy
20 Research Advisory Committee of the Depart-
21 ment (referred to in this paragraph as the
22 “NERAC”) shall—

23 (i) review all program plans for the
24 Project and all progress under the Project
25 on an ongoing basis; and

1 (ii) ensure that important scientific,
2 technical, safety, and program manage-
3 ment issues receive attention in the Project
4 and by the Secretary.

5 (B) ADDITIONAL EXPERTISE.—The
6 NERAC shall supplement the expertise of
7 NERAC or appoint subpanels to incorporate
8 into the review by NERAC the relevant sources
9 of expertise described under paragraph (1).

10 (C) INITIAL REVIEW.—Not later than 180
11 days after the date of enactment of this Act,
12 the NERAC shall—

13 (i) review existing program plans for
14 the Project in light of the recommenda-
15 tions of the document entitled “Design
16 Features and Technology Uncertainties for
17 the Next Generation Nuclear Plant,” dated
18 June 30, 2004; and

19 (ii) address any recommendations of
20 the document not incorporated in program
21 plans for the Project.

22 (D) FIRST PROJECT PHASE REVIEW.—On
23 a determination by the Secretary that the ap-
24 propriate activities under the first project phase
25 under subsection (b)(1) are nearly complete, the

1 Secretary shall request the NERAC to conduct
2 a comprehensive review of the Project and to
3 report to the Secretary the recommendation of
4 NERAC concerning whether the Project is
5 ready to proceed to the second project phase
6 under subsection (b)(2).

7 (E) TRANSMITTAL OF REPORTS TO CON-
8 GRESS.—Not later than 60 days after receiving
9 any report from the NERAC related to the
10 Project, the Secretary shall submit to the ap-
11 propriate committees of the Senate and the
12 House of Representatives a copy of the report,
13 along with any additional views of the Secretary
14 that the Secretary may consider appropriate.

15 **SEC. 634. NUCLEAR REGULATORY COMMISSION.**

16 (a) IN GENERAL.—In accordance with section 202 of
17 the Energy Reorganization Act of 1974 (42 U.S.C. 5842),
18 the Nuclear Regulatory Commission shall have licensing
19 and regulatory authority for any reactor authorized under
20 this subtitle.

21 (b) LICENSING STRATEGY.—Not later than 3 years
22 after the date of enactment of this Act, the Secretary and
23 the Chairman of the Nuclear Regulatory Commission shall
24 jointly submit to the appropriate committees of the Senate

1 and the House of Representatives a licensing strategy for
2 the prototype nuclear reactor, including—

3 (1) a description of ways in which current li-
4 censing requirements relating to light-water reactors
5 need to be adapted for the types of prototype nu-
6 clear reactor being considered by the Project;

7 (2) a description of analytical tools that the
8 Nuclear Regulatory Commission will have to develop
9 to independently verify designs and performance
10 characteristics of components, equipment, systems,
11 or structures associated with the prototype nuclear
12 reactor;

13 (3) other research or development activities that
14 may be required on the part of the Nuclear Regu-
15 latory Commission in order to review a license appli-
16 cation for the prototype nuclear reactor; and

17 (4) an estimate of the budgetary requirements
18 associated with the licensing strategy.

19 (c) ONGOING INTERACTION.—The Secretary shall
20 seek the active participation of the Nuclear Regulatory
21 Commission throughout the duration of the Project to—

22 (1) avoid design decisions that will compromise
23 adequate safety margins in the design of the reactor
24 or impair the accessibility of nuclear safety-related

1 components of the prototype reactor for inspection
2 and maintenance;

3 (2) develop tools to facilitate inspection and
4 maintenance needed for safety purposes; and

5 (3) develop risk-based criteria for any future
6 commercial development of a similar reactor archi-
7 tectures.

8 **SEC. 635. PROJECT TIMELINES AND AUTHORIZATION OF**
9 **APPROPRIATIONS.**

10 (a) TARGET DATE TO COMPLETE THE FIRST
11 PROJECT PHASE.—Not later than September 30, 2011—

12 (1) the Secretary shall select the technology to
13 be used by the Project for high-temperature hydro-
14 gen production and the initial design parameters for
15 the prototype nuclear plant; or

16 (2) submit to Congress a report establishing an
17 alternative date for making the selection.

18 (b) DESIGN COMPETITION FOR SECOND PROJECT
19 PHASE.—

20 (1) IN GENERAL.—The Secretary, acting
21 through the Idaho National Laboratory, shall fund
22 not more than 4 teams for not more than 2 years
23 to develop detailed proposals for competitive evalua-
24 tion and selection of a single proposal for a final de-
25 sign of the prototype nuclear reactor.

1 (2) SYSTEMS INTEGRATION.—The Secretary
2 may structure Project activities in the second project
3 phase to use the lead industrial partner of the com-
4 petitively selected design under paragraph (1) in a
5 systems integration role for final design and con-
6 struction of the Project.

7 (c) TARGET DATE TO COMPLETE PROJECT CON-
8 STRUCTION.—Not later than September 30, 2021—

9 (1) the Secretary shall complete construction
10 and begin operations of the prototype nuclear reac-
11 tor and associated energy or hydrogen facilities; or

12 (2) submit to Congress a report establishing an
13 alternative date for completion.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Secretary for re-
16 search and construction activities under this subtitle (in-
17 cluding for transfer to the Nuclear Regulatory Commis-
18 sion for activities under section 634 as appropriate)—

19 (1) \$1,250,000,000 for the period of fiscal
20 years 2006 through 2015; and

21 (2) such sums as are necessary for each of fis-
22 cal years 2016 through 2021.

1 **TITLE VII—VEHICLES AND**
2 **FUELS**
3 **Subtitle A—Existing Programs**

4 **SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED**
5 **VEHICLES.**

6 Section 400AA(a)(3) of the Energy Policy and Con-
7 servation Act (42 U.S.C. 6374(a)(3)) is amended by strik-
8 ing subparagraph (E) and inserting the following:

9 “(E)(i) Dual fueled vehicles acquired pursuant to this
10 section shall be operated on alternative fuels unless the
11 Secretary determines that an agency qualifies for a waiver
12 of the requirements of this section for vehicles operated
13 by the agency in a particular geographic area in which—

14 “(I) the alternative fuel otherwise required to
15 be used in the vehicle is not reasonably available to
16 retail purchasers of the fuel, as certified to the Sec-
17 retary by the head of the agency; or

18 “(II) the cost of the alternative fuel otherwise
19 required to be used in the vehicle is unreasonably
20 more expensive compared to gasoline, as certified to
21 the Secretary by the head of the agency.

22 “(ii) The Secretary shall monitor compliance with
23 this subparagraph by all fleets receiving a waiver.

24 “(iii) The Secretary shall report annually to Congress
25 on the extent to which the requirements of this subpara-

1 graph are being achieved, including information on annual
2 reductions achieved from the use of petroleum-based fuels
3 and the problems, if any, encountered in acquiring alter-
4 native fuels.”.

5 **SEC. 702. ALTERNATIVE FUEL USE BY LIGHT DUTY VEHI-**
6 **CLES.**

7 Title V of the Energy Policy Act of 1992 (42 U.S.C.
8 13251 et seq.) is amended by adding at the end the fol-
9 lowing:

10 **“SEC. 516. TERMINATION OF AUTHORITY.**

11 “The authority provided by sections 501, 507, and
12 508 terminates the earlier of—

13 “(1) September 30, 2015; or

14 “(2) the date, the Secretary has established, by
15 rule, a replacement program that achieves the goals
16 of those sections.”.

17 **SEC. 703. INCREMENTAL COST ALLOCATION.**

18 Section 303(c) of the Energy Policy Act of 1992 (42
19 U.S.C. 13212(c)) is amended by striking “may” and in-
20 serting “shall”.

21 **SEC. 704. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.**

22 (a) ALTERNATIVE COMPLIANCE.—Title V of the En-
23 ergy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is
24 amended—

1 (1) by redesignating section 514 (42 U.S.C.
2 13264) as section 515; and

3 (2) by inserting after section 513 (42 U.S.C.
4 13263) the following:

5 **“SEC. 514. ALTERNATIVE COMPLIANCE.**

6 “(a) APPLICATION FOR WAIVER.—Any covered per-
7 son subject to section 501 and any State subject to section
8 507(o) may petition the Secretary for a waiver of the ap-
9 plicable requirements of section 501 or 507(o).

10 “(b) GRANT OF WAIVER.—The Secretary shall grant
11 a waiver of the requirements of section 501 or 507(o) on
12 a showing that the fleet owned, operated, leased, or other-
13 wise controlled by the State or covered person—

14 “(1) will achieve a reduction in the annual con-
15 sumption of petroleum fuels by the fleet equal to—

16 “(A) the reduction in consumption of pe-
17 troleum that would result from 100 percent cu-
18 mulative compliance with the fuel use require-
19 ments of section 501; or

20 “(B) in the case of an entity covered under
21 section 507(o), a reduction equal to the annual
22 consumption by the State entity of alternative
23 fuels if all of the cumulative alternative fuel ve-
24 hicles of the State entity given credit under sec-

1 tion 508 were to use alternative fuel 100 per-
2 cent of the time; and

3 “(2) is in compliance with all applicable vehicle
4 emission standards established by the Administrator
5 of the Environmental Protection Agency under the
6 Clean Air Act (42 U.S.C. 7401 et seq.).

7 “(c) REVOCATION OF WAIVER.—The Secretary shall
8 revoke any waiver granted under this section if the State
9 or covered person fails to comply with subsection (b).”.

10 (b) CREDITS.—Section 508(a) of the Energy Policy
11 Act of 1992 (42 U.S.C. 13258(a)) is amended—

12 (1) by striking “The Secretary” and inserting
13 the following:

14 “(1) The Secretary”; and

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

16 “(2) Not later than January 31, 2007, the Sec-
17 retary shall—

18 “(A) allocate credit in an amount to be de-
19 termined by the Secretary for—

20 “(i) acquisition of—

21 “(I) a light-duty hybrid electric
22 vehicle;

23 “(II) a plug-in hybrid electric ve-
24 hicle;

25 “(III) a fuel cell electric vehicle;

1 “(IV) a medium- or heavy-duty
2 hybrid electric vehicle;

3 “(V) a neighborhood electric ve-
4 hicle; or

5 “(VI) a medium- or heavy-duty
6 dedicated vehicle; and

7 “(ii) investment in qualified alter-
8 native fuel infrastructure or nonroad
9 equipment, as determined by the Sec-
10 retary; and

11 “(B) allocate more than 1, but not to ex-
12 ceed 5, credits for investment in an emerging
13 technology relating to any vehicle described in
14 subparagraph (A) to encourage—

15 “(i) a reduction in petroleum demand;

16 “(ii) technological advancement; and

17 “(iii) environmental safety.”.

18 (c) TABLE OF CONTENTS AMENDMENT.—The table
19 of contents of the Energy Policy Act of 1992 (42 U.S.C.
20 prec. 13201) is amended by striking the item relating to
21 section 514 and inserting the following:

 “Sec. 514. Alternative compliance.

 “Sec. 515. Authorization of appropriations.

 “Sec. 516. Termination of authority.”.

1 **SEC. 705. REPORT CONCERNING COMPLIANCE WITH AL-**
2 **TERNATIVE FUELED VEHICLE PURCHASING**
3 **REQUIREMENTS.**

4 Section 310(b)(1) of the Energy Policy Act of 1992
5 (42 U.S.C. 13218(b)(1)) is amended by striking “1 year
6 after the date of enactment of this subsection” and insert-
7 ing “February 15, 2006”.

8 **Subtitle B—Automobile Efficiency**

9 **SEC. 711. AUTHORIZATION OF APPROPRIATIONS FOR IM-**
10 **PLEMENTATION AND ENFORCEMENT OF**
11 **FUEL ECONOMY STANDARDS.**

12 In addition to any other funds authorized by law,
13 there is authorized to be appropriated to the National
14 Highway Traffic Safety Administration to carry out its ob-
15 ligations with respect to average fuel economy standards
16 \$2,000,000 for each of fiscal years 2006 through 2010.

17 **Subtitle C—Miscellaneous**

18 **SEC. 721. RAILROAD EFFICIENCY.**

19 (a) ESTABLISHMENT.—The Secretary shall (in co-
20 operation with the Secretary of Transportation and the
21 Administrator of the Environmental Protection Agency)
22 establish a cost-shared, public-private research partner-
23 ship involving the Federal Government, railroad carriers,
24 locomotive manufacturers and equipment suppliers, and
25 the Association of American Railroads, to develop and
26 demonstrate railroad locomotive technologies that increase

1 fuel economy, reduce emissions, and lower costs of oper-
2 ation.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary to carry
5 out this section—

6 (1) \$25,000,000 for fiscal year 2006;

7 (2) \$35,000,000 for fiscal year 2007; and

8 (3) \$50,000,000 for fiscal year 2008.

9 **SEC. 722. CONSERVE BY BICYCLING PROGRAM.**

10 (a) DEFINITIONS.—In this section:

11 (1) PROGRAM.—The term “program” means
12 the Conserve by Bicycling Program established by
13 subsection (b).

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of Transportation.

16 (b) ESTABLISHMENT.—There is established within
17 the Department of Transportation a program to be known
18 as the “Conserve by Bicycling Program”.

19 (c) PROJECTS.—

20 (1) IN GENERAL.—In carrying out the program,
21 the Secretary shall establish not more than 10 pilot
22 projects that are—

23 (A) dispersed geographically throughout
24 the United States; and

1 (B) designed to conserve energy resources
2 by encouraging the use of bicycles in place of
3 motor vehicles.

4 (2) REQUIREMENTS.—A pilot project described
5 in paragraph (1) shall—

6 (A) use education and marketing to con-
7 vert motor vehicle trips to bicycle trips;

8 (B) document project results and energy
9 savings (in estimated units of energy con-
10 served);

11 (C) facilitate partnerships among inter-
12 ested parties in at least 2 of the fields of—

13 (i) transportation;

14 (ii) law enforcement;

15 (iii) education;

16 (iv) public health;

17 (v) environment; and

18 (vi) energy;

19 (D) maximize bicycle facility investments;

20 (E) demonstrate methods that may be
21 used in other regions of the United States; and

22 (F) facilitate the continuation of ongoing
23 programs that are sustained by local resources.

1 (3) COST SHARING.—At least 20 percent of the
2 cost of each pilot project described in paragraph (1)
3 shall be provided from non-Federal sources.

4 (d) ENERGY AND BICYCLING RESEARCH STUDY.—

5 (1) IN GENERAL.—Not later than 2 years after
6 the date of enactment of this Act, the Secretary
7 shall enter into a contract with the National Acad-
8 emy of Sciences for, and the National Academy of
9 Sciences shall conduct and submit to Congress a re-
10 port on, a study on the feasibility of converting
11 motor vehicle trips to bicycle trips.

12 (2) COMPONENTS.—The study shall—

13 (A) document the results or progress of
14 the pilot projects under subsection (c);

15 (B) determine the type and duration of
16 motor vehicle trips that people in the United
17 States may feasibly make by bicycle, taking into
18 consideration factors such as—

19 (i) weather;

20 (ii) land use and traffic patterns;

21 (iii) the carrying capacity of bicycles;

22 and

23 (iv) bicycle infrastructure;

1 (C) determine any energy savings that
2 would result from the conversion of motor vehi-
3 cle trips to bicycle trips;

4 (D) include a cost-benefit analysis of bicy-
5 cle infrastructure investments; and

6 (E) include a description of any factors
7 that would encourage more motor vehicle trips
8 to be replaced with bicycle trips.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the Secretary to carry
11 out this section \$6,200,000, to remain available until ex-
12 pended, of which—

13 (1) \$5,150,000 shall be used to carry out pilot
14 projects described in subsection (c);

15 (2) \$300,000 shall be used by the Secretary to
16 coordinate, publicize, and disseminate the results of
17 the program; and

18 (3) \$750,000 shall be used to carry out sub-
19 section (d).

20 **SEC. 723. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY**
21 **VEHICLES.**

22 (a) DEFINITIONS.—In this section:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Administrator of the Environ-
25 mental Protection Agency.

1 (2) ADVANCED TRUCK STOP ELECTRIFICATION
2 SYSTEM.—The term “advanced truck stop elec-
3 trification system” means a stationary system that
4 delivers heat, air conditioning, electricity, and com-
5 munications, and is capable of providing verifiable
6 and auditable evidence of use of those services, to a
7 heavy-duty vehicle and any occupants of the heavy-
8 duty vehicle without relying on components mounted
9 onboard the heavy-duty vehicle for delivery of those
10 services.

11 (3) AUXILIARY POWER UNIT.—The term “auxil-
12 iary power unit” means an integrated system that—

13 (A) provides heat, air conditioning, engine
14 warming, and electricity to the factory-installed
15 components on a heavy-duty vehicle as if the
16 main drive engine of the heavy-duty vehicle
17 were running; and

18 (B) is certified by the Administrator under
19 part 89 of title 40, Code of Federal Regulations
20 (or any successor regulation), as meeting appli-
21 cable emission standards.

22 (4) HEAVY-DUTY VEHICLE.—The term “heavy-
23 duty vehicle” means a vehicle that—

24 (A) has a gross vehicle weight rating great-
25 er than 12,500 pounds; and

1 (B) is powered by a diesel engine.

2 (5) IDLE REDUCTION TECHNOLOGY.—The term
3 “idle reduction technology” means an advanced
4 truck stop electrification system, auxiliary power
5 unit, or other device or system of devices that—

6 (A) is used to reduce long-duration idling
7 of a heavy-duty vehicle; and

8 (B) allows for the main drive engine or
9 auxiliary refrigeration engine of a heavy-duty
10 vehicle to be shut down.

11 (6) LONG-DURATION IDLING.—

12 (A) IN GENERAL.—The term “long-dura-
13 tion idling” means the operation of a main
14 drive engine or auxiliary refrigeration engine of
15 a heavy-duty vehicle, for a period greater than
16 15 consecutive minutes, at a time at which the
17 main drive engine is not engaged in gear.

18 (B) EXCLUSIONS.—The term “long-dura-
19 tion idling” does not include the operation of a
20 main drive engine or auxiliary refrigeration en-
21 gine of a heavy-duty vehicle during a routine
22 stoppage associated with traffic movement or
23 congestion.

24 (b) IDLE REDUCTION TECHNOLOGY BENEFITS, PRO-
25 GRAMS, AND STUDIES.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Administrator
3 shall—

4 (A)(i) commence a review of the mobile
5 source air emission models of the Environ-
6 mental Protection Agency used under the Clean
7 Air Act (42 U.S.C. 7401 et seq.) to determine
8 whether the models accurately reflect the emis-
9 sions resulting from long-duration idling of
10 heavy-duty vehicles and other vehicles and en-
11 gines; and

12 (ii) update those models as the Adminis-
13 trator determines to be appropriate; and

14 (B)(i) commence a review of the emission
15 reductions achieved by the use of idle reduction
16 technology; and

17 (ii) complete such revisions of the regula-
18 tions and guidance of the Environmental Pro-
19 tection Agency as the Administrator determines
20 to be appropriate.

21 (2) DEADLINE FOR COMPLETION.—Not later
22 than 180 days after the date of enactment of this
23 Act, the Administrator shall—

24 (A) complete the reviews under subpara-
25 graphs (A)(i) and (B)(i) of paragraph (1); and

1 (B) prepare and make publicly available 1
2 or more reports on the results of the reviews.

3 (3) DISCRETIONARY INCLUSIONS.—The reviews
4 under subparagraphs (A)(i) and (B)(i) of paragraph
5 (1) and the reports under paragraph (2)(B) may ad-
6 dress the potential fuel savings resulting from use of
7 idle reduction technology.

8 (4) IDLE REDUCTION DEPLOYMENT PRO-
9 GRAM.—

10 (A) ESTABLISHMENT.—

11 (i) IN GENERAL.—Not later than 90
12 days after the date of enactment of this
13 Act, the Administrator, in consultation
14 with the Secretary of Transportation, shall
15 establish a program to support deployment
16 of idle reduction technology.

17 (ii) PRIORITY.—The Administrator
18 shall give priority to the deployment of idle
19 reduction technology based on beneficial ef-
20 fects on air quality and ability to lessen
21 the emission of criteria air pollutants.

22 (B) FUNDING.—

23 (i) AUTHORIZATION OF APPROPRIA-
24 TIONS.—There are authorized to be appro-

1 priated to the Administrator to carry out
2 subparagraph (A)—

3 (I) \$19,500,000 for fiscal year
4 2006;

5 (II) \$30,000,000 for fiscal year
6 2007; and

7 (III) \$45,000,000 for fiscal year
8 2008.

9 (ii) COST SHARING.—Subject to clause
10 (iii), the Administrator shall require at
11 least 50 percent of the costs directly and
12 specifically related to any project under
13 this section to be provided from non-Fed-
14 eral sources.

15 (iii) NECESSARY AND APPROPRIATE
16 REDUCTIONS.—The Administrator may re-
17 duce the non-Federal requirement under
18 clause (ii) if the Administrator determines
19 that the reduction is necessary and appro-
20 priate to meet the objectives of this sec-
21 tion.

22 (5) IDLING LOCATION STUDY.—

23 (A) IN GENERAL.—Not later than 90 days
24 after the date of enactment of this Act, the Ad-
25 ministrator, in consultation with the Secretary

1 of Transportation, shall commence a study to
2 analyze all locations at which heavy-duty vehi-
3 cles stop for long-duration idling, including—

- 4 (i) truck stops;
- 5 (ii) rest areas;
- 6 (iii) border crossings;
- 7 (iv) ports;
- 8 (v) transfer facilities; and
- 9 (vi) private terminals.

10 (B) DEADLINE FOR COMPLETION.—Not
11 later than 180 days after the date of enactment
12 of this Act, the Administrator shall—

- 13 (i) complete the study under subpara-
14 graph (A); and
- 15 (ii) prepare and make publicly avail-
16 able 1 or more reports of the results of the
17 study.

18 (c) VEHICLE WEIGHT EXEMPTION.—Section 127(a)
19 of title 23, United States Code, is amended—

20 (1) by designating the first through eleventh
21 sentences as paragraphs (1) through (11), respec-
22 tively; and

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

24 “(12) HEAVY DUTY VEHICLES.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B) and (C), in order to promote reduc-
3 tion of fuel use and emissions because of engine
4 idling, the maximum gross vehicle weight limit
5 and the axle weight limit for any heavy-duty ve-
6 hicle equipped with an idle reduction technology
7 shall be increased by a quantity necessary to
8 compensate for the additional weight of the idle
9 reduction system.

10 “(B) MAXIMUM WEIGHT INCREASE.—The
11 weight increase under subparagraph (A) shall
12 be not greater than 250 pounds.

13 “(C) PROOF.—On request by a regulatory
14 agency or law enforcement agency, the vehicle
15 operator shall provide proof (through dem-
16 onstration or certification) that—

17 “(i) the idle reduction technology is
18 fully functional at all times; and

19 “(ii) the 250-pound gross weight in-
20 crease is not used for any purpose other
21 than the use of idle reduction technology
22 described in subparagraph (A).”.

1 **SEC. 724. BIODIESEL ENGINE TESTING PROJECT.**

2 (a) DEFINITION OF BIODIESEL.—In this section, the
3 term “biodiesel” means a diesel fuel substitute produced
4 from nonpetroleum renewable resources that meets—

5 (1) the registration requirements for fuels and
6 fuel additives established under section 211 of the
7 Clean Air Act (42 U.S.C. 7545); and

8 (2) the American Society for Testing and Mate-
9 rials Standard D6751–02a “Standard Specification
10 for Biodiesel Fuel (B100) Blend Stock for Distillate
11 Fuels”.

12 (b) PROGRAM.—Not later than 180 days after the
13 date of enactment of this Act, the Secretary shall initiate
14 a project, in partnership with diesel engine, diesel fuel in-
15 jection system, and diesel vehicle manufacturers and diesel
16 and biodiesel fuel providers, to provide biodiesel testing
17 in advanced diesel engine and fuel system technology.

18 (c) SCOPE.—The project shall provide for testing to
19 determine the impact of biodiesel on current and future
20 emission control technologies, with emphasis on—

21 (1) the impact of biodiesel on emissions war-
22 ranty, in-use liability, and anti-tampering provisions;

23 (2) the impact of long-term use of biodiesel on
24 engine operations;

1 (3) the options for optimizing those technologies
2 for both emissions and performance when switching
3 between biodiesel and diesel fuel; and

4 (4) the impact of using biodiesel in those fuel-
5 ing systems and engines when used as a blend with
6 diesel fuel containing a maximum of 15-parts-per-
7 million sulfur content, as mandated by the Adminis-
8 trator of the Environmental Protection Agency dur-
9 ing 2006.

10 (d) REPORT.—Not later than 2 years after the date
11 of enactment of this Act, the Secretary shall submit to
12 Congress a report on the results of the project,
13 including—

14 (1) a comprehensive analysis of impacts from
15 biodiesel on engine operation for both existing and
16 expected future diesel technologies; and

17 (2) recommendations for ensuring optimal emis-
18 sions reductions and engine performance with bio-
19 diesel.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to carry out this section
22 \$5,000,000 for each of fiscal years 2006 through 2008.

1 **Subtitle D—Federal and State**
2 **Procurement**

3 **SEC. 731. DEFINITIONS.**

4 In this subtitle:

5 (1) DEPARTMENT.—The term “Department”
6 means the Department of Energy.

7 (2) FUEL CELL.—The term “fuel cell” means a
8 device that directly converts the chemical energy of
9 a fuel and an oxidant into electricity by electro-
10 chemical processes occurring at separate electrodes
11 in the device.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of Energy.

14 (4) STATIONARY; PORTABLE.—The terms “sta-
15 tionary” and “portable”, when used in reference to
16 a fuel cell, include—

17 (A) continuous electric power; and

18 (B) backup electric power.

19 (5) TASK FORCE.—The term “Task Force”
20 means the Hydrogen and Fuel Cell Technical Task
21 Force established under section 102(a) of the Spark
22 M. Matsunaga Hydrogen Research, Development,
23 and Demonstration Act of 1990 (as amended by sec-
24 tion 801).

1 (6) TECHNICAL ADVISORY COMMITTEE.—The
2 term “Technical Advisory Committee” means the
3 independent Technical Advisory Committee selected
4 under section 102(d) of the Spark M. Matsunaga
5 Hydrogen Research, Development, and Demonstra-
6 tion Act of 1990 (as added by section 801).

7 **SEC. 732. FEDERAL AND STATE PROCUREMENT OF FUEL**
8 **CELL VEHICLES AND HYDROGEN ENERGY**
9 **SYSTEMS.**

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

11 (1) to stimulate acceptance by the market of
12 fuel cell vehicles and hydrogen energy systems;

13 (2) to support development of technologies re-
14 lating to fuel cell vehicles, public refueling stations,
15 and hydrogen energy systems; and

16 (3) to require the Federal government, which is
17 the largest single user of energy in the United
18 States, to adopt those technologies as soon as prac-
19 ticable after the technologies are developed, in con-
20 junction with private industry partners.

21 (b) FEDERAL LEASES AND PURCHASES.—

22 (1) REQUIREMENT.—

23 (A) IN GENERAL.—Not later than January
24 1, 2010, the head of any Federal agency that
25 uses a light-duty or heavy-duty vehicle fleet

1 shall lease or purchase fuel cell vehicles and hy-
2 drogen energy systems to meet any applicable
3 energy savings goal described in subsection (c).

4 (B) LEARNING DEMONSTRATION VEHI-
5 CLES.—The Secretary may lease or purchase
6 appropriate vehicles developed under section
7 201 of the Spark M. Matsunaga Hydrogen Re-
8 search, Development, and Demonstration Act of
9 1990 (as added by section 801) to meet the re-
10 quirement in subparagraph (A).

11 (2) COSTS OF LEASES AND PURCHASES.—

12 (A) IN GENERAL.—The Secretary, in co-
13 operation with the Task Force and the Tech-
14 nical Advisory Committee, shall pay to Federal
15 agencies (or share the cost under interagency
16 agreements) the difference in cost between—

17 (i) the cost to the agencies of leasing
18 or purchasing fuel cell vehicles and hydro-
19 gen energy systems under paragraph (1);
20 and

21 (ii) the cost to the agencies of a fea-
22 sible alternative to leasing or purchasing
23 fuel cell vehicles and hydrogen energy sys-
24 tems, as determined by the Secretary.

1 (B) COMPETITIVE COSTS AND MANAGE-
2 MENT STRUCTURES.—In carrying out subpara-
3 graph (A), the Secretary, in consultation with
4 the agency, may use the General Services Ad-
5 ministration or any commercial vendor to
6 ensure—

- 7 (i) a cost-effective purchase of a fuel
8 cell vehicle or hydrogen energy system; or
9 (ii) a cost-effective management struc-
10 ture of the lease of a fuel cell vehicle or hy-
11 drogen energy system.

12 (3) EXCEPTION.—

13 (A) IN GENERAL.—If the Secretary deter-
14 mines that the head of an agency described in
15 paragraph (1) cannot find an appropriately effi-
16 cient and reliable fuel cell vehicle or hydrogen
17 energy system in accordance with paragraph
18 (1), that agency shall be excepted from compli-
19 ance with paragraph (1).

20 (B) CONSIDERATION.—In making a deter-
21 mination under subparagraph (A), the Sec-
22 retary shall consider—

- 23 (i) the needs of the agency; and
24 (ii) an evaluation performed by—

25 (I) the Task Force; or

1 (II) the Technical Advisory Com-
2 mittee.

3 (c) ENERGY SAVINGS GOALS.—

4 (1) IN GENERAL.—

5 (A) REGULATIONS.—Not later than De-
6 cember 31, 2006, the Secretary shall—

7 (i) in cooperation with the Task
8 Force, promulgate regulations for the pe-
9 riod of 2008 through 2010 that extend and
10 augment energy savings goals for each
11 Federal agency, in accordance with any
12 Executive order issued after March 2000;
13 and

14 (ii) promulgate regulations to expand
15 the minimum Federal fleet requirement
16 and credit allowances for fuel cell vehicle
17 systems under section 303 of the Energy
18 Policy Act of 1992 (42 U.S.C. 13212).

19 (B) REVIEW, EVALUATION, AND NEW REG-
20 ULATIONS.—Not later than December 31,
21 2010, the Secretary shall—

22 (i) review the regulations promulgated
23 under subparagraph (A);

1 (ii) evaluate any progress made to-
2 ward achieving energy savings by Federal
3 agencies; and

4 (iii) promulgate new regulations for
5 the period of 2011 through 2015 to
6 achieve additional energy savings by Fed-
7 eral agencies relating to technical and cost-
8 performance standards.

9 (2) OFFSETTING ENERGY SAVINGS GOALS.—An
10 agency that leases or purchases a fuel cell vehicle or
11 hydrogen energy system in accordance with sub-
12 section (b)(1) may use that lease or purchase to
13 count toward an energy savings goal of the agency.

14 (d) COOPERATIVE PROGRAM WITH STATE AGEN-
15 CIES.—

16 (1) IN GENERAL.—The Secretary may establish
17 a cooperative program with State agencies managing
18 motor vehicle fleets to encourage purchase of fuel
19 cell vehicles by the agencies.

20 (2) INCENTIVES.—In carrying out the coopera-
21 tive program, the Secretary may offer incentive pay-
22 ments to a State agency to assist with the cost of
23 planning, differential purchases, and administration.

24 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to carry out this section—

- 1 (1) \$15,000,000 for fiscal year 2008;
- 2 (2) \$25,000,000 for fiscal year 2009;
- 3 (3) \$65,000,000 for fiscal year 2010; and
- 4 (4) such sums as are necessary for each of fis-
- 5 cal years 2011 through 2015.

6 **SEC. 733. FEDERAL PROCUREMENT OF STATIONARY, PORT-**
7 **ABLE, AND MICRO FUEL CELLS.**

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

- 9 (1) to stimulate acceptance by the market of
- 10 stationary, portable, and micro fuel cells; and
- 11 (2) to support development of technologies re-
- 12 lating to stationary, portable, and micro fuel cells.

13 (b) FEDERAL LEASES AND PURCHASES.—

- 14 (1) IN GENERAL.—Not later than January 1,
- 15 2006, the head of any Federal agency that uses elec-
- 16 trical power from stationary, portable, or microport-
- 17 able devices shall lease or purchase a stationary,
- 18 portable, or micro fuel cell to meet any applicable
- 19 energy savings goal described in subsection (c).

20 (2) COSTS OF LEASES AND PURCHASES.—

- 21 (A) IN GENERAL.—The Secretary, in co-
- 22 operation with the Task Force and the Tech-
- 23 nical Advisory Committee, shall pay the cost to
- 24 Federal agencies (or share the cost under inter-
- 25 agency agreements) of leasing or purchasing

1 stationary, portable, and micro fuel cells under
2 paragraph (1).

3 (B) COMPETITIVE COSTS AND MANAGE-
4 MENT STRUCTURES.—In carrying out subpara-
5 graph (A), the Secretary, in consultation with
6 the agency, may use the General Services Ad-
7 ministration or any commercial vendor to
8 ensure—

9 (i) a cost-effective purchase of a sta-
10 tionary, portable, or micro fuel cell; or

11 (ii) a cost-effective management struc-
12 ture of the lease of a stationary, portable,
13 or micro fuel cell.

14 (3) EXCEPTION.—

15 (A) IN GENERAL.—If the Secretary deter-
16 mines that the head of an agency described in
17 paragraph (1) cannot find an appropriately effi-
18 cient and reliable stationary, portable, or micro
19 fuel cell in accordance with paragraph (1), that
20 agency shall be excepted from compliance with
21 paragraph (1).

22 (B) CONSIDERATION.—In making a deter-
23 mination under subparagraph (A), the Sec-
24 retary shall consider—

25 (i) the needs of the agency; and

- 1 (ii) an evaluation performed by—
2 (I) the Task Force; or
3 (II) the Technical Advisory Com-
4 mittee of the Task Force.

5 (c) ENERGY SAVINGS GOALS.—An agency that leases
6 or purchases a stationary, portable, or micro fuel cell in
7 accordance with subsection (b)(1) may use that lease or
8 purchase to count toward an energy savings goal described
9 in section 732(c)(1) that is applicable to the agency.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to carry out this section—

- 12 (1) \$20,000,000 for fiscal year 2006;
13 (2) \$50,000,000 for fiscal year 2007;
14 (3) \$75,000,000 for fiscal year 2008;
15 (4) \$100,000,000 for fiscal year 2009;
16 (5) \$100,000,000 for fiscal year 2010; and
17 (6) such sums as are necessary for each of fis-
18 cal years 2011 through 2015.

19 **TITLE VIII—HYDROGEN**

20 **SEC. 801. HYDROGEN RESEARCH, DEVELOPMENT, AND** 21 **DEMONSTRATION.**

22 The Spark M. Matsunaga Hydrogen Research, Devel-
23 opment, and Demonstration Act of 1990 (42 U.S.C.
24 12401 et seq.) is amended to read as follows:

1 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 “(a) SHORT TITLE.—This Act may be cited as the
3 ‘Spark M. Matsunaga Hydrogen Research, Development,
4 and Demonstration Act of 1990’.

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

“Sec. 1. Short title; table of contents.

“Sec. 2. Purposes.

“Sec. 3. Definitions.

“TITLE I—HYDROGEN AND FUEL CELLS

“Sec. 101. Hydrogen and fuel cell technology research and development.

“Sec. 102. Task Force.

“Sec. 103. Technology transfer.

“Sec. 104. Authorization of appropriations.

“TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

“Sec. 201. Hydrogen Supply and Fuel Cell Demonstration Program.

“Sec. 202. Authorization of appropriations.

“TITLE III—REGULATORY MANAGEMENT

“Sec. 301. Codes and standards.

“Sec. 302. Disclosure.

“Sec. 303. Authorization of appropriations.

“TITLE IV—REPORTS

“Sec. 401. Deployment of hydrogen technology.

“Sec. 402. Authorization of appropriations.

“TITLE V—TERMINATION OF AUTHORITY

“Sec. 501. Termination of authority.

7 **“SEC. 2. PURPOSES.**

8 “The purposes of this Act are—

9 “(1) to enable and promote comprehensive de-
10 velopment, demonstration, and commercialization of
11 hydrogen and fuel cell technology in partnership
12 with industry;

1 “(2) to make critical public investments in
2 building strong links to private industry, institutions
3 of higher education, National Laboratories, and re-
4 search institutions to expand innovation and indus-
5 trial growth;

6 “(3) to build a mature hydrogen economy that
7 creates fuel diversity in the massive transportation
8 sector of the United States;

9 “(4) to sharply decrease the dependency of the
10 United States on imported oil, eliminate most emis-
11 sions from the transportation sector, and greatly en-
12 hance our energy security; and

13 “(5) to create, strengthen, and protect a sus-
14 tainable national energy economy.

15 **“SEC. 3. DEFINITIONS.**

16 “In this Act:

17 “(1) DEPARTMENT.—The term ‘Department’
18 means the Department of Energy.

19 “(2) FUEL CELL.—The term ‘fuel cell’ means a
20 device that directly converts the chemical energy of
21 a fuel, which is supplied from an external source,
22 and an oxidant into electricity by electrochemical
23 processes occurring at separate electrodes in the de-
24 vice.

1 “(3) HEAVY-DUTY VEHICLE.—The term ‘heavy-
2 duty vehicle’ means a motor vehicle that—

3 “(A) is rated at more than 8,500 pounds
4 gross vehicle weight;

5 “(B) has a curb weight of more than 6,000
6 pounds; or

7 “(C) has a basic vehicle frontal area in ex-
8 cess of 45 square feet.

9 “(4) INFRASTRUCTURE.—The term ‘infrastruc-
10 ture’ means the equipment, systems, or facilities
11 used to produce, distribute, deliver, or store hydro-
12 gen (except for onboard storage).

13 “(5) LIGHT-DUTY VEHICLE.—The term ‘light-
14 duty vehicle’ means a motor vehicle that is rated at
15 8,500 or less pounds gross vehicle weight.

16 “(6) SECRETARY.—The term ‘Secretary’ means
17 the Secretary of Energy.

18 “(7) STATIONARY; PORTABLE.—The terms ‘sta-
19 tionary’ and ‘portable’, when used in reference to a
20 fuel cell, include—

21 “(A) continuous electric power; and

22 “(B) backup electric power.

23 “(8) TASK FORCE.—The term ‘Task Force’
24 means the Hydrogen and Fuel Cell Technical Task
25 Force established under section 102(a).

1 for hydrogen production, the supply of hydrogen, storage
2 of hydrogen, and end uses of hydrogen that—

3 “(1) steadily increase production, distribution,
4 and end use efficiency and reduce life-cycle emis-
5 sions;

6 “(2) resolve critical problems relating to cata-
7 lysts, membranes, storage, lightweight materials,
8 electronic controls, and other problems that emerge
9 from research and development;

10 “(3) enhance sources of renewable fuels and
11 biofuels for hydrogen production; and

12 “(4) enable widespread use of distributed elec-
13 tricity generation and storage.

14 “(d) PUBLIC EDUCATION AND RESEARCH.—In car-
15 rying out this section, the Secretary shall support en-
16 hanced public education and research conducted at institu-
17 tions of higher education in fundamental sciences, applica-
18 tion design, and systems concepts (including education
19 and research relating to materials, subsystems,
20 manufacturability, maintenance, and safety) relating to
21 hydrogen and fuel cells.

22 “(e) COST SHARING.—The costs of carrying out
23 projects and activities under this section shall be shared
24 in accordance with section 1002 of the Energy Policy Act
25 of 2005.

1 **“SEC. 102. TASK FORCE.**

2 “(a) ESTABLISHMENT.—The Secretary, in consulta-
3 tion with the Director of the Office of Science and Tech-
4 nology Policy, shall establish an interagency Task Force,
5 to be known as the ‘Hydrogen and Fuel Cell Technical
6 Task Force’ to advise the Secretary in carrying out pro-
7 grams under this Act.

8 “(b) MEMBERSHIP.—

9 “(1) IN GENERAL.—The Task Force shall be
10 comprised of such representatives of the Office of
11 Science and Technology Policy, the Environmental
12 Protection Agency, the Department of Transpor-
13 tation, the Department of Defense, the National
14 Aeronautics and Space Administration, and such
15 other members, as the Secretary, in consultation
16 with the Director of the Office of Science and Tech-
17 nology Policy, determines to be appropriate.

18 “(2) VOTING.—A member of the Task Force
19 that does not represent a Federal agency shall serve
20 on the Task Force only in a nonvoting, advisory ca-
21 pacity.

22 “(c) DUTIES.—The Task Force shall review and
23 make any necessary recommendations to the Secretary on
24 implementation and conduct of programs under this Act.

25 “(d) TECHNICAL ADVISORY COMMITTEE.—

1 “(1) IN GENERAL.—The Secretary shall select
2 such number of members as the Secretary considers
3 to be appropriate to form an independent, non-
4 political Technical Advisory Committee.

5 “(2) MEMBERSHIP.—Each member of the
6 Technical Advisory Committee shall have scientific,
7 technical, or industrial expertise, as determined by
8 the Secretary.

9 “(3) DUTIES.—The Technical Advisory Com-
10 mittee shall provide technical advice and assistance
11 to the Task Force and the Secretary.

12 **“SEC. 103. TECHNOLOGY TRANSFER.**

13 “In carrying out this Act, the Secretary shall carry
14 out programs that—

15 “(1) provide for the transfer of critical hydro-
16 gen and fuel cell technologies to the private sector;

17 “(2) accelerate wider application of those tech-
18 nologies in the global market;

19 “(3) foster the exchange of generic, nonpropri-
20 etary information; and

21 “(4) assess technical and commercial viability
22 of technologies relating to the production, distribu-
23 tion, storage, and use of hydrogen energy and fuel
24 cells.

1 **“SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) HYDROGEN SUPPLY.—There are authorized to
3 be appropriated to carry out projects and activities relat-
4 ing to hydrogen production, storage, distribution and dis-
5 pensing, transport, education and coordination, and tech-
6 nology transfer under this title—

7 “(1) \$160,000,000 for fiscal year 2006;

8 “(2) \$200,000,000 for fiscal year 2007;

9 “(3) \$220,000,000 for fiscal year 2008;

10 “(4) \$230,000,000 for fiscal year 2009;

11 “(5) \$250,000,000 for fiscal year 2010; and

12 “(6) such sums as are necessary for each of fis-
13 cal years 2011 through 2015.

14 “(b) FUEL CELL TECHNOLOGIES.—There are au-
15 thorized to be appropriated to carry out projects and ac-
16 tivities relating to fuel cell technologies under this title—

17 “(1) \$150,000,000 for fiscal year 2006;

18 “(2) \$160,000,000 for fiscal year 2007;

19 “(3) \$170,000,000 for fiscal year 2008;

20 “(4) \$180,000,000 for fiscal year 2009;

21 “(5) \$200,000,000 for fiscal year 2010; and

22 “(6) such sums as are necessary for each of fis-
23 cal years 2011 through 2015.

1 **“TITLE II—HYDROGEN AND**
2 **FUEL CELL DEMONSTRATION**

3 **“SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEM-**
4 **ONSTRATION PROGRAM.**

5 “(a) IN GENERAL.—The Secretary, in consultation
6 with the Task Force and the Technical Advisory Com-
7 mittee, shall carry out a program to demonstrate develop-
8 mental hydrogen and fuel cell systems for mobile, portable,
9 μ and stationary uses, using improved versions of the
10 learning demonstrations program concept of the Depart-
11 ment including demonstrations involving—

12 “(1) light-duty vehicles;

13 “(2) heavy-duty vehicles;

14 “(3) fleet vehicles;

15 “(4) specialty industrial and farm vehicles; and

16 “(5) commercial and residential portable, con-
17 tinuous, and backup electric power generation.

18 “(b) OTHER DEMONSTRATION PROGRAMS.—To de-
19 velop widespread hydrogen supply and use options, and
20 assist evolution of technology, the Secretary shall—

21 “(1) carry out demonstrations of evolving hy-
22 drogen and fuel cell technologies in national parks,
23 remote island areas, and on Indian tribal land, as
24 selected by the Secretary;

1 “(2) in accordance with any code or standards
2 developed in a region, fund prototype, pilot fleet,
3 and infrastructure regional hydrogen supply cor-
4 ridors along the interstate highway system in varied
5 climates across the United States; and

6 “(3) fund demonstration programs that explore
7 the use of hydrogen blends, hybrid hydrogen, and
8 hydrogen reformed from renewable agricultural
9 fuels, including the use of hydrogen in hybrid elec-
10 tric, heavier duty, and advanced internal combus-
11 tion-powered vehicles.

12 “(c) SYSTEM DEMONSTRATIONS.—

13 “(1) IN GENERAL.—As a component of the
14 demonstration program under this section, the Sec-
15 retary shall provide grants, on a cost share basis as
16 appropriate, to eligible entities (as determined by the
17 Secretary) for use in—

18 “(A) devising system design concepts that
19 provide for the use of advanced composite vehi-
20 cles in programs under section 732 of the En-
21 ergy Policy Act of 2005 that—

22 “(i) have as a primary goal the reduc-
23 tion of drive energy requirements;

24 “(ii) after 2010, add another research
25 and development phase to the vehicle and

1 infrastructure partnerships developed
2 under the learning demonstrations pro-
3 gram concept of the Department; and

4 “(iii) are managed through an en-
5 hanced FreedomCAR program within the
6 Department that encourages involvement
7 in cost-shared projects by manufacturers
8 and governments; and

9 “(B) designing a local distributed energy
10 system that—

11 “(i) incorporates renewable hydrogen
12 production, off-grid electricity production,
13 and fleet applications in industrial or com-
14 mercial service;

15 “(ii) integrates energy or applications
16 described in clause (i), such as stationary,
17 portable, micro, and mobile fuel cells, into
18 a high-density commercial or residential
19 building complex or agricultural commu-
20 nity; and

21 “(iii) is managed in cooperation with
22 industry, State, tribal, and local govern-
23 ments, agricultural organizations, and non-
24 profit generators and distributors of elec-
25 tricity.

1 “(2) COST SHARING.—The costs of carrying out
2 a project or activity under this subsection shall be
3 shared in accordance with section 1002 of the En-
4 ergy Policy Act of 2005.

5 “(d) IDENTIFICATION OF NEW RESEARCH AND DE-
6 VELOPMENT REQUIREMENTS.—In carrying out the dem-
7 onstrations under subsection (a), the Secretary, in con-
8 sultation with the Task Force and the Technical Advisory
9 Committee, shall—

10 “(1) after 2008 for stationary and portable ap-
11 plications, and after 2010 for vehicles, identify new
12 research and development requirements that refine
13 technological concepts, planning, and applications;
14 and

15 “(2) during the second phase of the learning
16 demonstrations under subsection (c)(1)(A)(ii) rede-
17 sign subsequent research and development to incor-
18 porate those requirements.

19 **“SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated to carry out
21 this title—

22 “(1) \$185,000,000 for fiscal year 2006;

23 “(2) \$200,000,000 for fiscal year 2007;

24 “(3) \$250,000,000 for fiscal year 2008;

25 “(4) \$300,000,000 for fiscal year 2009;

1 “(5) \$375,000,000 for fiscal year 2010; and

2 “(6) such sums as are necessary for each of fis-
3 cal years 2011 through 2015.

4 **“TITLE III—REGULATORY**
5 **MANAGEMENT**

6 **“SEC. 301. CODES AND STANDARDS.**

7 “(a) IN GENERAL.—The Secretary, in cooperation
8 with the Task Force, shall provide grants to, or offer to
9 enter into contracts with such professional organizations,
10 public service organizations, and government agencies as
11 the Secretary determines appropriate to support timely
12 and extensive development of safety codes and standards
13 relating to fuel cell vehicles, hydrogen energy systems, and
14 stationary, portable, and micro fuel cells.

15 “(b) EDUCATIONAL EFFORTS.—The Secretary shall
16 support educational efforts by organizations and agencies
17 described in subsection (a) to share information, including
18 information relating to best practices, among those organi-
19 zations and agencies.

20 **“SEC. 302. DISCLOSURE.**

21 “Section 623 of the Energy Policy Act of 1992 (42
22 U.S.C. 13293) shall apply to any project carried out
23 through a grant, cooperative agreement, or contract under
24 this Act.

1 **“SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out
3 this title—

4 “(1) \$4,000,000 for fiscal year 2006;

5 “(2) \$7,000,000 for fiscal year 2007;

6 “(3) \$8,000,000 for fiscal year 2008;

7 “(4) \$10,000,000 for fiscal year 2009;

8 “(5) \$9,000,000 for fiscal year 2010; and

9 “(6) such sums as are necessary for each of fis-
10 cal years 2011 and 2012.

11 **“TITLE IV—REPORTS**

12 **“SEC. 401. DEPLOYMENT OF HYDROGEN TECHNOLOGY.**

13 “(a) SECRETARY.—Subject to subsection (c), not
14 later than 2 years after the date of enactment of the Hy-
15 drogen and Fuel Cell Technology Act of 2005, and tri-
16 ennially thereafter, the Secretary shall submit to Congress
17 a report describing—

18 “(1) any activity carried out by the Department
19 of Energy under this Act, including a research, de-
20 velopment, demonstration, and commercial applica-
21 tion program for hydrogen and fuel cell technology;

22 “(2) measures the Secretary has taken during
23 the preceding 3 years to support the transition of
24 primary industry (or a related industry) to a fully
25 commercialized hydrogen economy;

1 “(3) any change made to a research, develop-
2 ment, or deployment strategy of the Secretary relat-
3 ing to hydrogen and fuel cell technology to reflect
4 the results of a learning demonstration under title
5 II;

6 “(4) progress, including progress in infrastruc-
7 ture, made toward achieving the goal of producing
8 and deploying not less than—

9 “(A) 100,000 hydrogen-fueled vehicles in
10 the United States by 2010; and

11 “(B) 2,500,000 hydrogen-fueled vehicles by
12 2020;

13 “(5) progress made toward achieving the goal
14 of supplying hydrogen at a sufficient number of fuel-
15 ing stations in the United States by 2010 can be
16 achieved by integrating—

17 “(A) hydrogen activities; and

18 “(B) associated targets and timetables for
19 the development of hydrogen technologies;

20 “(6) any problem relating to the design, execu-
21 tion, or funding of a program under this Act;

22 “(7) progress made toward and goals achieved
23 in carrying out this Act and updates to the develop-
24 mental roadmap, including the results of the reviews
25 conducted by the National Academy of Sciences

1 under subsection (b) for the fiscal years covered by
2 the report; and

3 “(8) any updates to strategic plans that are
4 necessary to meet the goals described in paragraph
5 (4).

6 “(b) NATIONAL ACADEMY OF SCIENCES.—

7 “(1) IN GENERAL.—The Secretary shall enter
8 into an arrangement with the National Academy of
9 Sciences to conduct and submit to the Secretary, not
10 later than September 30, 2007, and triennially
11 thereafter—

12 “(A) the results of a review of the projects
13 and activities carried out under this Act;

14 “(B) recommendations for any new au-
15 thorities or resources needed to achieve stra-
16 tegic goals; and

17 “(C) recommendations for approaches by
18 which the Secretary could achieve a substantial
19 decrease in the dependence on and consumption
20 of natural gas and imported oil by the Federal
21 Government, including by increasing the use of
22 fuel cell vehicles, stationary and portable fuel
23 cells, and hydrogen energy systems.

24 “(2) REAUTHORIZATION.—The Secretary shall
25 use the results of reviews conducted under para-

1 graph (1) in proposing to Congress any legislative
2 changes relating to reauthorization of this Act.

3 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

4 “There is authorized to be appropriated to carry out
5 this title \$1,500,000 for each of fiscal years 2006 through
6 2010.

7 **“TITLE V—TERMINATION OF**
8 **AUTHORITY**

9 **“SEC. 501. TERMINATION OF AUTHORITY.**

10 “This Act and the authority provided by this Act ter-
11minate on September 30, 2015.”.

12 **TITLE IX—RESEARCH AND**
13 **DEVELOPMENT**

14 **SEC. 901. SHORT TITLE.**

15 This title may be cited as the “Energy Research, De-
16velopment, Demonstration, and Commercial Application
17Act of 2005”.

18 **SEC. 902. GOALS.**

19 (a) IN GENERAL.—In order to achieve the purposes
20 of this title, the Secretary shall conduct a balanced set
21 of programs of energy research, development, demonstra-
22tion, and commercial application focused on—

23 (1) increasing the efficiency of all energy inten-
24sive sectors through conservation and improved tech-
25nologies;

- 1 (2) promoting diversity of energy supply;
- 2 (3) decreasing the dependence of the United
- 3 States on foreign energy supplies;
- 4 (4) improving the energy security of the United
- 5 States; and
- 6 (5) decreasing the environmental impact of en-
- 7 ergy-related activities.

8 (b) GOALS.—The Secretary shall publish measurable
9 cost and performance-based goals with each annual budget
10 submission in at least the following areas:

- 11 (1) Energy efficiency for buildings, energy-con-
- 12 suming industries, and vehicles.
- 13 (2) Electric energy generation (including dis-
- 14 tributed generation), transmission, and storage.
- 15 (3) Renewable energy technologies, including
- 16 wind power, photovoltaics, solar thermal systems,
- 17 geothermal energy, hydrogen-fueled systems, bio-
- 18 mass-based systems, biofuels, and hydropower.
- 19 (4) Fossil energy, including power generation,
- 20 onshore and offshore oil and gas resource recovery,
- 21 and transportation.
- 22 (5) Nuclear energy, including programs for ex-
- 23 isting and advanced reactors, and education of fu-
- 24 ture specialists.

1 (c) PUBLIC COMMENT.—The Secretary shall provide
2 mechanisms for input on the annually published goals
3 from industry, institutions of higher education, and other
4 public sources.

5 (d) EFFECT OF GOALS.—Nothing in subsection (a)
6 or the annually published goals creates any new authority
7 for any Federal agency, or may be used by any Federal
8 agency, to support the establishment of regulatory stand-
9 ards or regulatory requirements.

10 **SEC. 903. DEFINITIONS.**

11 In this title:

12 (1) DEPARTMENTAL MISSION.—The term “de-
13 partmental mission” means any of the functions
14 vested in the Secretary by the Department of En-
15 ergy Organization Act (42 U.S.C. 7101 et seq.) or
16 other law.

17 (2) HISPANIC-SERVING INSTITUTION.—The
18 term “Hispanic-serving institution” has the meaning
19 given the term in section 502(a) of the Higher Edu-
20 cation Act of 1965 (20 U.S.C. 1101a(a)).

21 (3) NONMILITARY ENERGY LABORATORY.—The
22 term “nonmilitary energy laboratory” means a Na-
23 tional Laboratory other than a National Laboratory
24 listed in subparagraph (G), (H), or (N) of section
25 2(3).

1 (4) PART B INSTITUTION.—The term “part B
2 institution” has the meaning given the term in sec-
3 tion 322 of the Higher Education Act of 1965 (20
4 U.S.C. 1061).

5 (5) SINGLE-PURPOSE RESEARCH FACILITY.—
6 The term “single-purpose research facility” means—

7 (A) any of the primarily single-purpose en-
8 tities owned by the Department; or

9 (B) any other organization of the Depart-
10 ment designated by the Secretary.

11 **Subtitle A—Energy Efficiency**

12 **SEC. 911. ENERGY EFFICIENCY.**

13 (a) IN GENERAL.—There are authorized to be appro-
14 priated to the Secretary to carry out energy efficiency and
15 conservation research, development, demonstration, and
16 commercial application activities, including activities au-
17 thorized under this subtitle—

18 (1) \$772,000,000 for fiscal year 2006;

19 (2) \$865,000,000 for fiscal year 2007; and

20 (3) \$920,000,000 for fiscal year 2008.

21 (b) ALLOCATIONS.—From amounts authorized under
22 subsection (a), the following sums are authorized:

23 (1) For activities under section 912,
24 \$50,000,000 for each of fiscal years 2006 through
25 2008.

1 (2) For activities under section 914,
2 \$7,000,000 for each of fiscal years 2006 through
3 2008.

4 (3) For activities under section 915—

5 (A) \$30,000,000 for fiscal year 2006;

6 (B) \$35,000,000 for fiscal year 2007; and

7 (C) \$40,000,000 for fiscal year 2008.

8 (c) EXTENDED AUTHORIZATION.—There are author-
9 ized to be appropriated to the Secretary to carry out sec-
10 tion 912 \$50,000,000 for each of fiscal years 2009
11 through 2013.

12 (d) LIMITATIONS.—None of the funds authorized to
13 be appropriated under this section may be used for—

14 (1) the issuance or implementation of energy ef-
15 ficiency regulations;

16 (2) the weatherization program established
17 under part A of title IV of the Energy Conservation
18 and Production Act (42 U.S.C. 6861 et seq.);

19 (3) a State energy conservation plan established
20 under part D of title III of the Energy Policy and
21 Conservation Act (42 U.S.C. 6321 et seq.); or

22 (4) a Federal energy management measure car-
23 ried out under part 3 of title V of the National En-
24 ergy Conservation Policy Act (42 U.S.C. 8251 et
25 seq.).

1 **SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.**

2 (a) DEFINITIONS.—In this section:

3 (1) ADVANCED SOLID-STATE LIGHTING.—The
4 term “advanced solid-state lighting” means a
5 semiconducting device package and delivery system
6 that produces white light using externally applied
7 voltage.

8 (2) INDUSTRY ALLIANCE.—The term “Industry
9 Alliance” means an entity selected by the Secretary
10 under subsection (d).

11 (3) INITIATIVE.—The term “Initiative” means
12 the Next Generation Lighting Initiative carried out
13 under this section.

14 (4) RESEARCH.—The term “research” includes
15 research on the technologies, materials, and manu-
16 facturing processes required for white light emitting
17 diodes.

18 (5) WHITE LIGHT EMITTING DIODE.—The term
19 “white light emitting diode” means a
20 semiconducting package, using either organic or in-
21 organic materials, that produces white light using
22 externally applied voltage.

23 (b) INITIATIVE.—The Secretary shall carry out a
24 Next Generation Lighting Initiative in accordance with
25 this section to support research, development, demonstra-
26 tion, and commercial application activities related to ad-

1 vanced solid-state lighting technologies based on white
2 light emitting diodes.

3 (c) OBJECTIVES.—The objectives of the Initiative
4 shall be to develop advanced solid-state organic and inor-
5 ganic lighting technologies based on white light emitting
6 diodes that, compared to incandescent and fluorescent
7 lighting technologies, are longer lasting, are more energy-
8 efficient and cost-competitive, and have less environmental
9 impact.

10 (d) INDUSTRY ALLIANCE.—Not later than 90 days
11 after the date of enactment of this Act, the Secretary shall
12 competitively select an Industry Alliance to represent par-
13 ticipants who are private, for-profit firms that, as a group,
14 are broadly representative of United States solid state
15 lighting research, development, infrastructure, and manu-
16 facturing expertise as a whole.

17 (e) RESEARCH.—

18 (1) GRANTS.—The Secretary shall carry out the
19 research activities of the Initiative through competi-
20 tively awarded grants to—

21 (A) researchers, including Industry Alli-
22 ance participants;

23 (B) National Laboratories; and

24 (C) institutions of higher education.

1 (2) INDUSTRY ALLIANCE.—The Secretary shall
2 annually solicit from the Industry Alliance—

3 (A) comments to identify solid-state light-
4 ing technology needs;

5 (B) an assessment of the progress of the
6 research activities of the Initiative; and

7 (C) assistance in annually updating solid-
8 state lighting technology roadmaps.

9 (3) AVAILABILITY TO PUBLIC.—The informa-
10 tion and roadmaps under paragraph (2) shall be
11 available to the public.

12 (f) DEVELOPMENT, DEMONSTRATION, AND COMMER-
13 CIAL APPLICATION.—

14 (1) IN GENERAL.—The Secretary shall carry
15 out a development, demonstration, and commercial
16 application program for the Initiative through com-
17 petitively selected awards.

18 (2) PREFERENCE.—In making the awards, the
19 Secretary may give preference to participants in the
20 Industry Alliance.

21 (g) COST SHARING.—In carrying out this section, the
22 Secretary shall require cost sharing in accordance with
23 section 1002.

24 (h) INTELLECTUAL PROPERTY.—The Secretary may
25 require (in accordance with section 202(a)(ii) of title 35,

1 United States Code, section 152 of the Atomic Energy Act
2 of 1954 (42 U.S.C. 2182), and section 9 of the Federal
3 Nonnuclear Energy Research and Development Act of
4 1974 (42 U.S.C. 5908)) that for any new invention devel-
5 oped under subsection (e)—

6 (1) that the Industry Alliance participants who
7 are active participants in research, development, and
8 demonstration activities related to the advanced
9 solid-state lighting technologies that are covered by
10 this section shall be granted the first option to nego-
11 tiate with the invention owner, at least in the field
12 of solid-state lighting, nonexclusive licenses and roy-
13 alties on terms that are reasonable under the cir-
14 cumstances;

15 (2)(i) that, for 1 year after a United States
16 patent is issued for the invention, the patent holder
17 shall not negotiate any license or royalty with any
18 entity that is not a participant in the Industry Alli-
19 ance described in paragraph (1); and

20 (ii) that, during the year described in clause (i),
21 the patent holder shall negotiate nonexclusive li-
22 censes and royalties in good faith with any inter-
23 ested participant in the Industry Alliance described
24 in paragraph (1); and

1 (3) such other terms as the Secretary deter-
2 mines are required to promote accelerated commer-
3 cialization of inventions made under the Initiative.

4 (i) NATIONAL ACADEMY REVIEW.—The Secretary
5 shall enter into an arrangement with the National Acad-
6 emy of Sciences to conduct periodic reviews of the Initia-
7 tive.

8 **SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

9 (a) INTERAGENCY GROUP.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of enactment of this Act, the Director of
12 the Office of Science and Technology Policy shall es-
13 tablish an interagency group to develop, in coordina-
14 tion with the advisory committee established under
15 subsection (e), a National Building Performance Ini-
16 tiative (referred to in this section as the “Initia-
17 tive”).

18 (2) COCHAIRS.—The interagency group shall be
19 co-chaired by appropriate officials of the Depart-
20 ment and the Department of Commerce, who shall
21 jointly arrange for the provision of necessary admin-
22 istrative support to the group.

23 (b) INTEGRATION OF EFFORTS.—The Initiative shall
24 integrate Federal, State, and voluntary private sector ef-
25 forts to reduce the costs of construction, operation, main-

1 tenance, and renovation of commercial, industrial, institu-
2 tional, and residential buildings.

3 (c) PLAN.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, the interagency
6 group shall submit to Congress a plan for carrying
7 out the appropriate Federal role in the Initiative.

8 (2) INCLUSIONS.—The plan shall include—

9 (A) research, development, demonstration,
10 and commercial application of systems and ma-
11 terials for new construction and retrofit relating
12 to the building envelope and building system
13 components;

14 (B) research, development, demonstration,
15 and commercial application to develop tech-
16 nology and infrastructure enabling the energy
17 efficient, automated operation of buildings and
18 building equipment; and

19 (C) the collection, analysis, and dissemina-
20 tion of research results and other pertinent in-
21 formation on enhancing building performance to
22 industry, government entities, and the public.

23 (d) DEPARTMENT OF ENERGY ROLE.—Within the
24 Federal portion of the Initiative, the Department shall be

1 the lead agency for all aspects of building performance re-
2 lated to use and conservation of energy.

3 (e) ADVISORY COMMITTEE.—The Director of the Of-
4 fice of Science and Technology Policy shall establish an
5 advisory committee to—

6 (1) analyze and provide recommendations on
7 potential private sector roles and participation in the
8 Initiative; and

9 (2) review and provide recommendations on the
10 plan described in subsection (c).

11 (f) ADMINISTRATION.—Nothing in this section pro-
12 vides any Federal agency with new authority to regulate
13 building performance.

14 **SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE**
15 **PROGRAM.**

16 (a) DEFINITIONS.—In this section:

17 (1) BATTERY.—The term “battery” means an
18 energy storage device that previously has been used
19 to provide motive power in a vehicle powered in
20 whole or in part by electricity.

21 (2) ASSOCIATED EQUIPMENT.—The term “asso-
22 ciated equipment” means equipment located where
23 the batteries will be used that is necessary to enable
24 the use of the energy stored in the batteries.

25 (b) PROGRAM.—

1 (1) IN GENERAL.—The Secretary shall establish
2 and conduct a research, development, demonstration,
3 and commercial application program for the sec-
4 ondary use of batteries.

5 (2) ADMINISTRATION.—The program shall be—

6 (A) designed to demonstrate the use of
7 batteries in secondary applications, including
8 utility and commercial power storage and power
9 quality;

10 (B) structured to evaluate the perform-
11 ance, including useful service life and costs, of
12 such batteries in field operations, and the nec-
13 essary supporting infrastructure, including
14 reuse and disposal of batteries; and

15 (C) coordinated with ongoing secondary
16 battery use programs at the National Labora-
17 tories and in industry.

18 (c) SOLICITATION.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the Sec-
21 retary shall solicit proposals to demonstrate the sec-
22 ondary use of batteries and associated equipment
23 and supporting infrastructure in geographic loca-
24 tions throughout the United States.

1 (2) ADDITIONAL SOLICITATIONS.—The Sec-
2 retary may make additional solicitations for pro-
3 posals if the Secretary determines that the solicita-
4 tions are necessary to carry out this section.

5 (d) SELECTION OF PROPOSALS.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the closing date established by the Secretary for re-
8 ceipt of proposals under subsection (c), the Sec-
9 retary shall select up to 5 proposals that may receive
10 financial assistance under this section once the De-
11 partment receives appropriated funds to carry out
12 this section.

13 (2) FACTORS.—In selecting proposals, the Sec-
14 retary shall consider—

15 (A) the diversity of battery type;

16 (B) geographic and climatic diversity; and

17 (C) life-cycle environmental effects of the
18 approaches.

19 (3) LIMITATION.—No 1 project selected under
20 this section shall receive more than 25 percent of the
21 funds made available to carry out the program
22 under this section.

23 (4) NONFEDERAL INVOLVEMENT.—In selecting
24 proposals, the Secretary shall consider the extent of
25 involvement of State or local government and other

1 persons in each demonstration project to optimize
2 use of Federal resources.

3 (5) OTHER CRITERIA.—In selecting proposals,
4 the Secretary may consider such other criteria as the
5 Secretary considers appropriate.

6 (e) CONDITIONS.—In carrying out this section, the
7 Secretary shall require that—

8 (1) relevant information be provided to—

9 (A) the Department;

10 (B) the users of the batteries;

11 (C) the proposers of a project under this
12 section; and

13 (D) the battery manufacturers; and

14 (2) the costs of carrying out projects and activi-
15 ties under this section are shared in accordance with
16 section 1002.

17 **SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.**

18 (a) ESTABLISHMENT.—The Secretary shall establish
19 an Energy Efficiency Science Initiative to be managed by
20 the Assistant Secretary in the Department with responsi-
21 bility for energy conservation under section 203(a)(9) of
22 the Department of Energy Organization Act (42 U.S.C.
23 7133(a)(9)), in consultation with the Director of the Of-
24 fice of Science, for grants to be competitively awarded and

1 subject to peer review for research relating to energy effi-
2 ciency.

3 (b) REPORT.—The Secretary shall submit to Con-
4 gress, along with the annual budget request of the Presi-
5 dent submitted to Congress, a report on the activities of
6 the Energy Efficiency Science Initiative, including a de-
7 scription of the process used to award the funds and an
8 explanation of how the research relates to energy effi-
9 ciency.

10 **Subtitle B—Distributed Energy and** 11 **Electric Energy Systems**

12 **SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY** 13 **SYSTEMS.**

14 (a) IN GENERAL.—

15 (1) DISTRIBUTED ENERGY AND ELECTRIC EN-
16 ERGY SYSTEMS ACTIVITIES.—There are authorized
17 to be appropriated to the Secretary to carry out dis-
18 tributed energy and electric energy systems activi-
19 ties, including activities authorized under this
20 subtitle—

21 (A) \$220,000,000 for fiscal year 2006;

22 (B) \$240,000,000 for fiscal year 2007; and

23 (C) \$260,000,000 for fiscal year 2008.

24 (2) POWER DELIVERY RESEARCH INITIATIVE.—

25 There are authorized to be appropriated to the Sec-

1 retary to carry out the Policy Delivery Research Ini-
2 tiative under subsection 925(e)—

3 (A) \$30,000,000 for fiscal year 2006;

4 (B) \$35,000,000 for fiscal year 2007; and

5 (C) \$40,000,000 for fiscal year 2008.

6 (b) **MICRO-COGENERATION ENERGY TECH-**
7 **NOLOGY.**—From amounts authorized under subsection
8 (a), \$20,000,000 for each of fiscal years 2006 and 2007
9 shall be available to carry out activities under section 924.

10 **SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.**

11 (a) **IN GENERAL.**—The Secretary shall establish a
12 comprehensive research, development, demonstration, and
13 commercial application program to improve the energy ef-
14 ficiency of high power density facilities, including data
15 centers, server farms, and telecommunications facilities.

16 (b) **TECHNOLOGIES.**—The program shall consider
17 technologies that provide significant improvement in ther-
18 mal controls, metering, load management, peak load re-
19 duction, or the efficient cooling of electronics.

20 **SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.**

21 (a) **IN GENERAL.**—The Secretary shall make com-
22 petitive, merit-based grants to consortia for the develop-
23 ment of micro-cogeneration energy technology.

24 (b) **USES.**—The consortia shall explore—

- 1 (1) the use of small-scale combined heat and
2 power in residential heating appliances;
- 3 (2) the use of excess power to operate other ap-
4 pliances within the residence; and
- 5 (3) the supply of excess generated power to the
6 power grid.

7 **SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEM-**
8 **ONSTRATION PROGRAM.**

9 The Secretary may provide financial assistance to co-
10 ordinating consortia of interdisciplinary participants for
11 demonstrations designed to accelerate the use of distrib-
12 uted energy technologies (such as fuel cells, microturbines,
13 reciprocating engines, thermally activated technologies,
14 and combined heat and power systems) in highly energy
15 intensive commercial applications.

16 **SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION**
17 **PROGRAMS.**

18 (a) DEMONSTRATION PROGRAM.—The Secretary
19 shall establish a comprehensive research, development,
20 and demonstration program to ensure the reliability, effi-
21 ciency, and environmental integrity of electrical trans-
22 mission and distribution systems, which shall include—

- 23 (1) advanced energy and energy storage tech-
24 nologies, materials, and systems, giving priority to
25 new transmission technologies, including composite

- 1 conductor materials and other technologies that en-
2 hance reliability, operational flexibility, or power-car-
3 rying capability;
- 4 (2) advanced grid reliability and efficiency tech-
5 nology development;
- 6 (3) technologies contributing to significant load
7 reductions;
- 8 (4) advanced metering, load management, and
9 control technologies;
- 10 (5) technologies to enhance existing grid compo-
11 nents;
- 12 (6) the development and use of high-tempera-
13 ture superconductors to—
- 14 (A) enhance the reliability, operational
15 flexibility, or power-carrying capability of elec-
16 tric transmission or distribution systems; or
- 17 (B) increase the efficiency of electric en-
18 ergy generation, transmission, distribution, or
19 storage systems;
- 20 (7) integration of power systems, including sys-
21 tems to deliver high-quality electric power, electric
22 power reliability, and combined heat and power;
- 23 (8) supply of electricity to the power grid by
24 small scale, distributed and residential-based power
25 generators;

1 (9) the development and use of advanced grid
2 design, operation, and planning tools;

3 (10) any other infrastructure technologies, as
4 appropriate; and

5 (11) technology transfer and education.

6 (b) PROGRAM PLAN.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary, in
9 consultation with other appropriate Federal agen-
10 cies, shall prepare and submit to Congress a 5-year
11 program plan to guide activities under this section.

12 (2) CONSULTATION.—In preparing the program
13 plan, the Secretary shall consult with—

14 (A) utilities;

15 (B) energy service providers;

16 (C) manufacturers;

17 (D) institutions of higher education;

18 (E) other appropriate State and local
19 agencies;

20 (F) environmental organizations;

21 (G) professional and technical societies;

22 and

23 (H) any other persons the Secretary con-
24 siders appropriate.

1 (c) IMPLEMENTATION.—The Secretary shall consider
2 implementing the program under this section using a con-
3 sortium of participants from industry, institutions of high-
4 er education, and National Laboratories.

5 (d) REPORT.—Not later than 2 years after the sub-
6 mission of the plan under subsection (b), the Secretary
7 shall submit to Congress a report—

8 (1) describing the progress made under this
9 section; and

10 (2) identifying any additional resources needed
11 to continue the development and commercial applica-
12 tion of transmission and distribution of infrastruc-
13 ture technologies.

14 (e) POWER DELIVERY RESEARCH INITIATIVE.—

15 (1) IN GENERAL.—The Secretary shall establish
16 a research, development, and demonstration initia-
17 tive specifically focused on power delivery using com-
18 ponents incorporating high temperature super-
19 conductivity.

20 (2) GOALS.—The goals of the Initiative shall
21 be—

22 (A) to establish world-class facilities to de-
23 velop high temperature superconductivity power
24 applications in partnership with manufacturers
25 and utilities;

1 (B) to provide technical leadership for es-
2 tablishing reliability for high temperature
3 superconductivity power applications, including
4 suitable modeling and analysis;

5 (C) to facilitate the commercial transition
6 toward direct current power transmission, stor-
7 age, and use for high power systems using high
8 temperature superconductivity; and

9 (D) to facilitate the integration of very low
10 impedance high temperature superconducting
11 wires and cables in existing electric networks to
12 improve system performance, power flow con-
13 trol, and reliability.

14 (3) INCLUSIONS.—The Initiative shall include—

15 (A) feasibility analysis, planning, research,
16 and design to construct demonstrations of
17 superconducting links in high power, direct cur-
18 rent, and controllable alternating current trans-
19 mission systems;

20 (B) public-private partnerships to dem-
21 onstrate deployment of high temperature super-
22 conducting cable into testbeds simulating a re-
23 alistic transmission grid and under varying
24 transmission conditions, including actual grid
25 insertions; and

1 (C) testbeds developed in cooperation with
2 National Laboratories, industries, and institu-
3 tions of higher education to—

4 (i) demonstrate those technologies;

5 (ii) prepare the technologies for com-
6 mercial introduction; and

7 (iii) address cost or performance road-
8 blocks to successful commercial use.

9 (f) TRANSMISSION AND DISTRIBUTION GRID PLAN-
10 NING AND OPERATIONS INITIATIVE.—

11 (1) IN GENERAL.—The Secretary shall establish
12 a research, development, and demonstration initia-
13 tive specifically focused on tools needed to plan, op-
14 erate, and expand the transmission and distribution
15 grids in the presence of competitive market mecha-
16 nisms for energy, load demand, customer response,
17 and ancillary services.

18 (2) GOALS.—The goals of the Initiative shall
19 be—

20 (A)(i) to develop and use a geographically
21 distributed center, consisting of institutions of
22 higher education, and National Laboratories,
23 with expertise and facilities to develop the un-
24 derlying theory and software for power system
25 application; and

1 (ii) to ensure commercial development in
2 partnership with software vendors and utilities;

3 (B) to provide technical leadership in engi-
4 neering and economic analysis for the reliability
5 and efficiency of power systems planning and
6 operations in the presence of competitive mar-
7 kets for electricity;

8 (C) to model, simulate, and experiment
9 with new market mechanisms and operating
10 practices to understand and optimize those new
11 methods before actual use; and

12 (D) to provide technical support and tech-
13 nology transfer to electric utilities and other
14 participants in the domestic electric industry
15 and marketplace.

16 **Subtitle C—Renewable Energy**

17 **SEC. 931. RENEWABLE ENERGY.**

18 (a) IN GENERAL.—There are authorized to be appro-
19 priated to the Secretary to carry out renewable energy re-
20 search, development, demonstration, and commercial ap-
21 plication activities, including activities authorized under
22 this subtitle—

23 (1) \$610,000,000 for fiscal year 2006;

24 (2) \$659,000,000 for fiscal year 2007; and

25 (3) \$710,000,000 for fiscal year 2008.

1 (b) BIOENERGY.—From the amounts authorized
2 under subsection (a), there are authorized to be appro-
3 priated to carry out section 932—

4 (1) \$167,650,000 for fiscal year 2006;

5 (2) \$180,000,000 for fiscal year 2007; and

6 (3) \$192,000,000 for fiscal year 2008.

7 (c) CONCENTRATING SOLAR POWER.—From
8 amounts authorized under subsection (a), there is author-
9 ized to be appropriated to carry out section 933
10 \$50,000,000 for each of fiscal years 2006 through 2008.

11 (d) ADMINISTRATION.—Of the funds authorized
12 under subsection (b), not less than \$5,000,000 for each
13 fiscal year shall be made available for grants to—

14 (1) part B institutions;

15 (2) Tribal Colleges or Universities (as defined
16 in section 316(b) of the Higher Education Act of
17 1965 (20 U.S.C. 1059c(b))); and

18 (3) Hispanic-serving institutions.

19 (e) CONSULTATION.—In carrying out this section, the
20 Secretary, in consultation with the Secretary of Agri-
21 culture, shall demonstrate the use of—

22 (1) advanced wind power technology, including
23 combined use with coal gasification;

24 (2) biomass;

25 (3) geothermal energy systems; and

1 (4) other renewable energy technologies to as-
2 sist in delivering electricity to rural and remote loca-
3 tions.

4 **SEC. 932. BIOENERGY PROGRAM.**

5 (a) DEFINITION OF CELLULOSIC FEEDSTOCK.—In
6 this section, the term “cellulosic feedstock” means any
7 portion of a crop not normally used in food production
8 or any nonfood crop grown for the purpose of producing
9 biomass feedstock.

10 (b) PROGRAM.—The Secretary shall conduct a pro-
11 gram of research, development, demonstration, and com-
12 mercial application for bioenergy, including—

13 (1) biopower energy systems;

14 (2) biofuels;

15 (3) bioproducts;

16 (4) integrated biorefineries that may produce
17 biopower, biofuels, and bioproducts;

18 (5) cross-cutting research and development in
19 feedstocks; and

20 (6) economic analysis.

21 (c) BIOFUELS AND BIOPRODUCTS.—The goals of the
22 biofuels and bioproducts programs shall be to develop, in
23 partnership with industry and institutions of higher
24 education—

1 tion, including cogeneration approaches for both hydrogen
2 and electricity.

3 (b) ADMINISTRATION.—The program shall take ad-
4 vantage of existing facilities to the extent practicable and
5 shall include—

6 (1) development of optimized technologies that
7 are common to both electricity and hydrogen produc-
8 tion;

9 (2) evaluation of thermochemical cycles for hy-
10 drogen production at the temperatures attainable
11 with concentrating solar power;

12 (3) evaluation of materials issues for the
13 thermochemical cycles described in paragraph (2);

14 (4) cogeneration of solar thermal electric power
15 and photo-synthetic-based hydrogen production;

16 (5) system architectures and economics studies;
17 and

18 (6) coordination with activities under the Ad-
19 vanced Reactor Hydrogen Co-generation Project es-
20 tablished under subtitle C of title VI on high tem-
21 perature materials, thermochemical cycles, and eco-
22 nomic issues.

23 (c) ASSESSMENT.—In carrying out the program
24 under this section, the Secretary shall—

1 novel lighting system that integrates sunlight and elec-
2 trical lighting in complement to each other in common
3 lighting fixtures for the purpose of improving energy effi-
4 ciency.

5 (b) PROGRAM.—The Secretary shall conduct a pro-
6 gram of research, development, demonstration, and com-
7 mercial application for hybrid solar lighting aimed at de-
8 veloping hybrid solar lighting systems that are—

9 (1) designed to eliminate large roof penetra-
10 tions and associated architectural design and main-
11 tenance problems that limit the conventional use of
12 daylight in most buildings;

13 (2) easily integrated with electric lights; and

14 (3) compatible with a majority of electric lamps
15 and light fixtures.

16 (c) LIMITATIONS.—Funding authorized under this
17 section shall not be used for lighting systems based on
18 conventional daylighting installations such as skylights,
19 light wells, light shelves, or roof monitors.

20 (d) NATIONAL ACADEMY OF SCIENCES.—Not later
21 than 2 years after the date of enactment of this Act, the
22 Secretary shall enter into an arrangement with the Na-
23 tional Academy of Sciences to conduct a biannual review
24 of the activities under this section including program pri-

1 orities, technical milestones, and opportunities for tech-
2 nology transfer and commercialization.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this
5 section—

6 (1) \$4,000,000 for fiscal year 2006;

7 (2) \$6,000,000 for fiscal year 2007; and

8 (3) \$6,000,000 for fiscal year 2008.

9 **SEC. 935. MISCELLANEOUS PROJECTS.**

10 The Secretary shall conduct research, development,
11 demonstration, and commercial application programs
12 for—

13 (1) ocean energy, including wave energy;

14 (2) the combined use of renewable energy tech-
15 nologies with 1 another and with other energy tech-
16 nologies, including the combined use of wind power
17 and coal gasification technologies; and

18 (3) renewable energy technologies for cogenera-
19 tion of hydrogen and electricity.

20 **Subtitle D—Nuclear Energy**

21 **SEC. 941. NUCLEAR ENERGY.**

22 (a) CORE PROGRAMS.—There are authorized to be
23 appropriated to the Secretary to carry out nuclear energy
24 research, development, demonstration, and commercial ap-
25 plication activities, including activities authorized under

1 this subtitle, other than those described in subsection

2 (b)—

3 (1) \$330,000,000 for fiscal year 2006;

4 (2) \$355,000,000 for fiscal year 2007; and

5 (3) \$495,000,000 for fiscal year 2008.

6 (b) NUCLEAR INFRASTRUCTURE SUPPORT.—There

7 are authorized to be appropriated to the Secretary to carry

8 out activities under section 942(f):

9 (1) \$135,000,000 for fiscal year 2006;

10 (2) \$140,000,000 for fiscal year 2007; and

11 (3) \$145,000,000 for fiscal year 2008.

12 (c) ALLOCATIONS.—From amounts authorized under

13 subsection (a), the following sums are authorized:

14 (1) For activities under section 943—

15 (A) \$150,000,000 for fiscal year 2006;

16 (B) \$155,000,000 for fiscal year 2007; and

17 (C) \$275,000,000 for fiscal year 2008.

18 (2) For activities under section 944—

19 (A) \$43,600,000 for fiscal year 2006;

20 (B) \$50,100,000 for fiscal year 2007; and

21 (C) \$56,000,000 for fiscal year 2008.

22 (3) For activities under section 946,

23 \$6,000,000 for each of fiscal years 2006 through

24 2008.

1 (d) LIMITATION.—None of the funds authorized
2 under this section may be used to decommission the Fast
3 Flux Test Facility.

4 **SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.**

5 (a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The
6 Secretary shall carry out a Nuclear Energy Research Ini-
7 tiative for research and development related to nuclear en-
8 ergy.

9 (b) NUCLEAR ENERGY PLANT OPTIMIZATION PRO-
10 GRAM.—The Secretary shall carry out a Nuclear Energy
11 Plant Optimization Program to support research and de-
12 velopment activities addressing reliability, availability, pro-
13 ductivity, component aging, safety, and security of existing
14 nuclear power plants.

15 (c) NUCLEAR POWER 2010 PROGRAM.—

16 (1) IN GENERAL.—The Secretary shall carry
17 out a Nuclear Power 2010 Program, consistent with
18 recommendations of the Nuclear Energy Research
19 Advisory Committee of the Department in the report
20 entitled “A Roadmap to Deploy New Nuclear Power
21 Plants in the United States by 2010” and dated Oc-
22 tober 2001.

23 (2) ADMINISTRATION.—The Program shall
24 include—

1 (A) use of the expertise and capabilities of
2 industry, institutions of higher education, and
3 National Laboratories in evaluation of advanced
4 nuclear fuel cycles and fuels testing;

5 (B) consideration of a variety of reactor
6 designs suitable for both developed and devel-
7 oping nations;

8 (C) participation of international collabo-
9 rators in research, development, and design ef-
10 forts, as appropriate; and

11 (D) encouragement for participation by in-
12 stitutions of higher education and industry.

13 (d) GENERATION IV NUCLEAR ENERGY SYSTEMS
14 INITIATIVE.—

15 (1) IN GENERAL.—The Secretary shall carry
16 out a Generation IV Nuclear Energy Systems Initia-
17 tive to develop an overall technology plan for and to
18 support research and development necessary to make
19 an informed technical decision about the most prom-
20 ising candidates for eventual commercial application.

21 (2) ADMINISTRATION.—In conducting the Ini-
22 tiative, the Secretary shall examine advanced pro-
23 liferation-resistant and passively safe reactor de-
24 signs, including designs that—

1 (A) are economically competitive with other
2 electric power generation plants;

3 (B) have higher efficiency, lower cost, and
4 improved safety compared to reactors in oper-
5 ation on the date of enactment of this Act;

6 (C) use fuels that are proliferation resist-
7 ant and have substantially reduced production
8 of high-level waste per unit of output; and

9 (D) use improved instrumentation.

10 (e) REACTOR PRODUCTION OF HYDROGEN.—The
11 Secretary shall carry out research to examine designs for
12 high-temperature reactors capable of producing large-scale
13 quantities of hydrogen using thermochemical processes.

14 (f) NUCLEAR INFRASTRUCTURE SUPPORT.—

15 (1) IN GENERAL.—The Secretary shall—

16 (A) develop and implement a strategy for
17 the facilities of the Office of Nuclear Energy,
18 Science, and Technology; and

19 (B) submit to Congress a report describing
20 the strategy, along with the budget request of
21 the President submitted to Congress for fiscal
22 year 2006.

23 (2) ADMINISTRATION.—The strategy shall pro-
24 vide a cost-effective means for—

- 1 (A) maintaining existing facilities and in-
2 frastructure;
3 (B) closing unneeded facilities;
4 (C) making facility upgrades and modifica-
5 tions; and
6 (D) building new facilities.

7 **SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.**

8 (a) IN GENERAL.—The Secretary, acting through the
9 Director of the Office of Nuclear Energy, Science and
10 Technology, shall conduct an advanced fuel recycling tech-
11 nology research and development program (referred to in
12 this section as the “program”) to evaluate proliferation-
13 resistant fuel recycling and transmutation technologies
14 that minimize environmental or public health and safety
15 impacts as an alternative to aqueous reprocessing tech-
16 nologies deployed as of the date of enactment of this Act
17 in support of evaluation of alternative national strategies
18 for spent nuclear fuel and the Generation IV advanced re-
19 actor concepts.

20 (b) ANNUAL REVIEW.—The program shall be subject
21 to annual review by the Nuclear Energy Research Advi-
22 sory Committee of the Department or other independent
23 entity, as appropriate.

24 (c) INTERNATIONAL COOPERATION.—In carrying out
25 the program, the Secretary is encouraged to seek opportu-

1 nities to enhance the progress of the program through
2 international cooperation.

3 (d) REPORTS.—The Secretary shall submit, as part
4 of the annual budget submission of the Department, a re-
5 port on the activities of the program.

6 **SEC. 944. NUCLEAR SCIENCE AND ENGINEERING SUPPORT**
7 **FOR INSTITUTIONS OF HIGHER EDUCATION.**

8 (a) ESTABLISHMENT.—The Secretary shall support
9 a program to invest in human resources and infrastructure
10 in the nuclear sciences and engineering and related fields
11 (including health physics and nuclear and radiochemistry),
12 consistent with departmental missions related to civilian
13 nuclear research and development.

14 (b) DUTIES.—

15 (1) IN GENERAL.—In carrying out the program
16 under this section, the Secretary shall—

17 (A) establish fellowship and faculty assist-
18 ance programs; and

19 (B) provide support for fundamental re-
20 search and encourage collaborative research
21 among industry, National Laboratories, and in-
22 stitutions of higher education through the Nu-
23 clear Energy Research Initiative established
24 under section 942(a).

1 (2) ENTIRE FUEL CYCLE.—The Secretary is en-
2 couraged to support activities addressing the entire
3 fuel cycle through involvement of the Office of Nu-
4 clear Energy, Science and Technology and the Office
5 of Civilian Radioactive Waste Management.

6 (3) OUTREACH.—The Secretary shall support
7 communication and outreach related to nuclear
8 science, engineering, and nuclear waste manage-
9 ment.

10 (c) MAINTAINING RESEARCH AND TRAINING REAC-
11 TORS AND ASSOCIATED INFRASTRUCTURE IN INSTITU-
12 TIONS OF HIGHER EDUCATION.—Activities under this sec-
13 tion may include—

14 (1) converting research reactors currently using
15 high-enrichment fuels to low-enrichment fuels;

16 (2) upgrading operational instrumentation;

17 (3) sharing of reactors among institutions of
18 higher education;

19 (4) providing technical assistance, in collabora-
20 tion with the United States nuclear industry, in reli-
21 censing and upgrading training reactors as part of
22 a student training program; and

23 (5) providing funding for reactor improvements
24 as part of a focused effort that emphasizes research,
25 training, and education.

1 (d) INTERACTIONS BETWEEN NATIONAL LABORA-
2 TORIES AND INSTITUTIONS OF HIGHER EDUCATION.—
3 The Secretary shall develop sabbatical fellowship and vis-
4 iting scientist programs to encourage sharing of personnel
5 between National Laboratories and institutions of higher
6 education.

7 (e) OPERATING AND MAINTENANCE COSTS.—Fund-
8 ing for a research project provided under this section may
9 be used to offset a portion of the operating and mainte-
10 nance costs of a research reactor at an institution of high-
11 er education used in the research project.

12 **SEC. 945. SECURITY OF NUCLEAR FACILITIES.**

13 The Secretary, acting through the Director of the Of-
14 fice of Nuclear Energy, Science and Technology, shall con-
15 duct a research and development program on cost-effective
16 technologies for increasing—

17 (1) the safety of nuclear facilities from natural
18 phenomena; and

19 (2) the security of nuclear facilities from delib-
20 erate attacks.

21 **SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE**
22 **SOURCES.**

23 (a) SURVEY.—

24 (1) IN GENERAL.—Not later than August 1,
25 2006, the Secretary shall submit to Congress the re-

1 sults of a survey of industrial applications of large
2 radioactive sources.

3 (2) ADMINISTRATION.—The survey shall—

4 (A) consider well-logging sources as 1 class
5 of industrial sources;

6 (B) include information on current domes-
7 tic and international Department, Department
8 of Defense, State Department, and commercial
9 programs to manage and dispose of radioactive
10 sources; and

11 (C) analyze available disposal options for
12 currently deployed or future sources and, if de-
13 ficiencies are noted for either deployed or future
14 sources, recommend legislative options that
15 Congress may consider to remedy identified de-
16 ficiencies.

17 (b) PLAN.—

18 (1) IN GENERAL.—In conjunction with the sur-
19 vey conducted under subsection (a), the Secretary
20 shall establish a research and development program
21 to develop alternatives to sources described in sub-
22 section (a) that reduce safety, environmental, or pro-
23 liferation risks to either workers using the sources or
24 the public.

1 (2) ACCELERATORS.—Miniaturized particle ac-
2 celerators for well-logging or other industrial appli-
3 cations and portable accelerators for production of
4 short-lived radioactive materials at an industrial site
5 shall be considered as part of the research and de-
6 velopment efforts.

7 (3) REPORT.—Not later than August 1, 2006,
8 the Secretary shall submit to Congress a report de-
9 scribing the details of the program plan.

10 **Subtitle E—Fossil Energy**

11 **SEC. 951. FOSSIL ENERGY.**

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated to the Secretary to carry out fossil energy re-
14 search, development, demonstration, and commercial ap-
15 plication activities, including activities authorized under
16 this subtitle—

17 (1) \$583,000,000 for fiscal year 2006;

18 (2) \$611,000,000 for fiscal year 2007; and

19 (3) \$626,000,000 for fiscal year 2008.

20 (b) ALLOCATIONS.—From amounts authorized under
21 subsection (a), the following sums are authorized:

22 (1) For activities under section 952(b)(2),
23 \$28,000,000 for each of fiscal years 2006 through
24 2008.

1 (2) For activities under section 954,
2 \$20,000,000 for each of fiscal years 2006 through
3 2008.

4 (3) For activities under section 955—

5 (A) \$285,000,000 for fiscal year 2006;

6 (B) \$298,000,000 for fiscal year 2007; and

7 (C) \$308,000,000 for fiscal year 2008.

8 (4) For the Office of Arctic Energy under sec-
9 tion 3197 of the Floyd D. Spence National Defense
10 Authorization Act for Fiscal Year 2001 (42 U.S.C.
11 7144d) \$25,000,000 for each of fiscal years 2006
12 through 2008.

13 (c) EXTENDED AUTHORIZATION.—There are author-
14 ized to be appropriated to the Secretary for the Office of
15 Arctic Energy established under section 3197 of the Floyd
16 D. Spence National Defense Authorization Act for Fiscal
17 Year 2001 (42 U.S.C. 7144d) \$25,000,000 for each of
18 fiscal years 2009 through 2012.

19 (d) LIMITATIONS.—

20 (1) USES.—None of the funds authorized under
21 this section may be used for Fossil Energy Environ-
22 mental Restoration or Import/Export Authorization.

23 (2) INSTITUTIONS OF HIGHER EDUCATION.—Of
24 the funds authorized under subsection (b)(2), not
25 less than 20 percent of the funds appropriated for

1 each fiscal year shall be dedicated to research and
2 development carried out at institutions of higher
3 education.

4 **SEC. 952. OIL AND GAS RESEARCH PROGRAMS.**

5 (a) OIL AND GAS RESEARCH.—The Secretary shall
6 conduct a program of research, development, demonstra-
7 tion, and commercial application of oil and gas,
8 including—

- 9 (1) exploration and production;
- 10 (2) gas hydrates;
- 11 (3) reservoir life and extension;
- 12 (4) transportation and distribution infrastruc-
13 ture;
- 14 (5) ultraclean fuels;
- 15 (6) heavy oil and shale; and
- 16 (7) related environmental research.

17 (b) FUEL CELLS.—

18 (1) IN GENERAL.—The Secretary shall conduct
19 a program of research, development, demonstration,
20 and commercial application on fuel cells for low-cost,
21 high-efficiency, fuel-flexible, modular power systems.

22 (2) DEMONSTRATIONS.—The demonstrations
23 shall include fuel cell proton exchange membrane
24 technology for commercial, residential, and transpor-
25 tation applications, and distributed generation sys-

1 tems, using improved manufacturing production and
2 processes.

3 (c) NATURAL GAS AND OIL DEPOSITS REPORT.—

4 Not later than 2 years after the date of enactment of this
5 Act and every 2 years thereafter, the Secretary of the Inte-
6 rior, in consultation with other appropriate Federal agen-
7 cies, shall submit to Congress a report on the latest esti-
8 mates of natural gas and oil reserves, reserves growth, and
9 undiscovered resources in Federal and State waters off the
10 coast of Louisiana, Texas, Alabama, and Mississippi.

11 (d) INTEGRATED CLEAN POWER AND ENERGY RE-
12 SEARCH.—

13 (1) ESTABLISHMENT OF CENTER.—The Sec-
14 retary shall establish a national center or consortium
15 of excellence in clean energy and power generation,
16 using the resources of the Clean Power and Energy
17 Research Consortium in existence on the date of en-
18 actment of this Act, to address the critical depend-
19 ence of the United States on energy and the need
20 to reduce emissions.

21 (2) FOCUS AREAS.—The center or consortium
22 shall conduct a program of research, development,
23 demonstration, and commercial application on inte-
24 grating the following 6 focus areas:

1 (A) Efficiency and reliability of gas tur-
2 bines for power generation.

3 (B) Reduction in emissions from power
4 generation.

5 (C) Promotion of energy conservation
6 issues.

7 (D) Effectively using alternative fuels and
8 renewable energy.

9 (E) Development of advanced materials
10 technology for oil and gas exploration and use
11 in harsh environments.

12 (F) Education on energy and power gen-
13 eration issues.

14 **SEC. 953. METHANE HYDRATE RESEARCH.**

15 (a) IN GENERAL.—The Methane Hydrate Research
16 and Development Act of 2000 (30 U.S.C. 1902 note; Pub-
17 lic Law 106–193) is amended to read as follows:

18 **“SECTION 1. SHORT TITLE.**

19 “This Act may be cited as the ‘Methane Hydrate Re-
20 search and Development Act of 2000’.

21 **“SEC. 2. FINDINGS.**

22 “Congress finds that—

23 “(1) in order to promote energy independence
24 and meet the increasing demand for energy, the
25 United States will require a diversified portfolio of

1 substantially increased quantities of electricity, nat-
2 ural gas, and transportation fuels;

3 “(2) according to the report submitted to Con-
4 gress by the National Research Council entitled
5 ‘Charting the Future of Methane Hydrate Research
6 in the United States’, the total United States re-
7 sources of gas hydrates have been estimated to be on
8 the order of 200,000 trillion cubic feet;

9 “(3) according to the report of the National
10 Commission on Energy Policy entitled ‘Ending the
11 Energy Stalemate—A Bipartisan Strategy to Meet
12 America’s Energy Challenge’, and dated December
13 2004, the United States may be endowed with over
14 1/4 of the methane hydrate deposits in the world;

15 “(4) according to the Energy Information Ad-
16 ministration, a shortfall in natural gas supply from
17 conventional and unconventional sources is expected
18 to occur in or about 2020; and

19 “(5) the National Academy of Science states
20 that methane hydrate may have the potential to al-
21 leviate the projected shortfall in the natural gas sup-
22 ply.

23 **“SEC. 3. DEFINITIONS.**

24 “In this Act:

1 “(1) CONTRACT.—The term ‘contract’ means a
2 procurement contract within the meaning of section
3 6303 of title 31, United States Code.

4 “(2) COOPERATIVE AGREEMENT.—The term
5 ‘cooperative agreement’ means a cooperative agree-
6 ment within the meaning of section 6305 of title 31,
7 United States Code.

8 “(3) DIRECTOR.—The term ‘Director’ means
9 the Director of the National Science Foundation.

10 “(4) GRANT.—The term ‘grant’ means a grant
11 awarded under a grant agreement (within the mean-
12 ing of section 6304 of title 31, United States Code).

13 “(5) INDUSTRIAL ENTERPRISE.—The term ‘in-
14 dustrial enterprise’ means a private, nongovern-
15 mental enterprise that has an expertise or capability
16 that relates to methane hydrate research and devel-
17 opment.

18 “(6) INSTITUTION OF HIGHER EDUCATION.—
19 The term ‘institution of higher education’ means an
20 institution of higher education (as defined in section
21 102 of the Higher Education Act of 1965 (20
22 U.S.C. 1002)).

23 “(7) SECRETARY.—The term ‘Secretary’ means
24 the Secretary of Energy, acting through the Assist-
25 ant Secretary for Fossil Energy.

1 “(8) SECRETARY OF COMMERCE.—The term
2 ‘Secretary of Commerce’ means the Secretary of
3 Commerce, acting through the Administrator of the
4 National Oceanic and Atmospheric Administration.

5 “(9) SECRETARY OF DEFENSE.—The term
6 ‘Secretary of Defense’ means the Secretary of De-
7 fense, acting through the Secretary of the Navy.

8 “(10) SECRETARY OF THE INTERIOR.—The
9 term ‘Secretary of the Interior’ means the Secretary
10 of the Interior, acting through the Director of the
11 United States Geological Survey, the Director of the
12 Bureau of Land Management, and the Director of
13 the Minerals Management Service.

14 **“SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOP-**
15 **MENT PROGRAM.**

16 “(a) IN GENERAL.—

17 “(1) COMMENCEMENT OF PROGRAM.—Not later
18 than 90 days after the date of enactment of the En-
19 ergy Research, Development, Demonstration, and
20 Commercial Application Act of 2005, the Secretary,
21 in consultation with the Secretary of Commerce, the
22 Secretary of Defense, the Secretary of the Interior,
23 and the Director, shall commence a program of
24 methane hydrate research and development in ac-
25 cordance with this section.

1 “(2) DESIGNATIONS.—The Secretary, the Sec-
2 retary of Commerce, the Secretary of Defense, the
3 Secretary of the Interior, and the Director shall des-
4 ignate individuals to carry out this section.

5 “(3) COORDINATION.—The individual des-
6 ignated by the Secretary shall coordinate all activi-
7 ties within the Department of Energy relating to
8 methane hydrate research and development.

9 “(4) MEETINGS.—The individuals designated
10 under paragraph (2) shall meet not later than 180
11 days after the date of enactment of the Energy Re-
12 search, Development, Demonstration, and Commer-
13 cial Application Act of 2005 and not less frequently
14 than every 180 days thereafter to—

15 “(A) review the progress of the program
16 under paragraph (1); and

17 “(B) coordinate interagency research and
18 partnership efforts in carrying out the program.

19 “(b) GRANTS, CONTRACTS, COOPERATIVE AGREE-
20 MENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS,
21 AND FIELD WORK PROPOSALS.—

22 “(1) ASSISTANCE AND COORDINATION.—In car-
23 rying out the program of methane hydrate research
24 and development authorized by this section, the Sec-
25 retary may award grants to, or enter into contracts

1 or cooperative agreements with, institutions of high-
2 er education, oceanographic institutions, and indus-
3 trial enterprises to—

4 “(A) conduct basic and applied research to
5 identify, explore, assess, and develop methane
6 hydrate as a commercially viable source of en-
7 ergy;

8 “(B) identify methane hydrate resources
9 through remote sensing;

10 “(C) acquire and reprocess seismic data
11 suitable for characterizing methane hydrate ac-
12 cumulations;

13 “(D) assist in developing technologies re-
14 quired for efficient and environmentally sound
15 development of methane hydrate resources;

16 “(E) promote education and training in
17 methane hydrate resource research and re-
18 source development through fellowships or other
19 means for graduate education and training;

20 “(F) conduct basic and applied research to
21 assess and mitigate the environmental impact of
22 hydrate degassing (including both natural
23 degassing and degassing associated with com-
24 mercial development);

1 “(G) develop technologies to reduce the
2 risks of drilling through methane hydrates; and

3 “(H) conduct exploratory drilling, well
4 testing, and production testing operations on
5 permafrost and non-permafrost gas hydrates in
6 support of the activities authorized by this
7 paragraph, including drilling of 1 or more full-
8 scale production test wells.

9 “(2) COMPETITIVE PEER REVIEW.—Funds
10 made available under paragraph (1) shall be made
11 available based on a competitive process using exter-
12 nal scientific peer review of proposed research.

13 “(c) METHANE HYDRATES ADVISORY PANEL.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish an advisory panel (including the hiring of appro-
16 priate staff) consisting of representatives of indus-
17 trial enterprises, institutions of higher education,
18 oceanographic institutions, State agencies, and envi-
19 ronmental organizations with knowledge and exper-
20 tise in the natural gas hydrates field, to—

21 “(A) assist in developing recommendations
22 and broad programmatic priorities for the
23 methane hydrate research and development pro-
24 gram carried out under subsection (a)(1);

1 “(B) provide scientific oversight for the
2 methane hydrates program, including assessing
3 progress toward program goals, evaluating pro-
4 gram balance, and providing recommendations
5 to enhance the quality of the program over
6 time; and

7 “(C) not later than 2 years after the date
8 of enactment of the Energy Research, Develop-
9 ment, Demonstration, and Commercial Applica-
10 tion Act of 2005, and at such later dates as the
11 panel considers advisable, submit to Congress—

12 “(i) an assessment of the methane hy-
13 drate research program; and

14 “(ii) an assessment of the 5-year re-
15 search plan of the Department of Energy.

16 “(2) CONFLICTS OF INTEREST.—In appointing
17 each member of the advisory panel established under
18 paragraph (1), the Secretary shall ensure, to the
19 maximum extent practicable, that the appointment
20 of the member does not pose a conflict of interest
21 with respect to the duties of the member under this
22 Act.

23 “(3) MEETINGS.—The advisory panel shall—

1 “(A) hold the initial meeting of the advi-
2 sory panel not later than 180 days after the
3 date of establishment of the advisory panel; and

4 “(B) meet biennially thereafter.

5 “(4) COORDINATION.—The advisory panel shall
6 coordinate activities of the advisory panel with pro-
7 gram managers of the Department of Energy at ap-
8 propriate national laboratories

9 “(d) CONSTRUCTION COSTS.—None of the funds
10 made available to carry out this section may be used for
11 the construction of a new building or the acquisition, ex-
12 pansion, remodeling, or alteration of an existing building
13 (including site grading and improvement and architect
14 fees).

15 “(e) RESPONSIBILITIES OF THE SECRETARY.—In
16 carrying out subsection (b)(1), the Secretary shall—

17 “(1) facilitate and develop partnerships among
18 government, industrial enterprises, and institutions
19 of higher education to research, identify, assess, and
20 explore methane hydrate resources;

21 “(2) undertake programs to develop basic infor-
22 mation necessary for promoting long-term interest in
23 methane hydrate resources as an energy source;

1 “(3) ensure that the data and information de-
2 veloped through the program are accessible and
3 widely disseminated as needed and appropriate;

4 “(4) promote cooperation among agencies that
5 are developing technologies that may hold promise
6 for methane hydrate resource development;

7 “(5) report annually to Congress on the results
8 of actions taken to carry out this Act; and

9 “(6) ensure, to the maximum extent prac-
10 ticable, greater participation by the Department of
11 Energy in international cooperative efforts.

12 **“SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.**

13 “(a) AGREEMENT FOR STUDY.—The Secretary shall
14 offer to enter into an agreement with the National Re-
15 search Council under which the National Research Council
16 shall—

17 “(1) conduct a study of the progress made
18 under the methane hydrate research and develop-
19 ment program implemented under this Act; and

20 “(2) make recommendations for future methane
21 hydrate research and development needs.

22 “(b) REPORT.—Not later than September 30, 2009,
23 the Secretary shall submit to Congress a report containing
24 the findings and recommendations of the National Re-
25 search Council under this section.

1 **“SEC. 6. REPORTS AND STUDIES FOR CONGRESS.**

2 “The Secretary shall provide to the Committee on
3 Science of the House of Representatives and the Com-
4 mittee on Energy and Natural Resources of the Senate
5 copies of any report or study that the Department of En-
6 ergy prepares at the direction of any committee of Con-
7 gress relating to the methane hydrate research and devel-
8 opment program implemented under this Act.

9 **“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10 “There are authorized to be appropriated to the Sec-
11 retary to carry out this Act, to remain available until
12 expended—

13 “(1) \$15,000,000 for fiscal year 2006;

14 “(2) \$20,000,000 for fiscal year 2007;

15 “(3) \$30,000,000 for fiscal year 2008;

16 “(4) \$50,000,000 for fiscal year 2009; and

17 “(5) \$50,000,000 for fiscal year 2010.”.

18 (b) RECLASSIFICATION.—The Law Revision Counsel
19 shall reclassify the Methane Hydrate Research and Devel-
20 opment Act of 2000 (30 U.S.C. 1902 note; Public Law
21 106–193) to a new chapter at the end of title 30, United
22 States Code.

1 **SEC. 954. RESEARCH AND DEVELOPMENT FOR COAL MIN-**
2 **ING TECHNOLOGIES.**

3 (a) ESTABLISHMENT.—The Secretary shall carry out
4 a program for research and development on coal mining
5 technologies.

6 (b) COOPERATION.—In carrying out the program, the
7 Secretary shall cooperate with appropriate Federal agen-
8 cies, coal producers, trade associations, equipment manu-
9 facturers, institutions of higher education with mining en-
10 gineering departments, and other relevant entities.

11 (c) PROGRAM.—The research and development activi-
12 ties carried out under this section shall—

13 (1) be guided by the mining research and devel-
14 opment priorities identified by the Mining Industry
15 of the Future Program and in the recommendations
16 from relevant reports of the National Academy of
17 Sciences on mining technologies;

18 (2) include activities exploring minimization of
19 contaminants in mined coal that contribute to envi-
20 ronmental concerns including development and dem-
21 onstration of electromagnetic wave imaging ahead of
22 mining operations;

23 (3) develop and demonstrate coal bed electro-
24 magnetic wave imaging, spectroscopic reservoir anal-
25 ysis technology, and techniques for horizontal drill-
26 ing in order to—

- 1 (A) identify areas of high coal gas content;
- 2 (B) increase methane recovery efficiency;
- 3 (C) prevent spoilage of domestic coal re-
- 4 serves; and
- 5 (D) minimize water disposal associated
- 6 with methane extraction; and
- 7 (4) expand mining research capabilities at insti-
- 8 tutions of higher education.

9 **SEC. 955. COAL AND RELATED TECHNOLOGIES PROGRAM.**

10 (a) IN GENERAL.—In addition to the programs au-

11 thorized under title II, the Secretary shall conduct a pro-

12 gram of technology research, development, and demonstra-

13 tion and commercial application for coal and power sys-

14 tems, including programs to facilitate production and gen-

15 eration of coal-based power through—

- 16 (1) innovations for existing plants;
- 17 (2) integrated gasification combined cycle;
- 18 (3) advanced combustion systems;
- 19 (4) turbines for synthesis gas derived from coal;
- 20 (5) carbon capture and sequestration research
- 21 and development;
- 22 (6) coal-derived transportation fuels and chemi-
- 23 cals;
- 24 (7) liquid fuels derived from low rank coal
- 25 water;

- 1 (8) removal of elemental mercury;
- 2 (9) solid fuels and feedstocks; and
- 3 (10) advanced coal-related research.

4 (b) COST AND PERFORMANCE GOALS.—

5 (1) IN GENERAL.—In carrying out programs
6 authorized by this section, the Secretary shall identify
7 cost and performance goals for coal-based technologies
8 that would permit the continued cost-competitive use of coal
9 for electricity generation, as chemical feedstocks, and as
10 transportation fuel in 2007, 2010, 2012, and 2015.

12 (2) ADMINISTRATION.—In establishing the cost
13 and performance goals, the Secretary shall—

14 (A) consider activities and studies undertaken
15 as of the date of enactment of this Act by industry in
16 cooperation with the Department in support of the
17 identification of the goals;

18 (B) consult with interested entities,
19 including—

- 20 (i) coal producers;
- 21 (ii) industries using coal;
- 22 (iii) organizations that promote coal
23 and advanced coal technologies;
- 24 (iv) environmental organizations; and

1 (v) organizations representing work-
2 ers;

3 (C) not later than 120 days after the date
4 of enactment of this Act, publish in the Federal
5 Register proposed draft cost and performance
6 goals for public comments; and

7 (D) not later than 180 days after the date
8 of enactment of this Act and every 4 years
9 thereafter, submit to Congress a report describ-
10 ing the final cost and performance goals for the
11 technologies that includes—

12 (i) a list of technical milestones; and

13 (ii) an explanation of how programs
14 authorized in this section will not duplicate
15 the activities authorized under the Clean
16 Coal Power Initiative authorized under
17 title II.

18 (c) POWDER RIVER BASIN AND FORT UNION LIG-
19 NITE COAL MERCURY REMOVAL.—

20 (1) IN GENERAL.—In addition to the programs
21 authorized by subsection (a), the Secretary may es-
22 tablish a program to test and develop technologies to
23 control and remove mercury emissions from subbitu-
24 minous coal mined in the Powder River Basin, and

1 Fort Union lignite coals, that are used for the gen-
2 eration of electricity.

3 (2) EFFICACY OF MERCURY REMOVAL TECH-
4 NOLOGY.—In carrying out the program under para-
5 graph (1), the Secretary shall examine the efficacy
6 of mercury removal technologies on coals described
7 in that paragraph that are blended with other types
8 of coal.

9 **SEC. 956. CARBON DIOXIDE CAPTURE RESEARCH AND DE-**
10 **VELOPMENT.**

11 (a) PROGRAM.—The Secretary shall establish a pro-
12 gram of research and development aimed at developing
13 carbon dioxide capture technologies for pulverized coal
14 combustion units.

15 (b) FOCUS.—The program under subsection (a) shall
16 focus on—

17 (1) developing add-on carbon dioxide capture
18 technologies, such as adsorption and absorption
19 techniques and chemical processes, to remove carbon
20 dioxide from the flue gas, producing concentrated
21 streams of carbon dioxide potentially amenable to se-
22 questration;

23 (2) combustion technologies that would directly
24 produce concentrated streams of carbon dioxide po-
25 tentially amenable to sequestration; and

1 (3) minimizing the efficiency losses associated
 2 with carbon capture and sequestration.

3 (b) CARBON SEQUESTRATION.—In conjunction with
 4 the program under subsection (a), the Secretary shall con-
 5 tinue pursuit of a carbon sequestration program involving
 6 public-private partnerships.

7 **SEC. 957. COMPLEX WELL TECHNOLOGY TESTING FACIL-**
 8 **ITY.**

9 The Secretary, in coordination with industry leaders
 10 in extended research drilling technology, shall establish a
 11 Complex Well Technology Testing Facility at the Rocky
 12 Mountain Oilfield Testing Center to increase the range of
 13 extended drilling technologies.

14 **Subtitle F—Science**

15 **SEC. 961. SCIENCE.**

16 (a) IN GENERAL.—There are authorized to be appro-
 17 priated to the Secretary to carry out research, develop-
 18 ment, demonstration, and commercial application activi-
 19 ties of the Office of Science, including activities authorized
 20 under this subtitle (including the amounts authorized
 21 under the amendment made by section 967(b) and includ-
 22 ing basic energy sciences, advanced scientific and com-
 23 puting research, biological and environmental research, fu-
 24 sion energy sciences, high energy physics, nuclear physics,
 25 research analysis, and infrastructure support)—

1 (1) \$4,153,000,000 for fiscal year 2006;

2 (2) \$4,586,000,000 for fiscal year 2007; and

3 (3) \$5,000,000,000 for fiscal year 2008.

4 (b) ALLOCATIONS.—From amounts authorized under
5 subsection (a), the following sums are authorized:

6 (1) For activities under the Fusion Energy
7 Sciences program (including activities under section
8 962)—

9 (A) \$349,000,000 for fiscal year 2006;

10 (B) \$362,000,000 for fiscal year 2007; and

11 (C) \$377,000,000 for fiscal year 2008.

12 (2) For activities under the catalysis research
13 program established under section 964—

14 (A) \$35,000,000 for fiscal year 2006;

15 (B) \$36,500,000 for fiscal year 2007; and

16 (C) \$38,200,000 for fiscal year 2008.

17 (3) For activities under the Genomes to Life
18 Program established under section 968—

19 (A) \$170,000,000 for fiscal year 2006;

20 (B) \$325,000,000 for fiscal year 2007; and

21 (C) \$415,000,000 for fiscal year 2008.

22 (4) For construction and ancillary equipment
23 for user facilities under section 968(d) for the
24 Genomes to Life Program, of the amounts author-
25 ized under paragraph (3)—

- 1 (A) \$70,000,000 for fiscal year 2006;
2 (B) \$175,000,000 for fiscal year 2007; and
3 (C) \$215,000,000 for fiscal year 2008.

4 (5) For activities under the Energy-Water Sup-
5 ply Technologies Program established under section
6 970, \$30,000,000 for each of fiscal years 2006
7 through 2008.

8 (c) FUSION ENERGY SCIENCES PROGRAM.—In addi-
9 tion to the funds authorized under subsection (b)(1), there
10 are authorized to be appropriated for construction costs
11 associated with the Fusion Energy Sciences Program
12 under section 962—

- 13 (1) \$55,000,000 for fiscal year 2006;
14 (2) \$95,000,000 for fiscal year 2007; and
15 (3) \$115,000,000 for fiscal year 2008.

16 **SEC. 962. FUSION ENERGY SCIENCES PROGRAM.**

17 (a) DECLARATION OF POLICY.—It shall be the policy
18 of the United States to conduct research, development,
19 demonstration, and commercial applications to provide for
20 the scientific, engineering, and commercial infrastructure
21 necessary to ensure that the United States is competitive
22 with other countries in providing fusion energy for its own
23 needs and the needs of other countries, including by dem-
24 onstrating electric power or hydrogen production for the

1 United States energy grid using fusion energy at the ear-
2 liest date.

3 (b) PLANNING.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Sec-
6 retary shall submit to Congress a plan (with pro-
7 posed cost estimates, budgets, and lists of potential
8 international partners) for the implementation of the
9 policy described in subsection (a) in a manner that
10 ensures that—

11 (A) existing fusion research facilities are
12 more fully used;

13 (B) fusion science, technology, theory, ad-
14 vanced computation, modeling, and simulation
15 are strengthened;

16 (C) new magnetic and inertial fusion re-
17 search and development facilities are selected
18 based on scientific innovation and cost effective-
19 ness, and the potential of the facilities to ad-
20 vance the goal of practical fusion energy at the
21 earliest date practicable;

22 (D) facilities that are selected are funded
23 at a cost-effective rate;

24 (E) communication of scientific results and
25 methods between the fusion energy science com-

1 community and the broader scientific and tech-
2 nology communities is improved;

3 (F) inertial confinement fusion facilities
4 are used to the extent practicable for the pur-
5 pose of inertial fusion energy research and de-
6 velopment;

7 (G) attractive alternative inertial and mag-
8 netic fusion energy approaches are more fully
9 explored; and

10 (H) to the extent practicable, the rec-
11 ommendations of the Fusion Energy Sciences
12 Advisory Committee in the report on workforce
13 planning, dated March 2004, are carried out,
14 including periodic reassessment of program
15 needs.

16 (2) COSTS AND SCHEDULES.—The plan shall
17 also address the status of and, to the extent prac-
18 ticable, costs and schedules for—

19 (A) the design and implementation of
20 international or national facilities for the test-
21 ing of fusion materials; and

22 (B) the design and implementation of
23 international or national facilities for the test-
24 ing and development of key fusion technologies.

25 (c) UNITED STATES PARTICIPATION IN ITER.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) CONSTRUCTION.—

3 (i) IN GENERAL.—The term “con-
4 struction” means—

5 (I) the physical construction of
6 the ITER facility; and

7 (II) the physical construction,
8 purchase, or manufacture of equip-
9 ment or components that are specifi-
10 cally designed for the ITER facility.

11 (ii) EXCLUSIONS.—The term “con-
12 struction” does not include the design of
13 the facility, equipment, or components.

14 (B) ITER.—The term “ITER” means the
15 international burning plasma fusion research
16 project in which the President announced
17 United States participation on January 30,
18 2003, or any similar international project.

19 (2) PARTICIPATION.—The United States may
20 participate in the ITER only in accordance with this
21 subsection.

22 (3) AGREEMENT.—

23 (A) IN GENERAL.—The Secretary may ne-
24 gotiate an agreement for United States partici-
25 pation in the ITER.

1 (B) CONTENTS.—Any agreement for
2 United States participation in the ITER shall,
3 at a minimum—

4 (i) clearly define the United States fi-
5 nancial contribution to construction and
6 operating costs, as well as any other costs
7 associated with a project;

8 (ii) ensure that the share of high-tech-
9 nology components of the ITER manufac-
10 tured in the United States is at least pro-
11 portionate to the United States financial
12 contribution to the ITER;

13 (iii) ensure that the United States will
14 not be financially responsible for cost over-
15 runs in components manufactured in other
16 ITER participating countries;

17 (iv) guarantee the United States full
18 access to all data generated by the ITER;

19 (v) enable United States researchers
20 to propose and carry out an equitable
21 share of the experiments at the ITER;

22 (vi) provide the United States with a
23 role in all collective decisionmaking related
24 to the ITER; and

1 (vii) describe the process for dis-
2 continuing or decommissioning the ITER
3 and any United States role in that process.

4 (4) PLAN.—

5 (A) DEVELOPMENT.—The Secretary, in
6 consultation with the Fusion Energy Sciences
7 Advisory Committee, shall develop a plan for
8 the participation of United States scientists in
9 the ITER that shall include—

10 (i) the United States research agenda
11 for the ITER;

12 (ii) methods to evaluate whether the
13 ITER is promoting progress toward mak-
14 ing fusion a reliable and affordable source
15 of power; and

16 (iii) a description of how work at the
17 ITER will relate to other elements of the
18 United States fusion program.

19 (B) REVIEW.—The Secretary shall request
20 a review of the plan by the National Academy
21 of Sciences.

22 (5) LIMITATION.—No Federal funds shall be
23 expended for the construction of the ITER until the
24 Secretary has submitted to Congress—

1 (A) the agreement negotiated in accord-
2 ance with paragraph (3) and 120 days have
3 elapsed since that submission;

4 (B) a report describing the management
5 structure of the ITER and providing a fixed
6 dollar estimate of the cost of United States par-
7 ticipation in the construction of the ITER, and
8 120 days have elapsed since that submission;

9 (C) a report describing how United States
10 participation in the ITER will be funded with-
11 out reducing funding for other programs in the
12 Office of Science (including other fusion pro-
13 grams), and 60 days have elapsed since that
14 submission; and

15 (D) the plan required by paragraph (4)
16 (but not the National Academy of Sciences re-
17 view of that plan), and 60 days have elapsed
18 since that submission.

19 (6) ALTERNATIVE TO ITER.—

20 (A) IN GENERAL.—If at any time during
21 the negotiations on the ITER, the Secretary de-
22 termines that construction and operation of the
23 ITER is unlikely or infeasible, the Secretary
24 shall submit to Congress, along with the budget
25 request of the President submitted to Congress

1 for the following fiscal year, a plan for imple-
2 menting a domestic burning plasma experiment
3 such as the Fusion Ignition Research Experi-
4 ment, including costs and schedules for the
5 plan.

6 (B) ADMINISTRATION.—The Secretary
7 shall—

8 (i) refine the plan in full consultation
9 with the Fusion Energy Sciences Advisory
10 Committee; and

11 (ii) transmit the plan to the National
12 Academy of Sciences for review.

13 **SEC. 963. SUPPORT FOR SCIENCE AND ENERGY FACILITIES**
14 **AND INFRASTRUCTURE.**

15 (a) FACILITY AND INFRASTRUCTURE POLICY.—

16 (1) IN GENERAL.—The Secretary shall develop
17 and implement a strategy for facilities and infra-
18 structure supported primarily from the Office of
19 Science, the Office of Energy Efficiency and Renew-
20 able Energy, the Office of Fossil Energy, or the Of-
21 fice of Nuclear Energy, Science and Technology Pro-
22 grams at all National Laboratories and single-pur-
23 pose research facilities.

24 (2) STRATEGY.—The strategy shall provide
25 cost-effective means for—

- 1 (A) maintaining existing facilities and in-
2 frastructure;
3 (B) closing unneeded facilities;
4 (C) making facility modifications; and
5 (D) building new facilities.

6 (b) REPORT.—

7 (1) IN GENERAL.—The Secretary shall prepare
8 and submit, along with the budget request of the
9 President submitted to Congress for fiscal year
10 2007, a report describing the strategy developed
11 under subsection (a).

12 (2) CONTENTS.—For each National Laboratory
13 and single-purpose research facility that is primarily
14 used for science and energy research, the report
15 shall contain—

16 (A) the current priority list of proposed fa-
17 cilities and infrastructure projects, including
18 cost and schedule requirements;

19 (B) a current 10-year plan that dem-
20 onstrates the reconfiguration of its facilities and
21 infrastructure to meet its missions and to ad-
22 dress its long-term operational costs and return
23 on investment;

24 (C) the total current budget for all facili-
25 ties and infrastructure funding; and

1 (D) the current status of each facility and
2 infrastructure project compared to the original
3 baseline cost, schedule, and scope.

4 **SEC. 964. CATALYSIS RESEARCH PROGRAM.**

5 (a) ESTABLISHMENT.—The Secretary, acting
6 through the Office of Science, shall support a program of
7 research and development in catalysis science consistent
8 with the statutory authorities of the Department related
9 to research and development.

10 (b) COMPONENTS.—The program shall include ef-
11 forts to—

12 (1) enable catalyst design using combinations of
13 experimental and mechanistic methodologies coupled
14 with computational modeling of catalytic reactions at
15 the molecular level;

16 (2) develop techniques for high throughput syn-
17 thesis, assay, and characterization at nanometer and
18 subnanometer scales in situ under actual operating
19 conditions;

20 (3) synthesize catalysts with specific site archi-
21 tectures;

22 (4) conduct research on the use of precious
23 metals for catalysis; and

24 (5) translate molecular understanding to the
25 design of catalytic compounds.

1 (c) DUTIES OF THE OFFICE OF SCIENCE.—In car-
2 rying out the program, the Director of the Office of
3 Science shall—

4 (1) support both individual investigators and
5 multidisciplinary teams of investigators to pioneer
6 new approaches in catalytic design;

7 (2) develop, plan, construct, acquire, share, or
8 operate special equipment or facilities for the use of
9 investigators in collaboration with national user fa-
10 cilities, such as nanoscience and engineering centers;

11 (3) support technology transfer activities to
12 benefit industry and other users of catalysis science
13 and engineering; and

14 (4) coordinate research and development activi-
15 ties with industry and other Federal agencies.

16 (d) TRIENNIAL ASSESSMENT.—Not later than 3
17 years after the date of enactment of this Act and every
18 3 years thereafter, the National Academy of Sciences
19 shall—

20 (1) review the catalysis program to measure—

21 (A) gains made in the fundamental science
22 of catalysis; and

23 (B) progress towards developing new fuels
24 for energy production and material fabrication
25 processes; and

1 (2) submit to Congress a report describing the
2 results of the review.

3 **SEC. 965. HYDROGEN.**

4 (a) IN GENERAL.—The Secretary shall conduct a
5 program of fundamental research and development in sup-
6 port of programs authorized under title VIII.

7 (b) METHODS.—The program shall include support
8 for methods of generating hydrogen without the use of
9 natural gas.

10 **SEC. 966. SOLID STATE LIGHTING.**

11 The Secretary shall conduct a program of funda-
12 mental research on advance solid state lighting in support
13 of the Next Generation Lighting Initiative carried out
14 under section 912.

15 **SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY**
16 **MISSIONS.**

17 (a) PROGRAM.—

18 (1) IN GENERAL.—The Secretary shall conduct
19 an advanced scientific computing research and devel-
20 opment program that includes activities related to
21 applied mathematics and activities authorized by the
22 Department of Energy High-End Computing Revi-
23 talization Act of 2004 (15 U.S.C. 5541 et seq.).

24 (2) GOAL.—The Secretary shall carry out the
25 program with the goal of supporting departmental

1 missions, and providing the high-performance com-
2 putational, networking, advanced visualization tech-
3 nologies, and workforce resources, that are required
4 for world leadership in science.

5 (b) HIGH-PERFORMANCE COMPUTING.—Section 203
6 of the High-Performance Computing Act of 1991 (15
7 U.S.C. 5523) is amended to read as follows:

8 **“SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.**

9 “(a) GENERAL RESPONSIBILITIES.—As part of the
10 Program described in title I, the Secretary of Energy
11 shall—

12 “(1) conduct and support basic and applied re-
13 search in high-performance computing and net-
14 working to support fundamental research in science
15 and engineering disciplines related to energy applica-
16 tions; and

17 “(2) provide computing and networking infra-
18 structure support, including—

19 “(A) the provision of high-performance
20 computing systems that are among the most
21 advanced in the world in terms of performance
22 in solving scientific and engineering problems;
23 and

24 “(B) support for advanced software and
25 applications development for science and engi-

1 neering disciplines related to energy applica-
2 tions.

3 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary of En-
5 ergy such sums as are necessary to carry out this sec-
6 tion.”.

7 **SEC. 968. GENOMES TO LIFE PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary shall carry out
9 a program of research, development, demonstration, and
10 commercial application, to be known as the “Genomes to
11 Life Program”, in microbial and plant systems biology,
12 protein science, and computational biology consistent with
13 the statutory authorities of the Department.

14 (b) PLANNING.—

15 (1) IN GENERAL.—The Secretary shall prepare
16 a program plan that describes how knowledge and
17 capabilities would be developed by the program and
18 applied to missions of the Department relating to
19 energy security, environmental cleanup, and national
20 security.

21 (2) CONSULTATION.—The Secretary shall pre-
22 pare the program plan in consultation with the
23 heads of other Federal agencies that carry out rel-
24 evant technology programs.

1 (3) LONG-TERM GOALS.—In preparing the pro-
2 gram plan, the Secretary shall focus on applying
3 science and technology to achieve the long-term
4 goals of the program, including—

5 (A) contributing to the independence of the
6 United States from foreign energy sources, in-
7 cluding production of hydrogen;

8 (B) converting carbon dioxide to organic
9 carbon;

10 (C) advancing environmental cleanup;

11 (D) providing the science and technology
12 for new biotechnology industries; and

13 (E) improving national security and com-
14 bating bioterrorism.

15 (4) SHORT-TERM GOALS.—In preparing the
16 program plan, the Secretary shall—

17 (A) establish specific short-term goals; and

18 (B) update the goals with the annual
19 budget submission of the Secretary.

20 (c) ADMINISTRATION.—In carrying out the program,
21 the Secretary shall—

22 (1) support individual investigators and multi-
23 disciplinary teams of investigators;

24 (2) subject to subsection (d), develop, plan, con-
25 struct, acquire, or operate special equipment or fa-

1 facilities for the use of investigators conducting re-
2 search, development, demonstration, or commercial
3 application in systems biology and proteomics;

4 (3) support technology transfer activities to
5 benefit industry and other users of systems biology
6 and proteomics; and

7 (4) coordinate activities by the Department
8 with industry and other Federal agencies.

9 (d) GENOMES TO LIFE USER FACILITIES AND AN-
10 CILLARY EQUIPMENT.—

11 (1) IN GENERAL.—Subject to the availability of
12 funds to carry out this subsection, the amounts
13 made available under section 961(b)(4) shall be
14 available for—

15 (A) projects to develop, plan, construct, ac-
16 quire, or operate special equipment, or instru-
17 mentation; or

18 (B) facilities at National Laboratories for
19 investigators conducting research, development,
20 demonstration, and commercial application in
21 systems biology and proteomics and associated
22 biological disciplines.

23 (2) PROJECTS.—Projects under paragraph
24 (1)(A) may include—

1 (A) the identification and characterization
2 of multiprotein complexes;

3 (B) characterization of gene regulatory
4 networks;

5 (C) characterization of the functional rep-
6 ertoire of complex microbial communities in
7 their natural environments at the molecular
8 level; and

9 (D) development of computational methods
10 and capabilities to advance understanding of
11 complex biological systems and predict their be-
12 havior.

13 (3) FACILITIES.—Facilities under paragraph
14 (1)(B) may include facilities, equipment, or instru-
15 mentation for—

16 (A) the production and characterization of
17 proteins;

18 (B) whole proteome analysis;

19 (C) characterization and imaging of molec-
20 ular machines; and

21 (D) analysis and modeling of cellular sys-
22 tems.

23 (4) FACILITIES LOCATION AND MISSION.—The
24 number, location, and mission of facilities under
25 paragraph (1)(B) shall be determined in a plan pro-

1 vided by the Secretary to Congress before the con-
2 struction of any such facility.

3 (5) COLLABORATION.—

4 (A) IN GENERAL.—In carrying out this
5 subsection, the Secretary shall encourage col-
6 laborations among institutions of higher edu-
7 cation, National Laboratories, and industry at
8 facilities.

9 (B) TECHNOLOGY TRANSFER.—All facili-
10 ties under this subsection shall promote tech-
11 nology transfer to other institutions.

12 **SEC. 969. FISSION AND FUSION ENERGY MATERIALS RE-**
13 **SEARCH PROGRAM.**

14 (a) IN GENERAL.—Along with the budget request of
15 the President submitted to Congress for fiscal year 2007,
16 the Secretary shall establish a research and development
17 program on material science issues presented by advanced
18 fission reactors and the fusion energy program of the De-
19 partment.

20 (b) ADMINISTRATION.—In carrying out the program,
21 the Secretary shall develop—

22 (1) a catalog of material properties required for
23 applications described in subsection (a);

24 (2) theoretical models for materials possessing
25 the required properties;

1 (3) benchmark models against existing data;
2 and

3 (4) a roadmap to guide further research and
4 development in the area covered by the program.

5 **SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PRO-**
6 **GRAM.**

7 (a) DEFINITIONS.—In this section:

8 (1) FOUNDATION.—The term “Foundation”
9 means the American Water Works Association Re-
10 search Foundation.

11 (2) INDIAN TRIBE.—The term “Indian tribe”
12 has the meaning given the term in section 4 of the
13 Indian Self-Determination and Education Assistance
14 Act (25 U.S.C. 450b).

15 (3) PROGRAM.—The term “Program” means
16 the Energy-Water Supply Technologies Program es-
17 tablished by subsection (b).

18 (b) ESTABLISHMENT.—There is established, within
19 the Office of Biological and Environmental Research of
20 the Office of Science, a program, to be known as the “En-
21 ergy-Water Supply Technologies Program”, to study—

22 (1) energy-related issues associated with water
23 resources and municipal waterworks; and

24 (2) supply issues related to energy production.

1 (c) PROGRAM AREAS.—In carrying out the Program,
2 the Secretary shall conduct research and development, in-
3 cluding research and development relating to—

4 (1) the arsenic removal program under sub-
5 section (d);

6 (2) the desalination research program under
7 subsection (e);

8 (3) the water and energy sustainability program
9 under subsection (f); and

10 (4) other energy-intensive water supply and
11 treatment technologies and other technologies se-
12 lected by the Secretary.

13 (d) ARSENIC REMOVAL PROGRAM.—

14 (1) IN GENERAL.—As soon as practicable after
15 the date of enactment of this Act, the Secretary
16 shall enter into a contract with the Foundation to
17 use the facilities, institutions, and relationships de-
18 scribed in the matter under the heading “BIOLOGI-
19 CAL AND ENVIRONMENTAL RESEARCH” of title III of
20 Senate Report 107–220 to accompany the Consoli-
21 dated Appropriations Resolution, 2003 (Public Law
22 108–7) to carry out a research program to develop
23 and demonstrate innovative arsenic removal tech-
24 nologies.

1 (2) RESEARCH.—In carrying out the arsenic re-
2 moval program, the Foundation shall, to the max-
3 imum extent practicable, conduct research on means
4 of—

5 (A) reducing energy costs incurred in
6 using arsenic removal technologies;

7 (B) minimizing materials, operating, and
8 maintenance costs incurred in using arsenic re-
9 moval technologies; and

10 (C) minimizing any quantities of waste (es-
11 pecially hazardous waste) that result from use
12 of arsenic removal technologies.

13 (3) DEMONSTRATION PROJECTS.—The Founda-
14 tion shall carry out peer-reviewed research and dem-
15 onstration projects to develop and demonstrate
16 water purification technologies.

17 (4) ADMINISTRATION.—Under the arsenic re-
18 moval program—

19 (A) demonstration projects shall be imple-
20 mented with municipal water system partners
21 to demonstrate the applicability of innovative
22 arsenic removal technologies in areas with dif-
23 ferent water chemistries representative of areas
24 across the United States with arsenic levels

1 near or exceeding the guidelines of the Environ-
2 mental Protection Agency; and

3 (B) not less than 40 percent of the funds
4 of the Department used for demonstration
5 projects under the arsenic removal program
6 shall be expended on projects focused on the
7 needs of and in partnership with rural commu-
8 nities or Indian tribes.

9 (5) EVALUATIONS; TECHNOLOGY TRANSFER.—

10 The Foundation shall develop evaluations of cost ef-
11 fectiveness of arsenic removal technologies used in
12 the program and an education, training, and tech-
13 nology transfer component for the program.

14 (6) COORDINATION.—The Secretary shall con-
15 sult with the Administrator of the Environmental
16 Protection Agency to ensure that activities under the
17 arsenic removal program are coordinated with ap-
18 propriate programs of the Environmental Protection
19 Agency and other Federal agencies, State programs,
20 and academia.

21 (7) REPORTS.—Not later than 1 year after the
22 date of commencement of the arsenic removal pro-
23 gram and annually thereafter, the Secretary shall
24 submit to Congress a report on the results of the ar-
25 senic removal program.

1 (e) DESALINATION PROGRAM.—

2 (1) IN GENERAL.—The Secretary, in coopera-
3 tion with the Commissioner of Reclamation, shall
4 carry out a desalination research program in accord-
5 ance with the desalination technology progress plan
6 developed under the matter under the heading
7 “WATER AND RELATED RESOURCES” under the
8 heading “BUREAU OF RECLAMATION” of title II of
9 the Energy and Water Development Appropriations
10 Act, 2002 (115 Stat. 498) and described in Senate
11 Report 107–39 to accompany S. 1171 (107th Con-
12 gress).

13 (2) ADMINISTRATION.—The desalination pro-
14 gram shall—

15 (A) draw on the national laboratory part-
16 nership established with the Bureau of Rec-
17 lamation to develop the national Desalination
18 and Water Purification Technology Roadmap
19 for next-generation desalination technology re-
20 leased in January 2003;

21 (B) focus on research relating to, and de-
22 velopment and demonstration of, technologies
23 that are appropriate for use in desalinating
24 brackish groundwater, wastewater, and other

1 saline water supplies and disposal of residual
2 brine or salt; and

3 (C) consider the use of renewable energy
4 sources.

5 (3) CONSTRUCTION PROJECTS.—Under the de-
6 salination program, funds made available for the
7 program may be used for construction projects, in-
8 cluding completion of the National Desalination Re-
9 search Center for brackish groundwater and ongoing
10 facility operational costs.

11 (4) STEERING COMMITTEE.—

12 (A) ESTABLISHMENT.—The Secretary and
13 the Commissioner of Reclamation shall jointly
14 establish a steering committee for the desalina-
15 tion program.

16 (B) CHAIR.—The steering committee shall
17 be jointly chaired by—

18 (i) 1 representative from the Pro-
19 gram; and

20 (ii) 1 representative from the Bureau
21 of Reclamation.

22 (f) WATER AND ENERGY SUSTAINABILITY PRO-
23 GRAM.—

24 (1) IN GENERAL.—The Secretary shall carry
25 out a research program to develop technologies to

1 assist in ensuring that sufficient quantities of water
2 are available to meet present and future require-
3 ments.

4 (2) ASSESSMENTS.—Under the program and in
5 collaboration with other programs within the De-
6 partment (including programs within the Offices of
7 Fossil Energy and Energy Efficiency and Renewable
8 Energy), the Secretary of the Interior, the Corps of
9 Engineers, the Environmental Protection Agency,
10 the Department of Commerce, the Department of
11 Defense, State agencies, nongovernmental agencies,
12 and academia, the Secretary shall assess the current
13 state of knowledge and program activities
14 concerning—

15 (A) future water resources needed to sup-
16 port energy production within the United
17 States, including the water needs for hydro-
18 power and thermo-electric power generation;

19 (B) future energy resources needed to sup-
20 port development of water purification and
21 treatment, including desalination and long-dis-
22 tance water conveyance;

23 (C) reuse and treatment of water produced
24 as a byproduct of oil and gas extraction;

1 (D) use of impaired and nontraditional
2 water supplies for energy production and other
3 uses; and

4 (E) technologies to reduce water use in en-
5 ergy production.

6 (3) TOOLS.—In addition to the assessments
7 conducted under paragraph (2), the Secretary
8 shall—

9 (A) develop a research plan that defines
10 the scientific and technology development needs
11 and activities required to support—

12 (i) long-term water needs and plan-
13 ning for energy sustainability;

14 (ii) use of impaired water for energy
15 production and other uses; and

16 (iii) reduction of water use in energy
17 production;

18 (B) carry out the research plan required
19 under subparagraph (A), including development
20 of numerical models, decision analysis tools,
21 economic analysis tools, databases, planning
22 methodologies, and strategies;

23 (C) implement at least 3 planning dem-
24 onstration projects using the models, tools, and
25 planning approaches developed under subpara-

1 graph (B) and assess the viability of those tools
2 on the scale of river basins with at least 1 dem-
3 onstration involving an international border;
4 and

5 (D) transfer those tools to other Federal
6 agencies, State agencies, nonprofit organiza-
7 tions, industry, and academia for use in their
8 energy and water sustainability efforts.

9 (4) REPORT.—Not later than 1 year after the
10 date of enactment of this Act, the Secretary shall
11 submit to Congress a report on the water and en-
12 ergy sustainability program that—

13 (A) describes the research elements de-
14 scribed under paragraph (2); and

15 (B) makes recommendations for a manage-
16 ment structure that optimizes use of Federal
17 resources and programs.

18 (g) COST SHARING.—

19 (1) RESEARCH PROJECTS.—A research project
20 under this section shall not require cost-sharing.

21 (2) DEMONSTRATION PROJECTS.—Each dem-
22 onstration project carried out under the Program
23 shall be carried out in accordance with the cost-shar-
24 ing requirements of section 1002.

1 **SEC. 971. SPALLATION NEUTRON SOURCE.**

2 (a) DEFINITIONS.—In this section:

3 (1) SING.—The term “SING” means the
4 Spallation Neutron Source Instruments Next Gen-
5 eration major item of equipment.

6 (2) SNS POWER UPGRADE.—The term “SNS
7 power upgrade” means the Spallation Neutron
8 Source power upgrade described in the 20-year fa-
9 cilities plan of the Office of Science of the Depart-
10 ment.

11 (3) SNS SECOND TARGET STATION.—The term
12 “SNS second target station” the Spallation Neutron
13 Source second target station described in the 20-
14 year facilities plan of the Office of Science of the
15 Department.

16 (4) SPALLATION NEUTRON SOURCE FACILITY.—
17 The terms “Spallation Neutron Source Facility” and
18 “Facility” mean the completed Spallation Neutron
19 Source scientific user facility located at Oak Ridge
20 National Laboratory, Oak Ridge, Tennessee.

21 (5) SPALLATION NEUTRON SOURCE PROJECT.—
22 The terms “Spallation Neutron Source Project” and
23 “Project” means Department Project 99–E–334,
24 Oak Ridge National Laboratory, Oak Ridge, Ten-
25 nessee.

26 (b) SPALLATION NEUTRON SOURCE PROJECT.—

1 (1) IN GENERAL.—The Secretary shall submit
2 to Congress, as part of the annual budget request of
3 the President submitted to Congress, a report on
4 progress on the Spallation Neutron Source Project.

5 (2) CONTENTS.—The report shall include for
6 the Project—

7 (A) a description of the achievement of
8 milestones;

9 (B) a comparison of actual costs to esti-
10 mated costs; and

11 (C) any changes in estimated Project costs
12 or schedule.

13 (c) SPALLATION NEUTRON SOURCE FACILITY
14 PLAN.—

15 (1) IN GENERAL.—The Secretary shall develop
16 an operational plan for the Spallation Neutron
17 Source Facility that ensures that the Facility is em-
18 ployed to the full capability of the Facility in sup-
19 port of the study of advanced materials, nanoscience,
20 and other missions of the Office of Science of the
21 Department.

22 (2) PLAN.—The operational plan shall—

23 (A) include a plan for the operation of an
24 effective scientific user program that—

1 (i) is based on peer review of pro-
2 posals submitted for use of the Facility;

3 (ii) includes scientific and technical
4 support to ensure that external users, in-
5 cluding researchers based at institutions of
6 higher education, are able to make full use
7 of a variety of high quality scientific in-
8 struments; and

9 (iii) phases in systems upgrades to en-
10 sure that the Facility remains at the fore-
11 front of international scientific endeavors
12 in the field of the Facility throughout the
13 operating life of the Facility;

14 (B) include an ongoing program to develop
15 new instruments that builds on the high per-
16 formance neutron source and that allows neu-
17 tron scattering techniques to be applied to a
18 growing range of scientific problems and dis-
19 ciplines; and

20 (C) address the status of and, to the max-
21 imum extent practicable, costs and schedules
22 for—

23 (i) full user mode operations of the
24 Facility;

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- 1 (ii) instrumentation built at the Facil-
2 ity during the operating phase through full
3 use of the experimental hall, including the
4 SING;
- 5 (iii) the SNS power upgrade; and
6 (iv) the SNS second target station.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) SPALLATION NEUTRON SOURCE PROJECT.—

9 There is authorized to be appropriated to carry out
10 the Spallation Neutron Source Project for the life-
11 time of the Project \$1,411,700,000 for total project
12 costs, of which—

13 (A) \$1,192,700,000 shall be used for the
14 costs of construction; and

15 (B) \$219,000,000 shall be used for other
16 Project costs.

17 (2) SPALLATION NEUTRON SOURCE FACILITY.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (B), there is authorized to be ap-
20 propriated for the Spallation Neutron Source
21 Facility for—

22 (i) the SING, \$75,000,000 for fiscal
23 year 2006; and

1 (ii) the SNS power upgrade,
2 \$160,000,000 for each of fiscal years 2007
3 and 2008.

4 (B) INSUFFICIENT STOCKPILES OF HEAVY
5 WATER.—If stockpiles of heavy water of the
6 Department are insufficient to meet the needs
7 of the Facility, there is authorized to be appro-
8 priated for the Facility \$172,000,000 for fiscal
9 year 2007.

10 **Subtitle G—International** 11 **Cooperation**

12 **SEC. 981. WESTERN HEMISPHERE ENERGY COOPERATION.**

13 (a) PROGRAM.—The Secretary shall carry out a pro-
14 gram to promote cooperation on energy issues with coun-
15 tries of the Western Hemisphere.

16 (b) ACTIVITIES.—Under the program, the Secretary
17 shall fund activities to work with countries of the Western
18 Hemisphere to—

- 19 (1) increase the production of energy supplies;
- 20 (2) improve energy efficiency; and
- 21 (3) assist in the development and transfer of
22 energy supply and efficiency technologies that would
23 have a beneficial impact on world energy markets.

24 (c) PARTICIPATION BY INSTITUTIONS OF HIGHER
25 EDUCATION.—To the extent practicable, the Secretary

1 shall carry out the program under this section with the
2 participation of institutions of higher education so as to
3 take advantage of the acceptance of institutions of higher
4 education by countries of the Western Hemisphere as
5 sources of unbiased technical and policy expertise when
6 assisting the Secretary in—

7 (1) evaluating new technologies;

8 (2) resolving technical issues;

9 (3) working with those countries in the develop-
10 ment of new policies; and

11 (4) training policymakers, particularly in the
12 case of institutions of higher education that involve
13 the participation of minority students, such as—

14 (A) Hispanic-serving institutions; and

15 (B) part B institutions.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this
18 section—

19 (1) \$10,000,000 for fiscal year 2006;

20 (2) \$13,000,000 for fiscal year 2007; and

21 (3) \$16,000,000 for fiscal year 2008.

22 **SEC. 982. COOPERATION BETWEEN UNITED STATES AND**
23 **ISRAEL.**

24 (a) FINDINGS.—Congress finds that—

1 (1) on February 1, 1996, the United States and
2 Israel signed the agreement entitled “Agreement be-
3 tween the Department of Energy of the United
4 States of America and the Ministry of Energy and
5 Infrastructure of Israel Concerning Energy Coopera-
6 tion”, (referred to in this section as the “Agree-
7 ment”) to establish a framework for collaboration
8 between the United States and Israel in energy re-
9 search and development activities;

10 (2) the Agreement entered into force in Feb-
11 ruary 2000;

12 (3) in February 2005, the Agreement was auto-
13 matically renewed for 1 additional 5-year period pur-
14 suant to Article X of the Agreement; and

15 (4) under the Agreement, the United States
16 and Israel may cooperate in energy research and de-
17 velopment in a variety of alternative and advanced
18 energy sectors.

19 (b) REPORT TO CONGRESS.—Not later than 90 days
20 after the date of enactment of this Act, the Secretary shall
21 submit to the Committee on Energy and Natural Re-
22 sources of the Senate and the Committee on Energy and
23 Commerce of the House of Representatives a report that
24 describes—

1 (1) the ways in which the United States and
2 Israel have cooperated on energy research and devel-
3 opment activities under the Agreement;

4 (2) projects initiated pursuant to the Agree-
5 ment; and

6 (3) plans for future cooperation and joint
7 projects under the Agreement.

8 (c) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that energy cooperation between the Governments
10 of the United States and Israel is mutually beneficial in
11 the development of energy technology.

12 **TITLE X—DEPARTMENT OF**
13 **ENERGY MANAGEMENT**

14 **SEC. 1001. AVAILABILITY OF FUNDS.**

15 Funds authorized to be appropriated to the Depart-
16 ment under this Act or an amendment made by this Act
17 shall remain available until expended.

18 **SEC. 1002. COST SHARING.**

19 (a) APPLICABILITY.—Notwithstanding any other pro-
20 vision of law, in carrying out a research, development,
21 demonstration, or commercial application activity that is
22 initiated after the date of enactment of this section, the
23 Secretary shall require cost-sharing in accordance with
24 this section.

25 (b) RESEARCH AND DEVELOPMENT.—

1 (1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3) and subsection (f), the Secretary
3 shall require not less than 20 percent of the cost of
4 a research or development activity described in sub-
5 subsection (a) to be provided by a non-Federal source.

6 (2) EXCLUSION.—Paragraph (1) shall not apply
7 to a research or development activity described in
8 subsection (a) that is of a basic or fundamental na-
9 ture, as determined by the appropriate officer of the
10 Department.

11 (3) REDUCTION.—The Secretary may reduce or
12 eliminate the requirement of paragraph (1) for a re-
13 search and development activity of an applied nature
14 if the Secretary determines that the reduction is nec-
15 essary and appropriate.

16 (c) DEMONSTRATION AND COMMERCIAL APPLICA-
17 TION.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2) and subsection (f), the Secretary shall re-
20 quire that not less than 50 percent of the cost of a
21 demonstration or commercial application activity de-
22 scribed in subsection (a) to be provided by a non-
23 Federal source.

24 (2) REDUCTION OF NON-FEDERAL SHARE.—
25 The Secretary may reduce the non-Federal share re-

1 required under paragraph (1) if the Secretary deter-
2 mines the reduction to be necessary and appropriate,
3 taking into consideration any technological risk re-
4 lating to the activity.

5 (d) CALCULATION OF AMOUNT.—In calculating the
6 amount of a non-Federal contribution under this section,
7 the Secretary—

8 (1) may include allowable costs in accordance
9 with the applicable cost principles, including—

10 (A) cash;

11 (B) personnel costs;

12 (C) the value of a service, other resource,
13 or third party in-kind contribution determined
14 in accordance with the applicable circular of the
15 Office of Management and Budget;

16 (D) indirect costs or facilities and adminis-
17 trative costs; or

18 (E) any funds received under the power
19 program of the Tennessee Valley Authority (ex-
20 cept to the extent that such funds are made
21 available under an annual appropriation Acts);

22 and

23 (2) shall not include—

1 (A) revenues or royalties from the prospec-
2 tive operation of an activity beyond the time
3 considered in the award;

4 (B) proceeds from the prospective sale of
5 an asset of an activity; or

6 (C) other appropriated Federal funds.

7 (e) REPAYMENT OF FEDERAL SHARE.—The Sec-
8 retary shall not require repayment of the Federal share
9 of a cost-shared activity under this section as a condition
10 of making an award.

11 (f) EXCLUSIONS.—This section shall not apply to—

12 (1) a cooperative research and development
13 agreement under the Stevenson-Wydler Technology
14 Innovation Act of 1990 (15 U.S.C. 3701 et seq.);

15 (2) a fee charged for the use of a Department
16 facility; or

17 (3) an award under—

18 (A) the small business innovation research
19 program under section 9 of the Small Business
20 Act (15 U.S.C. 638); or

21 (B) the small business technology transfer
22 program under that section.

23 **SEC. 1003. MERIT REVIEW OF PROPOSALS.**

24 Awards of funds authorized under this Act or an
25 amendment made by this Act shall be made only after an

1 impartial review of the scientific and technical merit of
2 the proposals for the awards has been carried out by or
3 for the Department.

4 **SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPART-**
5 **MENTAL PROGRAMS.**

6 (a) NATIONAL ENERGY RESEARCH AND DEVELOP-
7 MENT ADVISORY BOARDS.—

8 (1) ESTABLISHMENT.—The Secretary shall es-
9 tablish 1 or more advisory boards to review research,
10 development, demonstration, and commercial appli-
11 cation programs of the Department in energy effi-
12 ciency, renewable energy, nuclear energy, and fossil
13 energy.

14 (2) ALTERNATIVES.—The Secretary may—

15 (A) designate an existing advisory board
16 within the Department to fulfill the responsibil-
17 ities of an advisory board under this section;
18 and

19 (B) enter into appropriate arrangements
20 with the National Academy of Sciences to es-
21 tablish such an advisory board.

22 (b) USE OF EXISTING COMMITTEES.—The Secretary
23 shall continue to use the scientific program advisory com-
24 mittees chartered under the Federal Advisory Committee

1 Act (5 U.S.C. App.) by the Office of Science to oversee
2 research and development programs under that Office.

3 (c) MEMBERSHIP.—Each advisory board under this
4 section shall consist of persons with appropriate expertise
5 representing a diverse range of interests.

6 (d) MEETINGS AND GOALS.—

7 (1) MEETINGS.—Each advisory board under
8 this section shall meet at least semiannually to re-
9 view and advise on the progress made by the respec-
10 tive 1 or more research, development, demonstration,
11 and commercial application programs.

12 (2) GOALS.—The advisory board shall review
13 the measurable cost and performance-based goals for
14 the programs as established under section 902, and
15 the progress on meeting the goals.

16 (e) PERIODIC REVIEWS AND ASSESSMENTS.—

17 (1) IN GENERAL.—The Secretary shall enter
18 into appropriate arrangements with the National
19 Academy of Sciences to conduct periodic reviews and
20 assessments of—

21 (A) the programs authorized by this Act
22 and amendments made by this Act;

23 (B) the measurable cost and performance-
24 based goals for the programs as established
25 under section 902, if any; and

1 (C) the progress on meeting the goals.

2 (2) TIMING.—The reviews and assessments
3 shall be conducted every 5 years or more often as
4 the Secretary considers necessary.

5 (3) REPORTS.—The Secretary shall submit to
6 Congress reports describing the results of all the re-
7 views and assessments.

8 **SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY**
9 **TECHNOLOGIES.**

10 (a) TECHNOLOGY TRANSFER COORDINATOR.—The
11 Secretary shall appoint a Technology Transfer Coordi-
12 nator to be the principal advisor to the Secretary on all
13 matters relating to technology transfer and commercializa-
14 tion.

15 (b) QUALIFICATIONS.—The Coordinator shall be an
16 individual who, by reason of professional background and
17 experience, is specially qualified to advise the Secretary
18 on matters pertaining to technology transfer at the De-
19 partment.

20 (c) DUTIES OF THE COORDINATOR.—The Coordi-
21 nator shall oversee—

22 (1) the activities of the Technology Transfer
23 Working Group established under subsection (d);

24 (2) the expenditure of funds allocated for tech-
25 nology transfer within the Department;

1 (3) the activities of each technology partnership
2 ombudsman appointed under section 11 of the Tech-
3 nology Transfer Commercialization Act of 2000 (42
4 U.S.C. 7261c); and

5 (4) efforts to engage private sector entities, in-
6 cluding venture capital companies.

7 (d) TECHNOLOGY TRANSFER WORKING GROUP.—
8 The Secretary shall establish a Technology Transfer
9 Working Group, which shall consist of representatives of
10 the National Laboratories and single-purpose research fa-
11 cilities, to—

12 (1) coordinate technology transfer activities oc-
13 curring at National Laboratories and single-purpose
14 research facilities;

15 (2) exchange information about technology
16 transfer practices, including alternative approaches
17 to resolution of disputes involving intellectual prop-
18 erty rights and other technology transfer matters;
19 and

20 (3) develop and disseminate to the public and
21 prospective technology partners information about
22 opportunities and procedures for technology transfer
23 with the Department, including opportunities and
24 procedures related to alternative approaches to reso-

1 lution of disputes involving intellectual property
2 rights and other technology transfer matters.

3 (e) TECHNOLOGY COMMERCIALIZATION FUND.—The
4 Secretary shall establish an Energy Technology Commer-
5 cialization Fund, using 0.5 percent of the amount made
6 available to the Department for each fiscal year, to be
7 used to provide matching funds with private partners to
8 promote promising technologies for commercial purposes.

9 (f) TECHNOLOGY TRANSFER RESPONSIBILITY.—
10 Nothing in this section affects the technology transfer re-
11 sponsibilities of Federal employees under the Stevenson-
12 Wydler Technology Innovation Act of 1980 (15 U.S.C.
13 3701 et seq.).

14 (g) PLANNING AND REPORTING.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the date of enactment of this Act, the Sec-
17 retary shall submit to Congress a technology trans-
18 fer execution plan.

19 (2) UPDATES.—Each year after the submission
20 of the plan under paragraph (1), the Secretary shall
21 submit to Congress an updated execution plan and
22 reports that describe progress toward meeting goals
23 set forth in the execution plan and the funds ex-
24 pended under subsection (e).

1 **SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

2 (a) DEFINITIONS.—In this section:

3 (1) PROGRAM.—The term “Program” means
4 the Technology Infrastructure Program established
5 under subsection (b).

6 (2) TECHNOLOGY CLUSTER.—The term “tech-
7 nology cluster” means a concentration of technology-
8 related business concerns, institutions of higher edu-
9 cation, or nonprofit institutions, that reinforce each
10 other’s performance in the areas of technology devel-
11 opment through formal or informal relationships.

12 (3) TECHNOLOGY-RELATED BUSINESS CON-
13 CERN.—The term “technology-related business con-
14 cern” means a for-profit corporation, company, asso-
15 ciation, firm, partnership, or small business concern
16 that—

17 (A) conducts scientific or engineering re-
18 search;

19 (B) develops new technologies;

20 (C) manufactures products based on new
21 technologies; or

22 (D) performs technological services.

23 (b) ESTABLISHMENT.—The Secretary shall establish
24 a Technology Infrastructure Program in accordance with
25 this section.

1 (c) PURPOSE.—The purpose of the Program shall be
2 to improve the ability of National Laboratories and single-
3 purpose research facilities to support departmental mis-
4 sions by—

5 (1) stimulating the development of technology
6 clusters that can support departmental missions at
7 the National Laboratories or single-purpose research
8 facilities;

9 (2) improving the ability of National Labora-
10 tories and single-purpose research facilities to lever-
11 age and benefit from commercial research, tech-
12 nology, products, processes, and services; and

13 (3) encouraging the exchange of scientific and
14 technological expertise between—

15 (A) National Laboratories or single-pur-
16 pose research facilities; and

17 (B) entities that can support departmental
18 missions at the National Laboratories or single-
19 purpose research facilities, such as—

20 (i) institutions of higher education;

21 (ii) technology-related business con-
22 cerns;

23 (iii) nonprofit institutions; and

24 (iv) agencies of State, tribal, or local
25 governments.

1 (d) PROJECTS.—The Secretary shall authorize the di-
2 rector of each National Laboratory or single-purpose re-
3 search facility to implement the Program at the National
4 Laboratory or facility through 1 or more projects that
5 meet the requirements of subsections (e) and (f).

6 (e) PROGRAM REQUIREMENTS.—

7 (1) IN GENERAL.—Each project funded under
8 this section shall meet the requirements of this sub-
9 section.

10 (2) ENTITIES.—Each project shall include at
11 least 1 of each of the following entities:

12 (A) A business.

13 (B) An institution of higher education.

14 (C) A nonprofit institution.

15 (D) An agency of a State, local, or tribal
16 government.

17 (3) COST-SHARING.—

18 (A) IN GENERAL.—The costs of carrying
19 out projects under this section shall be shared
20 in accordance with section 1002.

21 (B) SOURCES.—The calculation of costs
22 paid by the non-Federal sources for a project
23 shall include cash, personnel, services, equip-
24 ment, and other resources expended on the
25 project after the commencement of the project.

1 (C) RESEARCH AND DEVELOPMENT EX-
2 PENSES.—Independent research and develop-
3 ment expenses of Government contractors that
4 qualify for reimbursement under section
5 31.205–18(e) of title 48, Code of Federal Regu-
6 lations, issued pursuant to section 25(c)(1) of
7 the Office of Federal Procurement Policy Act
8 (41 U.S.C. 421(c)(1)), may be credited towards
9 costs paid by non-Federal sources to a project,
10 if the expenses meet the other requirements of
11 this section.

12 (4) COMPETITIVE SELECTION.—A project under
13 this section shall be competitively selected using pro-
14 cedures determined by the Secretary.

15 (5) ACCOUNTING.—Any participant that re-
16 ceives funds under this section may use generally ac-
17 cepted accounting principles for maintaining ac-
18 counts, books, and records relating to the project.

19 (6) DURATION.—No Federal funds shall be
20 made available under this section for a construction
21 project or for any project with a duration of more
22 than 5 years.

23 (f) SELECTION CRITERIA.—

24 (1) DEPARTMENTAL MISSIONS.—The Secretary
25 shall allocate funds under this section only if the Di-

1 rector of the National Laboratory or single-purpose
2 research facility managing the project determines
3 that the project is likely to improve the ability of the
4 National Laboratory or single-purpose research facil-
5 ity to achieve technical success in meeting depart-
6 mental missions.

7 (2) OTHER CRITERIA.—In selecting a project to
8 receive Federal funds, the Secretary shall consider—

9 (A) the potential of the project to promote
10 the development of a commercially sustainable
11 technology cluster following the period of invest-
12 ment by the Department, which will derive most
13 of the demand for its products or services from
14 the private sector, and which will support de-
15 partmental missions at the participating Na-
16 tional Laboratory or single-purpose research fa-
17 cility;

18 (B) the potential of the project to promote
19 the use of commercial research, technology,
20 products, processes, and services by the partici-
21 pating National Laboratory or single-purpose
22 research facility to achieve its mission or the
23 commercial development of technological inno-
24 vations made at the participating National Lab-
25 oratory or single-purpose research facility;

1 (C) the extent to which the project involves
2 a wide variety and number of institutions of
3 higher education, nonprofit institutions, and
4 technology-related business concerns that can
5 support the missions of the participating Na-
6 tional Laboratory or single-purpose research fa-
7 cility and that will make substantive contribu-
8 tions to achieving the goals of the project;

9 (D) the extent to which the project focuses
10 on promoting the development of technology-re-
11 lated business concerns that are small busi-
12 nesses or involves such small businesses sub-
13 stantively in the project; and

14 (E) such other criteria as the Secretary de-
15 termines to be appropriate.

16 (g) ALLOCATION.—In allocating funds for projects
17 approved under this section, the Secretary shall provide—

18 (1) the Federal share of the project costs; and

19 (2) additional funds to the National Laboratory
20 or single-purpose research facility managing the
21 project to permit the National Laboratory or single-
22 purpose research facility to carry out activities relat-
23 ing to the project, and to coordinate the activities
24 with the project.

1 (h) REPORT TO CONGRESS.—Not later than July 1,
2 2008, the Secretary shall submit to Congress a report on
3 whether the Program should be continued and, if so, how
4 the program should be managed.

5 (i) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Secretary for ac-
7 tivities under this section \$10,000,000 for each of fiscal
8 years 2006 through 2008.

9 **SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

10 (a) SMALL BUSINESS ADVOCATE.—The Secretary
11 shall require the Director of each National Laboratory,
12 and may require the Director of a single-purpose research
13 facility, to designate a small business advocate to—

14 (1) increase the participation of small business
15 concerns, including socially and economically dis-
16 advantaged small business concerns (as defined in
17 section 8(a)(4) of the Small Business Act (15 U.S.C.
18 637(a)(4))), in procurement, collaborative research,
19 technology licensing, and technology transfer activi-
20 ties conducted by the National Laboratory or single-
21 purpose research facility;

22 (2) report to the Director of the National Lab-
23 oratory or single-purpose research facility on the ac-
24 tual participation of small business concerns in pro-
25 curement and collaborative research along with rec-

1 ommendations, if appropriate, on how to improve
2 participation;

3 (3) make available to small business concerns
4 training, mentoring, and information on how to par-
5 ticipate in procurement and collaborative research
6 activities;

7 (4) increase the awareness inside the National
8 Laboratory or single-purpose research facility of the
9 capabilities and opportunities presented by small
10 business concerns; and

11 (5) establish guidelines for the program under
12 subsection (b) and report on the effectiveness of the
13 program to the Director of the National Laboratory
14 or single-purpose research facility.

15 (b) ESTABLISHMENT OF SMALL BUSINESS ASSIST-
16 ANCE PROGRAM.—The Secretary shall require the Direc-
17 tor of each National Laboratory, and may require the Di-
18 rector of a single-purpose research facility, to establish a
19 program to provide small business concerns with—

20 (1) assistance directed at making the small
21 business concerns more effective and efficient sub-
22 contractors or suppliers to the National Laboratory
23 or single-purpose research facilities; or

24 (2) general technical assistance, the cost of
25 which shall not exceed \$10,000 per instance of as-

1 sistance, to improve the products or services of the
2 small business concern.

3 (c) USE OF FUNDS.—None of the funds expended
4 under subsection (b) may be used for direct grants to
5 small business concerns.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to the Secretary for activi-
8 ties under this section \$5,000,000 for each of fiscal years
9 2006 through 2008.

10 **SEC. 1008. OUTREACH.**

11 The Secretary shall ensure that each program au-
12 thorized by this Act or an amendment made by this Act
13 includes an outreach component to provide information,
14 as appropriate, to manufacturers, consumers, engineers,
15 architects, builders, energy service companies, institutions
16 of higher education, facility planners and managers, State
17 and local governments, and other entities.

18 **SEC. 1009. RELATIONSHIP TO OTHER LAWS.**

19 Except as otherwise provided in this Act or an
20 amendment made by this Act, the Secretary shall carry
21 out the research, development, demonstration, and com-
22 mercial application programs, projects, and activities au-
23 thorized by this Act or an amendment made by this Act
24 in accordance with the applicable provisions of—

1 (1) the Atomic Energy Act of 1954 (42 U.S.C.
2 2011 et seq.);

3 (2) the Federal Nonnuclear Energy Research
4 and Development Act of 1974 (42 U.S.C. 5901 et
5 seq.);

6 (3) the Energy Policy Act of 1992 (42 U.S.C.
7 13201 et seq.);

8 (4) the Stevenson-Wydler Technology Innova-
9 tion Act of 1980 (15 U.S.C. 3701 et seq.);

10 (5) chapter 18 of title 35, United States Code
11 (commonly known as the “Bayh-Dole Act”); and

12 (6) any other Act under which the Secretary is
13 authorized to carry out the programs, projects, and
14 activities.

15 **SEC. 1010. IMPROVED COORDINATION AND MANAGEMENT**
16 **OF CIVILIAN SCIENCE AND TECHNOLOGY**
17 **PROGRAMS.**

18 (a) EFFECTIVE TOP-LEVEL COORDINATION OF RE-
19 SEARCH AND DEVELOPMENT PROGRAMS.—Section 202 of
20 the Department of Energy Organization Act (42 U.S.C.
21 7132) is amended by striking subsection (b) and inserting
22 the following:

23 “(b)(1) There shall be in the Department an Under
24 Secretary for Energy and Science, who shall be appointed

1 by the President, by and with the advice and consent of
2 the Senate.

3 “(2) The Under Secretary shall be compensated at
4 the rate provided for level III of the Executive Schedule
5 under section 5314 of title 5, United States Code.

6 “(3) The Under Secretary for Energy and Science
7 shall be appointed from among persons who—

8 “(A) have extensive background in scientific or
9 engineering fields; and

10 “(B) are well qualified to manage the civilian
11 research and development programs of the Depart-
12 ment.

13 “(4) The Under Secretary for Energy and Science
14 shall—

15 “(A) serve as the Science and Technology Advi-
16 sor to the Secretary;

17 “(B) monitor the research and development
18 programs of the Department in order to advise the
19 Secretary with respect to any undesirable duplication
20 or gaps in the programs;

21 “(C) advise the Secretary with respect to the
22 well-being and management of the multipurpose lab-
23 oratories under the jurisdiction of the Department;

24 “(D) advise the Secretary with respect to edu-
25 cation and training activities required for effective

1 short- and long-term basic and applied research ac-
2 tivities of the Department;

3 “(E) advise the Secretary with respect to grants
4 and other forms of financial assistance required for
5 effective short- and long-term basic and applied re-
6 search activities of the Department;

7 “(F) bear primary responsibility for energy con-
8 servation; and

9 “(G) exercise authority and responsibility over
10 Assistant Secretaries carrying out energy research
11 and development and energy technology functions
12 under sections 203 and 209, as well as other ele-
13 ments of the Department assigned by the Sec-
14 retary.”.

15 (b) RECONFIGURATION OF POSITION OF DIRECTOR
16 OF THE OFFICE OF SCIENCE.—

17 (1) IN GENERAL.—Section 209 of the Depart-
18 ment of Energy Organization Act (41 U.S.C. 7139)
19 is amended to read as follows:

20 “OFFICE OF SCIENCE

21 “SEC. 209. (a) There shall be within the Department
22 an Office of Science, to be headed by an Assistant Sec-
23 retary for Science, who shall be appointed by the Presi-
24 dent, by and with the advice and consent of the Senate,
25 and who shall be compensated at the rate provided for

1 level IV of the Executive Schedule under section 5315 of
2 title 5, United States Code.

3 “(b) The Assistant Secretary for Science shall be in
4 addition to the Assistant Secretaries provided for under
5 section 203.

6 “(c) It shall be the duty and responsibility of the As-
7 sistant Secretary for Science to carry out the fundamental
8 science and engineering research functions of the Depart-
9 ment, including the responsibility for policy and manage-
10 ment of the research, as well as other functions vested in
11 the Secretary that the Secretary may assign to the Assist-
12 ant Secretary.”.

13 (2) DIRECTOR OF THE OFFICE OF SCIENCE.—

14 (A) IN GENERAL.—Notwithstanding sec-
15 tion 3345(b)(1) of title 5, United States Code,
16 the President may designate the Director of the
17 Office of Science who served immediately before
18 the date of enactment of this Act to act in the
19 office of the Assistant Secretary of Energy for
20 Science until the office is filled as provided in
21 section 209 of the Department of Energy Orga-
22 nization Act (as amended by paragraph (1)).

23 (B) COMPENSATION.—While so acting, the
24 person shall receive compensation at the rate
25 provided by section 209(a) of that Act (as

1 amended by paragraph (1)) for the office of As-
2 sistant Secretary for Science.

3 (c) ADDITIONAL ASSISTANT SECRETARY POSITION
4 TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR EN-
5 ERGY ISSUES.—

6 (1) IN GENERAL.—Section 203(a) of the De-
7 partment of Energy Organization Act (42 U.S.C.
8 7133(a)) is amended in the first sentence by striking
9 “There shall be in the Department six Assistant
10 Secretaries” and inserting “Except as provided in
11 section 209, there shall be in the Department 7 As-
12 sistant Secretaries”.

13 (2) ASSISTANT SECRETARY LEVEL.—It is the
14 sense of Congress that the leadership for depart-
15 mental missions in nuclear energy should be at the
16 Assistant Secretary level.

17 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) Section 202 of the Department of Energy
19 Organization Act (42 U.S.C. 7132) (as amended by
20 subsection (b)(1)) is amended by adding at the end
21 the following:

22 “(d)(1) There shall be in the Department an Under
23 Secretary, who shall be appointed by the President, by and
24 with the advice and consent of the Senate, and who shall

1 perform such functions and duties as the Secretary shall
2 prescribe, consistent with this section.

3 “(2) The Under Secretary shall be compensated at
4 the rate provided for level III of the Executive Schedule
5 under section 5314 of title 5, United States Code.

6 “(e)(1) There shall be in the Department a General
7 Counsel, who shall be appointed by the President, by and
8 with the advice and consent of the Senate, and who shall
9 perform such functions and duties as the Secretary shall
10 prescribe.

11 “(2) The General Counsel shall be compensated at
12 the rate provided for level IV of the Executive Schedule
13 under section 5315 of title 5, United States Code.”.

14 (2) Section 5314 of title 5, United States Code,
15 is amended by striking “Under Secretaries of En-
16 ergy (2)” and inserting “Under Secretaries of En-
17 ergy (3)”.

18 (3) Section 5315 of title 5, United States Code,
19 is amended—

20 (A) by striking “Assistant Secretaries of
21 Energy (6)” and inserting “Assistant Secre-
22 taries of Energy (8)”; and

23 (B) by striking “Director, Office of
24 Science, Department of Energy.”.

1 **SEC. 1011. OTHER TRANSACTIONS AUTHORITY.**

2 Section 646 of the Department of Energy Organiza-
3 tion Act (42 U.S.C. 7256) is amended by adding at the
4 end the following:

5 “(g)(1) In addition to other authorities granted to the
6 Secretary under any other provision of law, the Secretary
7 may enter into other transactions on such terms as the
8 Secretary may consider appropriate in furtherance of re-
9 search, development, or demonstration functions vested in
10 the Secretary.

11 “(2) The other transactions shall not be subject to
12 section 9 of the Federal Nonnuclear Energy Research and
13 Development Act of 1974 (42 U.S.C. 5908).

14 “(3)(A) The Secretary shall ensure that—

15 “(i) to the maximum extent the Secretary de-
16 termines practicable, no transaction entered into
17 under paragraph (1) provides for research, develop-
18 ment, or demonstration that duplicates research, de-
19 velopment, or demonstration being conducted under
20 existing projects carried out by the Department;

21 “(ii) to the extent the Secretary determines
22 practicable, the funds provided by the Federal Gov-
23 ernment under a transaction authorized by para-
24 graph (1) do not exceed the total amount provided
25 by other parties to the transaction; and

1 “(iii) to the extent the Secretary determines
2 practicable, competitive, merit-based selection proce-
3 dures shall be used when entering into transactions
4 under paragraph (1).

5 “(B) A transaction authorized by paragraph (1) may
6 be used for a research, development, or demonstration
7 project only if the Secretary determines the use of a stand-
8 ard contract, grant, or cooperative agreement for the
9 project is not feasible or appropriate.

10 “(4)(A) The Secretary shall protect from disclosure
11 (including disclosure under section 552 of title 5, United
12 States Code) for up to 5 years after the date the informa-
13 tion is received by the Secretary—

14 “(i) a proposal, proposal abstract, and sup-
15 porting documents submitted to the Department in
16 a competitive or noncompetitive process having the
17 potential for resulting in an award to the party sub-
18 mitting the information entering into a transaction
19 under paragraph (1); and

20 “(ii) a business plan and technical information
21 relating to a transaction authorized by paragraph
22 (1) submitted to the Department as confidential
23 business information.

24 “(B) The Secretary may protect from disclosure, for
25 up to 5 years after the information was developed, any

1 information developed pursuant to a transaction under
2 paragraph (1) which developed information is of a char-
3 acter that it would be protected from disclosure under sec-
4 tion 552(b)(4) of title 5, United States Code, if obtained
5 from a person other than a Federal agency.

6 “(5)(A) Not later than 90 days after the date of en-
7 actment of this subsection, the Secretary shall prescribe
8 guidelines for using other transactions authorized by para-
9 graph (1).

10 “(B) The guidelines shall be published in the Federal
11 Register for public comment under rulemaking procedures
12 of the Department.

13 “(6) The authority of the Secretary under this sub-
14 section may be delegated only to an officer of the Depart-
15 ment who is appointed by the President by and with the
16 advice and consent of the Senate and may not be delegated
17 to any other person.”.

18 **SEC. 1012. PRIZES FOR ACHIEVEMENT IN GRAND CHAL-**

19 **LENGES OF SCIENCE AND TECHNOLOGY.**

20 (a) **AUTHORITY.**—The Secretary may carry out a
21 program to award cash prizes in recognition of break-
22 through achievements in research, development, dem-
23 onstration, and commercial application that have the po-
24 tential for application to the performance of the mission
25 of the Department.

1 (b) COMPETITION REQUIREMENTS.—The program
2 under subsection (a) may include prizes for the achieve-
3 ment of goals articulated by the Secretary in a specific
4 area through a widely advertised solicitation of submission
5 of results for research, development, demonstration, or
6 commercial application projects.

7 (c) RELATIONSHIP TO OTHER AUTHORITY.—The
8 program under subsection (a) may be carried out in con-
9 junction with or in addition to the exercise of any other
10 authority of the Secretary to acquire, support, or stimulate
11 research, development, demonstration, or commercial ap-
12 plication projects.

13 **SEC. 1013. TECHNICAL CORRECTIONS.**

14 (a) COAL RESEARCH AND DEVELOPMENT.—

15 (1) IN GENERAL.—Public Law 86–599 (30
16 U.S.C. 661 et seq.) is amended—

17 (A) by striking the first section (30 U.S.C.
18 661) and inserting the following:

19 “SECTION 1. (a) This Act may be cited as the ‘Coal
20 Research and Development Act of 1960’.

21 “(b) In this Act:

22 “(1) The term ‘research’ means scientific, tech-
23 nical, and economic research and the practical appli-
24 cation of that research.

1 “(2) The term ‘Secretary’ means the Secretary
2 of Energy.”;

3 (B) in section 2 (30 U.S.C. 662), by strik-
4 ing “shall establish within” and all that follows
5 through “such Office”;

6 (C) by striking sections 3, 4, and 7 (30
7 U.S.C. 663, 664, 667); and

8 (D) by redesignating sections 5, 6, and 8
9 (30 U.S.C. 665, 666, 668) as sections 3, 4, and
10 5, respectively.

11 (2) PATENTS.—Section 210(a)(8) of title 35,
12 United States Code, is amended by striking “Coal
13 Research Development Act of 1960” and inserting
14 “Coal Research and Development Act of 1960”.

15 (b) NONNUCLEAR ENERGY RESEARCH AND DEVEL-
16 OPMENT.—

17 (1) SHORT TITLE; DEFINITIONS.—Section 1 of
18 the Federal Nonnuclear Energy Research and Devel-
19 opment Act of 1974 (42 U.S.C. 5902) is amended
20 to read as follows:

21 “SHORT TITLE AND DEFINITIONS

22 “SECTION 1. (a) This Act may be cited as the ‘Fed-
23 eral Nonnuclear Energy Research and Development Act
24 of 1974’.

25 “(b) In this Act:

1 “(1) The term ‘Department’ means the Depart-
2 ment of Energy.

3 “(2) The term ‘Secretary’ means the Secretary
4 of Energy.”.

5 (2) STATEMENT OF POLICY.—Section 3(b) of
6 the Federal Nonnuclear Energy Research and Devel-
7 opment Act of 1974 (42 U.S.C. 5902(b)) is
8 amended—

9 (A) in paragraph (1), by striking “Energy
10 Research and Development Administration”
11 and inserting “Department”;

12 (B) in paragraph (2), by striking “Admin-
13 istrator of the Energy Research and Develop-
14 ment Administration (hereinafter in this Act re-
15 ferred to as the ‘Administrator’)” and inserting
16 “Secretary”; and

17 (C) in paragraph (3)—

18 (i) by striking “Administrator” and
19 inserting “Secretary”; and

20 (ii) by inserting “Demonstration”
21 after “Cooling”.

22 (3) DUTIES AND AUTHORITIES.—Section 4 of
23 the Federal Nonnuclear Energy Research and Devel-
24 opment Act of 1974 (42 U.S.C. 5903) is amended—

1 (A) by striking the section heading and in-
2 serting the following:

3 “DUTIES AND AUTHORITIES OF THE SECRETARY”;

4 and

5 (B) in the matter preceding subsection (a),
6 by striking “Administrator” and inserting “Sec-
7 retary”.

8 (4) COMPREHENSIVE PLANNING AND PROGRAM-
9 MING.—Section 6 of the Federal Nonnuclear Energy
10 Research and Development Act of 1974 (42 U.S.C.
11 5905) is amended—

12 (A) by striking “Administrator” each place
13 it appears and inserting “Secretary”; and

14 (B) in subsection (b)(3)—

15 (i) in subparagraph (I), by inserting
16 “Demonstration” after “Cooling”; and

17 (ii) in subparagraph (L), by inserting
18 “Energy” after “Solar”.

19 (5) FORMS OF FEDERAL ASSISTANCE.—Section
20 7 of the Federal Nonnuclear Energy Research and
21 Development Act of 1974 (42 U.S.C. 5906) is
22 amended—

23 (A) by striking “Administrator” each place
24 it appears and inserting “Secretary”; and

25 (B) in subsection (a)(4), by striking “of
26 the section”.

1 (6) DEMONSTRATIONS.—Section 8 of the Fed-
2 eral Nonnuclear Energy Research and Development
3 Act of 1974 (42 U.S.C. 5907) is amended—

4 (A) in subsections (a) through (c), by
5 striking “Administrator” each place it appears
6 and inserting “Secretary”;

7 (B) in subsection (d)—

8 (i) in the first sentence of paragraph
9 (1), by inserting “of the Energy Research
10 and Development Administration” after
11 “Administrator”; and

12 (ii) in paragraph (3), by striking “Ad-
13 ministrators” and inserting “Secretary”;
14 and

15 (C) in subsection (f)—

16 (i) by striking “Administrator” each
17 place it appears and inserting “Secretary”;
18 and

19 (ii) in the proviso of the first sen-
20 tence, by striking “Administrator’s” and
21 inserting “Secretary’s”.

22 (7) PATENT POLICY.—Section 9 of the Federal
23 Nonnuclear Energy Research and Development Act
24 of 1974 (42 U.S.C. 5908) is amended—

1 (A) by striking “Administration” each
2 place it appears and inserting “Department”;

3 (B) by striking “Administrator” each place
4 it appears and inserting “Secretary”; and

5 (C) in subsection (c)(3), by striking “Ad-
6 ministration’s” and inserting “Department’s”.

7 (8) ACQUISITION OF ESSENTIAL MATERIALS.—
8 Section 12 of the Federal Nonnuclear Energy Re-
9 search and Development Act of 1974 (42 U.S.C.
10 5911) is amended by striking subsection (b) and in-
11 serting the following:

12 “(b) A rule or order under subsection (a) shall be
13 considered to be a major rule subject to chapter 8 of title
14 5, United States Code.”.

15 (9) WATER RESOURCE EVALUATION.—Section
16 13 of the Federal Nonnuclear Energy Research and
17 Development Act of 1974 (42 U.S.C. 5912) is
18 amended by striking “Administrator” each place it
19 appears and inserting “Secretary”.

20 (10) AUTHORIZATION OF APPROPRIATIONS.—
21 Section 16 of the Federal Nonnuclear Energy Re-
22 search and Development Act of 1974 (42 U.S.C.
23 5915) is amended—

24 (A) by striking the section heading and in-
25 serting the following:

1 “AUTHORIZATION OF APPROPRIATIONS”;

2 (B) by striking “(a) There may be appro-
3 priated to the Administrator” and inserting
4 “There may be appropriated to the Secretary”;
5 and

6 (C) by striking subsections (b) and (c).

7 (11) CENTRAL SOURCE OF NONNUCLEAR EN-
8 ERGY INFORMATION.—Section 17 of the Federal
9 Nonnuclear Energy Research and Development Act
10 of 1974 (42 U.S.C. 5916) is amended—

11 (A) by striking “Administrator” each place
12 it appears and inserting “Secretary”;

13 (B) in the first sentence, by striking “Ad-
14 ministrator’s”;

15 (C) in the second sentence, by striking
16 “he” and inserting “the Secretary”;

17 (D) in the third sentence—

18 (i) in paragraph (2) of the first pro-
19 viso, by striking “section 1905 or title 18”
20 and inserting “section 1905 of title 18”;
21 and

22 (ii) in subparagraph (B) of the second
23 proviso—

24 (I) by striking “the Federal En-
25 ergy Administration,”;

1 (II) by striking “the Federal
2 Power Commission,” and inserting
3 “the Federal Energy Regulatory Com-
4 mission”; and

5 (III) by striking “General Ac-
6 counting Office” and inserting “Gov-
7 ernment Accountability Office”; and

8 (E) in the last sentence, by inserting “or
9 ranking minority member” after “chairman”.

10 (12) ENERGY INFORMATION, LOAN GUARAN-
11 TEES, AND FINANCIAL SUPPORT.—Sections 18
12 through 20 of the Federal Nonnuclear Energy Re-
13 search and Development Act of 1974 (42 U.S.C.
14 5917 through 5920) are repealed.

15 (c) STEVENSON-WYDLER TECHNOLOGY INNOVATION
16 ACT OF 1980.—Section 20 of the Stevenson-Wydler Tech-
17 nology Innovation Act of 1980 (15 U.S.C. 3712) is
18 amended by striking “and the National Science Founda-
19 tion” and inserting “, the Secretary of Energy, and the
20 Director of the National Science Foundation”.

21 **TITLE XI—PERSONNEL AND**
22 **TRAINING**

23 **SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP**
24 **GRANTS.**

25 (a) DEFINITIONS.—In this section:

1 (1) ENERGY TECHNOLOGY INDUSTRY.—The
2 term “energy technology industry” includes—

3 (A) a renewable energy industry;

4 (B) a company that develops or commer-
5 cializes a device to increase energy efficiency;

6 (C) the oil and gas industry;

7 (D) the nuclear power industry;

8 (E) the coal industry;

9 (F) the electric utility industry; and

10 (G) any other industrial sector, as the Sec-
11 retary determines to be appropriate.

12 (2) SKILLED TECHNICAL PERSONNEL.—The
13 term “skilled technical personnel” means—

14 (A) journey- and apprentice-level workers
15 who are enrolled in, or have completed, a feder-
16 ally-recognized or State-recognized apprentice-
17 ship program; and

18 (B) other skilled workers in energy tech-
19 nology industries, as determined by the Sec-
20 retary.

21 (b) WORKFORCE TRENDS.—

22 (1) MONITORING.—The Secretary, in consulta-
23 tion with, and using data collected by, the Secretary
24 of Labor, shall monitor trends in the workforce of—

1 (A) skilled technical personnel that support
2 energy technology industries; and

3 (B) electric power and transmission engi-
4 neers.

5 (2) REPORT.—As soon as practicable after the
6 date on which the Secretary identifies or predicts a
7 significant national shortage of skilled technical per-
8 sonnel in 1 or more energy technology industries,
9 the Secretary shall submit to Congress a report de-
10 scribing the shortage.

11 (c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL
12 PERSONNEL.—The Secretary, in consultation with the
13 Secretary of Labor, may establish programs in the appro-
14 priate offices of the Department under which the Sec-
15 retary provides grants to enhance training (including dis-
16 tance learning) for any workforce category for which a
17 shortage is identified or predicted under subsection (b)(2).

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$20,000,000 for each of fiscal years 2006 through 2008.

21 **SEC. 1102. ENERGY RESEARCH FELLOWSHIPS.**

22 (a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The
23 Secretary shall establish a program under which the Sec-
24 retary provides fellowships to encourage outstanding
25 young scientists and engineers to pursue postdoctoral re-

1 search appointments in energy research and development
2 at institutions of higher education of their choice.

3 (b) SENIOR RESEARCH FELLOWSHIPS.—

4 (1) IN GENERAL.—The Secretary shall establish
5 a program under which the Secretary provides fel-
6 lowships to allow outstanding senior researchers and
7 their research groups in energy research and devel-
8 opment to explore research and development topics
9 of their choosing for a period of not less than 3
10 years to be determined by the Secretary.

11 (2) CONSIDERATION.—In providing a fellowship
12 under the program described in paragraph (1), the
13 Secretary shall consider—

14 (A) the past scientific or technical accom-
15 plishment of a senior researcher; and

16 (B) the potential for continued accomplish-
17 ment by the researcher during the period of the
18 fellowship.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$40,000,000 for each of fiscal years 2006 through 2008.

22 **SEC. 1103. EDUCATIONAL PROGRAMS IN SCIENCE AND**
23 **MATHEMATICS.**

24 (a) AUTHORIZED EDUCATION ACTIVITIES.—Section
25 3165 of the Department of Energy Science Education En-

1 hancement Act (42 U.S.C. 7381b) is amended by adding
2 at the end:

3 “(14) Support competitive events for students,
4 under supervision of teachers, designed to encourage
5 student interest and knowledge in science and math-
6 ematics.

7 “(15) Support competitively-awarded science re-
8 source centers at National Laboratories to promote
9 professional development of mathematics teachers
10 and science teachers who teach in grades from kin-
11 dergarten through grade 12.

12 “(16) Support summer internships at National
13 Laboratories for mathematics teachers and science
14 teachers who teach in grades from kindergarten
15 through grade 12.”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
17 3168 of the Department of Energy Science Education En-
18 hancement Act (42 U.S.C. 7381e) is amended by inserting
19 before the period at the end the following: “and
20 \$40,000,000 for each of fiscal years 2006 through 2008.”.

21 **SEC. 1104. TRAINING GUIDELINES FOR ELECTRIC ENERGY**
22 **INDUSTRY PERSONNEL.**

23 (a) IN GENERAL.—The Secretary of Labor, in con-
24 sultation with the Secretary and in conjunction with the
25 electric industry and recognized employee representatives,

1 shall develop model personnel training guidelines to sup-
2 port the reliability and safety of the electric system.

3 (b) REQUIREMENTS.—The training guidelines under
4 subsection (a) shall, at a minimum—

5 (1) include training requirements for workers
6 engaged in the construction, operation, inspection, or
7 maintenance of electric generation, transmission, or
8 distribution systems, including requirements relating
9 to—

10 (A) competency;

11 (B) certification; and

12 (C) assessment, including—

13 (i) initial and continuous evaluation of
14 workers;

15 (ii) recertification procedures; and

16 (iii) methods for examining or testing
17 the qualification of an individual who per-
18 forms a covered task; and

19 (2) consolidate training guidelines in existence
20 on the date on which the guidelines under subsection
21 (a) are developed relating to the construction, oper-
22 ation, maintenance, and inspection of electric gen-
23 eration, transmission, and distribution facilities,
24 such as guidelines established by the National Elec-

1 tric Safety Code and other industry consensus
2 standards.

3 **SEC. 1105. NATIONAL CENTER FOR ENERGY MANAGEMENT**
4 **AND BUILDING TECHNOLOGIES.**

5 The Secretary shall support the ongoing activities of
6 the National Center for Energy Management and Building
7 Technologies to carry out research, education, and train-
8 ing activities to facilitate the improvement of energy effi-
9 ciency, indoor environmental quality, and security of in-
10 dustrial, commercial, residential, and public buildings.

11 **SEC. 1106. IMPROVED ACCESS TO ENERGY-RELATED SCI-**
12 **ENTIFIC AND TECHNICAL CAREERS.**

13 (a) SCIENCE EDUCATION PROGRAMS.—Section 3164
14 of the Department of Energy Science Education Enhance-
15 ment Act (42 U.S.C. 7381a) is amended by adding at the
16 end the following:

17 “(c) PROGRAMS FOR STUDENTS FROM UNDER-REP-
18 RESENTED GROUPS.—In carrying out a program under
19 subsection (a), the Secretary shall give priority to activi-
20 ties that are designed to encourage students from under-
21 represented groups to pursue scientific and technical ca-
22 reers.”.

23 (b) PARTNERSHIPS WITH HISTORICALLY BLACK
24 COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING IN-
25 STITUTIONS, AND TRIBAL COLLEGES.—The Department

1 of Energy Science Education Enhancement Act (42
2 U.S.C. 7381 et seq.) is amended—

3 (1) by redesignating sections 3167 and 3168 as
4 sections 3168 and 3169, respectively; and

5 (2) by inserting after section 3166 the fol-
6 lowing:

7 **“SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK**
8 **COLLEGES AND UNIVERSITIES, HISPANIC-**
9 **SERVING INSTITUTIONS, AND TRIBAL COL-**
10 **LEGES.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) HISPANIC-SERVING INSTITUTION.—The
13 term ‘Hispanic-serving institution’ has the meaning
14 given the term in section 502(a) of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1101a(a)).

16 “(2) HISTORICALLY BLACK COLLEGE OR UNI-
17 VERSITY.—The term ‘historically Black college or
18 university’ has the meaning given the term ‘part B
19 institution’ in section 322 of the Higher Education
20 Act of 1965 (20 U.S.C. 1061).

21 “(3) NATIONAL LABORATORY.—The term ‘Na-
22 tional Laboratory’ has the meaning given the term
23 in section 2 of the Energy Policy Act of 2005.

24 “(4) SCIENCE FACILITY.—The term ‘science fa-
25 cility’ has the meaning given the term ‘single-pur-

1 pose research facility’ in section 903 of the Energy
2 Policy Act of 2005.

3 “(5) TRIBAL COLLEGE.—The term ‘tribal col-
4 lege’ has the meaning given the term ‘tribally con-
5 trolled college or university’ in section 2(a) of the
6 Tribally Controlled College Assistance Act of 1978
7 (25 U.S.C. 1801(a)).

8 “(b) EDUCATION PARTNERSHIP.—The Secretary
9 shall require the director of each National Laboratory, and
10 may require the head of any science facility, to increase
11 the participation of historically Black colleges or univer-
12 sities, Hispanic-serving institutions, or tribal colleges in
13 any activity that increases the capacity of the historically
14 Black colleges or universities, Hispanic-serving institu-
15 tions, or tribal colleges to train personnel in science or
16 engineering.

17 “(c) ACTIVITIES.—An activity described in subsection
18 (b) includes—

19 “(1) collaborative research;

20 “(2) equipment transfer;

21 “(3) training activities carried out at a National
22 Laboratory or science facility; and

23 “(4) mentoring activities carried out at a Na-
24 tional Laboratory or science facility.

1 “(d) REPORT.—Not later than 2 years after the date
2 of enactment of this subsection, the Secretary shall submit
3 to Congress a report describing the activities carried out
4 under this section.”.

5 **SEC. 1107. NATIONAL POWER PLANT OPERATIONS TECH-**
6 **NOLOGY AND EDUCATION CENTER.**

7 (a) ESTABLISHMENT.—The Secretary shall support
8 the establishment of a National Power Plant Operations
9 Technology and Education Center (referred to in this sec-
10 tion as the “Center”), to address the need for training
11 and educating certified operators for electric power gen-
12 eration plants.

13 (b) LOCATION OF CENTER.—The Secretary shall
14 support the establishment of the Center at an institution
15 of higher education that has—

16 (1) expertise in power plant technology and op-
17 eration; and

18 (2) the ability to provide onsite and Internet-
19 based training.

20 (c) TRAINING AND CONTINUING EDUCATION.—

21 (1) IN GENERAL.—The Center shall provide
22 training and continuing education relating to electric
23 power generation plant technologies and operations.

1 (2) LOCATION.—The Center shall carry out
2 training and education activities under paragraph
3 (1)—

4 (A) at the Center; and

5 (B) through Internet-based information
6 technologies that allow for learning at a remote
7 site.

8 **TITLE XII—ELECTRICITY**

9 **SEC. 1201. SHORT TITLE.**

10 This title may be cited as the “Electricity Moderniza-
11 tion Act of 2005”.

12 **Subtitle A—Reliability Standards**

13 **SEC. 1211. ELECTRIC RELIABILITY STANDARDS.**

14 (a) IN GENERAL.—Part II of the Federal Power Act
15 (16 U.S.C 824 et seq.) is amended by adding at the end
16 the following:

17 **“SEC. 215. ELECTRIC RELIABILITY.**

18 “(a) DEFINITIONS.—In this section:

19 “(1)(A) The term ‘bulk-power system’ means—

20 “(i) facilities and control systems necessary
21 for operating an interconnected electric energy
22 transmission network (or any portion of such a
23 network); and

1 “(ii) electric energy from generation facili-
2 ties needed to maintain transmission system re-
3 liability.

4 “(B) The term ‘bulk-power system’ does not in-
5 clude facilities used in the local distribution of elec-
6 tric energy.

7 “(2) The terms ‘Electric Reliability Organiza-
8 tion’ and ‘ERO’ mean the organization certified by
9 the Commission under subsection (c) the purpose of
10 which is to establish and enforce reliability stand-
11 ards for the bulk-power system, subject to review by
12 the Commission.

13 “(3)(A) The term ‘reliability standard’ means a
14 requirement, approved by the Commission under this
15 section, to provide for reliable operation of the bulk-
16 power system.

17 “(B) The term ‘reliability standard’ includes re-
18 quirements for the operation of existing bulk-power
19 system components and the design of planned addi-
20 tions or modifications to those components to the ex-
21 tent necessary to provide for reliable operation of the
22 bulk-power system, except that the term does not in-
23 clude any requirement to enlarge those components
24 or to construct new transmission capacity or genera-
25 tion capacity.

1 “(4) The term ‘reliable operation’ means oper-
2 ating the components of the bulk-power system with-
3 in equipment and electric system thermal, voltage,
4 and stability limits so that instability, uncontrolled
5 separation, or cascading failures of the system will
6 not occur as a result of a sudden disturbance or un-
7 anticipated failure of system components.

8 “(5) The term ‘interconnection’ means a geo-
9 graphic area in which the operation of bulk-power
10 system components is synchronized such that the
11 failure of 1 or more of the components may ad-
12 versely affect the ability of the operators of other
13 components within the system to maintain reliable
14 operation of the portion of the system within their
15 control.

16 “(6) The term ‘regional entity’ means an entity
17 having enforcement authority pursuant to subsection
18 (e)(4).

19 “(b) JURISDICTION AND APPLICABILITY.—(1) The
20 Commission shall have jurisdiction, within the United
21 States, over the ERO certified by the Commission under
22 subsection (c), any regional entities, and all users, owners
23 and operators of the bulk-power system (including the en-
24 tities described in section 201(f)), for purposes of approv-

1 ing reliability standards established under this section and
2 enforcing compliance with this section.

3 “(2) All users, owners, and operators of the bulk-
4 power system shall comply with reliability standards that
5 take effect under this section.

6 “(3) The Commission shall issue a final rule to imple-
7 ment the requirements of this section not later than 180
8 days after the date of enactment of this section.

9 “(c) CERTIFICATION.—(1) Following the issuance of
10 a Commission rule under subsection (b)(3), any person
11 may submit an application to the Commission for certifi-
12 cation as the Electric Reliability Organization.

13 “(2) The Commission may certify 1 such ERO if the
14 Commission determines that the ERO—

15 “(A) has the ability to develop and enforce, sub-
16 ject to subsection (e)(2), reliability standards that
17 provide for an adequate level of reliability of the
18 bulk-power system; and

19 “(B) has established rules that—

20 “(i) ensure the independence of the ERO
21 from the users and owners and operators of the
22 bulk-power system, while ensuring fair stake-
23 holder representation in the selection of the di-
24 rectors of the ERO and balanced decision-

1 making in any ERO committee or subordinate
2 organizational structure;

3 “(ii) allocate equitably reasonable dues,
4 fees, and other charges among end users for all
5 activities under this section;

6 “(iii) provide fair and impartial procedures
7 for enforcement of reliability standards through
8 the imposition of penalties in accordance with
9 subsection (e) (including limitations on activi-
10 ties, functions, or operations, or other appro-
11 priate sanctions);

12 “(iv) provide for reasonable notice and op-
13 portunity for public comment, due process,
14 openness, and balance of interests in developing
15 reliability standards and otherwise exercising
16 the duties of the ERO; and

17 “(v) provide for taking, after certification,
18 appropriate steps to gain recognition in Canada
19 and Mexico.

20 “(d) RELIABILITY STANDARDS.—(1) The ERO shall
21 file each reliability standard or modification to a reliability
22 standard that the ERO proposes to be made effective
23 under this section with the Commission.

24 “(2)(A) The Commission may approve, by rule or
25 order, a proposed reliability standard or modification to

1 a reliability standard if the Commission determines that
2 the standard is just, reasonable, not unduly discriminatory
3 or preferential, and in the public interest.

4 “(B) The Commission—

5 “(i) shall give due weight to the technical exper-
6 tise of the ERO with respect to the content of a pro-
7 posed standard or modification to a reliability stand-
8 ard and to the technical expertise of a regional enti-
9 ty organized on an interconnection-wide basis with
10 respect to a reliability standard to be applicable
11 within that interconnection; but

12 “(ii) shall not defer with respect to the effect of
13 a standard on competition.

14 “(C) A proposed standard or modification shall take
15 effect on approval by the Commission.

16 “(3) The ERO shall rebuttably presume that a pro-
17 posal from a regional entity organized on an interconnec-
18 tion-wide basis for a reliability standard or modification
19 to a reliability standard to be applicable on an interconnec-
20 tion-wide basis is just, reasonable, not unduly discrimina-
21 tory or preferential, and in the public interest.

22 “(4) The Commission shall remand to the ERO for
23 further consideration a proposed reliability standard or a
24 modification to a reliability standard that the Commission
25 disapproves in whole or in part.

1 “(5) The Commission, on a motion of the Commis-
2 sion or on complaint, may order the ERO to submit to
3 the Commission a proposed reliability standard or a modi-
4 fication to a reliability standard that addresses a specific
5 matter if the Commission considers such a new or modi-
6 fied reliability standard appropriate to carry out this sec-
7 tion.

8 “(6)(A) The final rule adopted under subsection
9 (b)(2) shall include fair processes for the identification
10 and timely resolution of any conflict between a reliability
11 standard and any function, rule, order, tariff, rate sched-
12 ule, or agreement accepted, approved, or ordered by the
13 Commission applicable to a transmission organization.

14 “(B) The transmission organization shall continue to
15 comply with such function, rule, order, tariff, rate sched-
16 ule or agreement accepted approved, or ordered by the
17 Commission until—

18 “(i) the Commission finds a conflict exists be-
19 tween a reliability standard and any such provision;

20 “(ii) the Commission orders a change to the
21 provision pursuant to section 206; and

22 “(iii) the ordered change becomes effective
23 under this part.

24 “(C) If the Commission determines that a reliability
25 standard needs to be changed as a result of such a con-

1 flict, the Commission shall order the ERO to develop and
2 file with the Commission a modified reliability standard
3 under paragraph (4) or (5).

4 “(e) ENFORCEMENT.—(1) Subject to paragraph (2),
5 the ERO may impose a penalty on a user or owner or
6 operator of the bulk-power system for a violation of a reli-
7 ability standard approved by the Commission under sub-
8 section (d) if the ERO, after notice and an opportunity
9 for a hearing—

10 “(A) finds that the user or owner or operator
11 has violated a reliability standard approved by the
12 Commission under subsection (d); and

13 “(B) files notice and the record of the pro-
14 ceeding with the Commission.

15 “(2)(A) A penalty imposed under paragraph (1) may
16 take effect not earlier than the day that is 31 days after
17 the date on which the ERO files with the Commission no-
18 tice of the penalty and the record of proceedings.

19 “(B) The penalty shall be subject to review by the
20 Commission on—

21 “(i) a motion by the Commission; or

22 “(ii) application by the user, owner or operator
23 that is the subject of the penalty filed not later than
24 30 days after the date on which the notice is filed
25 with the Commission.

1 “(C) Application to the Commission for review, or the
2 initiation of review by the Commission on a motion of the
3 Commission, shall not operate as a stay of the penalty un-
4 less the Commission orders otherwise on a motion of the
5 Commission or on application by the user, owner or oper-
6 ator that is the subject of the penalty.

7 “(D) In any proceeding to review a penalty imposed
8 under paragraph (1), the Commission, after notice and op-
9 portunity for hearing (which hearing may consist solely
10 of the record before the ERO and opportunity for the
11 presentation of supporting reasons to affirm, modify, or
12 set aside the penalty), shall by order—

13 “(i) affirm, set aside, reinstate, or modify the
14 penalty; and

15 “(ii) if appropriate, remand to the ERO for fur-
16 ther proceedings.

17 “(E) The Commission shall implement expedited pro-
18 cedures for the hearings described in subparagraph (D).

19 “(3) On a motion of the Commission or on complaint,
20 the Commission may order compliance with a reliability
21 standard and may impose a penalty against a user or
22 owner or operator of the bulk-power system if the Com-
23 mission finds, after notice and opportunity for a hearing,
24 that the user or owner or operator of the bulk-power sys-
25 tem has engaged or is about to engage in any act or prac-

1 tice that constitutes or will constitute a violation of a reli-
2 ability standard.

3 “(4)(A) The Commission shall issue regulations au-
4 thorizing the ERO to enter into an agreement to delegate
5 authority to a regional entity for the purpose of proposing
6 reliability standards to the ERO and enforcing reliability
7 standards under paragraph (1) if—

8 “(i) the regional entity is governed by—

9 “(I) an independent board;

10 “(II) a balanced stakeholder board; or

11 “(III) a combination independent and bal-
12 anced stakeholder board;

13 “(ii) the regional entity otherwise meets the re-
14 quirements of paragraphs (1) and (2) of subsection
15 (c); and

16 “(iii) the agreement promotes effective and effi-
17 cient administration of bulk-power system reliability.

18 “(B) The Commission may modify a delegation under
19 this paragraph.

20 “(C) The ERO and the Commission shall rebuttably
21 presume that a proposal for delegation to a regional entity
22 organized on an interconnection-wide basis promotes effec-
23 tive and efficient administration of bulk-power system reli-
24 ability and should be approved.

1 “(D) The regulation issued under this paragraph may
2 provide that the Commission may assign the authority of
3 the ERO to enforce reliability standards under paragraph
4 (1) directly to a regional entity in accordance with this
5 paragraph.

6 “(5) The Commission may take such action as is nec-
7 essary or appropriate against the ERO or a regional entity
8 to ensure compliance with a reliability standard or any
9 Commission order affecting the ERO or a regional entity.

10 “(6) Any penalty imposed under this section shall—

11 “(A) bear a reasonable relation to the serious-
12 ness of the violation; and

13 “(B) take into consideration the efforts of the
14 user, owner, or operator to remedy the violation in
15 a timely manner.

16 “(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZA-
17 TION RULES.—(1) The Electric Reliability Organization
18 shall file with the Commission for approval any proposed
19 rule or proposed rule change, accompanied by an expla-
20 nation of the basis and purpose of the rule and proposed
21 rule change.

22 “(2) The Commission, upon a motion of the Commis-
23 sion or upon complaint, may propose a change to the rules
24 of the ERO.

1 “(3) A proposed rule or proposed rule change shall
2 take effect upon a finding by the Commission, after notice
3 and opportunity for comment, that the change is just, rea-
4 sonable, and not unduly discriminatory or preferential, is
5 in the public interest, and meets the requirements of sub-
6 section (c).

7 “(g) RELIABILITY REPORTS.—The ERO shall con-
8 duct periodic assessments of the reliability and adequacy
9 of the bulk-power system in North America.

10 “(h) COORDINATION WITH CANADA AND MEXICO.—
11 The President is urged to negotiate international agree-
12 ments with the governments of Canada and Mexico to pro-
13 vide for effective compliance with reliability standards and
14 the effectiveness of the ERO in the United States and
15 Canada or Mexico.

16 “(i) SAVINGS PROVISIONS.—(1) The ERO may de-
17 velop and enforce compliance with reliability standards for
18 only the bulk-power system.

19 “(2) Nothing in this section authorizes the ERO or
20 the Commission to order the construction of additional
21 generation or transmission capacity or to set and enforce
22 compliance with standards for adequacy or safety of elec-
23 tric facilities or services.

24 “(3) Nothing in this section preempts any authority
25 of any State to take action to ensure the safety, adequacy,

1 and reliability of electric service within that State, as long
2 as the action is not inconsistent with any reliability stand-
3 ard.

4 “(4) Not later than 90 days after the date of applica-
5 tion of the Electric Reliability Organization or other af-
6 fected party, and after notice and opportunity for com-
7 ment, the Commission shall issue a final order deter-
8 mining whether a State action is inconsistent with a reli-
9 ability standard, taking into consideration any rec-
10 ommendation of the ERO.

11 “(5) The Commission, after consultation with the
12 ERO and the State taking action, may stay the effective-
13 ness of any State action, pending the issuance by the Com-
14 mission of a final order.

15 “(j) REGIONAL ADVISORY BODIES.—(1) The Com-
16 mission shall establish a regional advisory body on the pe-
17 tition of at least $\frac{2}{3}$ of the States within a region that have
18 more than $\frac{1}{2}$ of the electric load of the States served with-
19 in the region.

20 “(2) A regional advisory body—

21 “(A) shall be composed of 1 member from each
22 participating State in the region, appointed by the
23 Governor of the State; and

24 “(B) may include representatives of agencies,
25 States, and provinces outside the United States.

1 “(3) A regional advisory body may provide advice to
2 the Electric Reliability Organization, a regional entity, or
3 the Commission regarding—

4 “(A) the governance of an existing or proposed
5 regional entity within the same region;

6 “(B) whether a standard proposed to apply
7 within the region is just, reasonable, not unduly dis-
8 criminatory or preferential, and in the public inter-
9 est;

10 “(C) whether fees proposed to be assessed with-
11 in the region are just, reasonable, not unduly dis-
12 criminatory or preferential, and in the public inter-
13 est; and

14 “(D) any other responsibilities requested by the
15 Commission.

16 “(4) The Commission may give deference to the ad-
17 vice of a regional advisory body if that body is organized
18 on an interconnection-wide basis.

19 “(k) ALASKA AND HAWAII.—This section does not
20 apply to Alaska or Hawaii.”

21 (b) STATUS OF ERO.—The Electric Reliability Orga-
22 nization certified by the Commission under section 215(c)
23 of the Federal Power Act (as added by subsection (a))
24 and any regional entity delegated enforcement authority
25 pursuant to section 215(e)(4) of that Act (as so added)

1 are not departments, agencies, or instrumentalities of the
2 Federal Government.

3 **Subtitle B—Transmission**
4 **Infrastructure Modernization**

5 **SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANS-**
6 **MISSION FACILITIES.**

7 (a) IN GENERAL.—Part II of the Federal Power Act
8 (16 U.S.C. 824 et seq.) (as amended by section 1211(a))
9 is amended by adding at the end the following:

10 **“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANS-**
11 **MISSION FACILITIES.**

12 “(a) DESIGNATION OF NATIONAL INTEREST ELEC-
13 TRIC TRANSMISSION CORRIDORS.—(1) Not later than 1
14 year after the date of enactment of this section and every
15 3 years thereafter, the Secretary of Energy (referred to
16 in this section as the ‘Secretary’), in consultation with af-
17 fected States, shall conduct a study of electric trans-
18 mission congestion.

19 “(2) After considering alternatives and recommenda-
20 tions from interested parties (including an opportunity for
21 comment from affected States), the Secretary shall issue
22 a report, based on the study, which may designate any
23 geographic area experiencing electric energy transmission
24 capacity constraints or congestion that adversely affects

1 consumers as a national interest electric transmission cor-
2 ridor.

3 “(3) The Secretary shall conduct the study and issue
4 the report in consultation with any appropriate regional
5 entity referred to in section 215.

6 “(4) In determining whether to designate a national
7 interest electric transmission corridor under paragraph
8 (2), the Secretary may consider whether—

9 “(A) the economic vitality and development of
10 the corridor, or the end markets served by the cor-
11 ridor, may be constrained by lack of adequate or
12 reasonably priced electricity;

13 “(B)(i) economic growth in the corridor, or the
14 end markets served by the corridor, may be jeopard-
15 ized by reliance on limited sources of energy; and

16 “(ii) a diversification of supply is warranted;

17 “(C) the energy independence of the United
18 States would be served by the designation;

19 “(D) the designation would be in the interest of
20 national energy policy; and

21 “(E) the designation would enhance national
22 defense and homeland security.

23 “(b) CONSTRUCTION PERMIT.—Except as provided
24 in subsection (i), the Commission may, after notice and
25 an opportunity for hearing, issue 1 or more permits for

1 the construction or modification of electric transmission
2 facilities in a national interest electric transmission cor-
3 ridor designated by the Secretary under subsection (a) if
4 the Commission finds that—

5 “(1)(A) a State in which the transmission fa-
6 cilities are to be constructed or modified does not
7 have authority to—

8 “(i) approve the siting of the facilities; or

9 “(ii) consider the interstate benefits ex-
10 pected to be achieved by the proposed construc-
11 tion or modification of transmission facilities in
12 the State;

13 “(B) the applicant for a permit is a transmit-
14 ting utility under this Act but does not qualify to
15 apply for a permit or siting approval for the pro-
16 posed project in a State because the applicant does
17 not serve end-use customers in the State; or

18 “(C) a State commission or other entity that
19 has authority to approve the siting of the facilities
20 has—

21 “(i) withheld approval for more than 1
22 year after the filing of an application seeking
23 approval pursuant to applicable law or 1 year
24 after the designation of the relevant national in-

1 terest electric transmission corridor, whichever
2 is later; or

3 “(ii) conditioned its approval in such a
4 manner that the proposed construction or modi-
5 fication will not significantly reduce trans-
6 mission congestion in interstate commerce or is
7 not economically feasible;

8 “(2) the facilities to be authorized by the per-
9 mit will be used for the transmission of electric en-
10 ergy in interstate commerce;

11 “(3) the proposed construction or modification
12 is consistent with the public interest;

13 “(4) the proposed construction or modification
14 will significantly reduce transmission congestion in
15 interstate commerce and protects or benefits con-
16 sumers;

17 “(5) the proposed construction or modification
18 is consistent with sound national energy policy and
19 will enhance energy independence; and

20 “(6) the proposed modification will maximize,
21 to the extent reasonable and economical, the trans-
22 mission capabilities of existing towers or structures
23 so as to minimize the environmental and visual im-
24 pact of the proposed modification.

1 “(c) PERMIT APPLICATIONS.—(1) Permit applica-
2 tions under subsection (b) shall be made in writing to the
3 Commission.

4 “(2) The Commission shall issue rules specifying—

5 “(A) the form of the application;

6 “(B) the information to be contained in the ap-
7 plication; and

8 “(C) the manner of service of notice of the per-
9 mit application on interested persons.

10 “(d) COMMENTS.—In any proceeding before the
11 Commission under subsection (b), the Commission shall
12 afford each State in which a transmission facility covered
13 by the permit is or will be located, each affected Federal
14 agency and Indian tribe, private property owners, and
15 other interested persons, a reasonable opportunity to
16 present their views and recommendations with respect to
17 the need for and impact of a facility covered by the permit.

18 “(e) RIGHTS-OF-WAY.—(1) In the case of a permit
19 under subsection (b) for electric transmission facilities to
20 be located on property other than property owned by the
21 United States or a State, if the permit holder cannot ac-
22 quire by contract, or is unable to agree with the owner
23 of the property to the compensation to be paid for, the
24 necessary right-of-way to construct or modify the trans-
25 mission facilities, the permit holder may acquire the right-

1 of-way by the exercise of the right of eminent domain in
2 the district court of the United States for the district in
3 which the property concerned is located, or in the appro-
4 priate court of the State in which the property is located.

5 “(2) Any right-of-way acquired under paragraph (1)
6 shall be used exclusively for the construction or modifica-
7 tion of electric transmission facilities within a reasonable
8 period of time after the acquisition.

9 “(3) The practice and procedure in any action or pro-
10 ceeding under this subsection in the district court of the
11 United States shall conform as nearly as practicable to
12 the practice and procedure in a similar action or pro-
13 ceeding in the courts of the State in which the property
14 is located.

15 “(f) COMPENSATION.—(1) Any right-of-way acquired
16 pursuant to subsection (e) shall be considered a taking of
17 private property for which just compensation is due.

18 “(2) Just compensation shall be an amount equal to
19 the fair market value (including applicable severance dam-
20 ages) of the property taken on the date of the exercise
21 of eminent domain authority.

22 “(g) STATE LAW.—Nothing in this section precludes
23 any person from constructing or modifying any trans-
24 mission facility in accordance with State law.

1 “(h) COORDINATION OF FEDERAL AUTHORIZATIONS
2 FOR TRANSMISSION FACILITIES.—(1) In this subsection:

3 “(A) The term ‘Federal authorization’ means
4 any authorization required under Federal law in
5 order to site a transmission facility.

6 “(B) The term ‘Federal authorization’ includes
7 such permits, special use authorizations, certifi-
8 cations, opinions, or other approvals as may be re-
9 quired under Federal law in order to site a trans-
10 mission facility.

11 “(2) The Department of Energy shall act as the lead
12 agency for purposes of coordinating all applicable Federal
13 authorizations and related environmental reviews of the
14 facility.

15 “(3) To the maximum extent practicable under appli-
16 cable Federal law, the Secretary shall coordinate the Fed-
17 eral authorization and review process under this sub-
18 section with any Indian tribes, multistate entities, and
19 State agencies that are responsible for conducting any sep-
20 arate permitting and environmental reviews of the facility,
21 to ensure timely and efficient review and permit decisions.

22 “(4)(A) As head of the lead agency, the Secretary,
23 in consultation with agencies responsible for Federal au-
24 thorizations and, as appropriate, with Indian tribes,
25 multistate entities, and State agencies that are willing to

1 coordinate their own separate permitting and environ-
2 mental reviews with the Federal authorization and envi-
3 ronmental reviews, shall establish prompt and binding in-
4 termediate milestones and ultimate deadlines for the re-
5 view of, and Federal authorization decisions relating to,
6 the proposed facility.

7 “(B) The Secretary shall ensure that, once an appli-
8 cation has been submitted with such data as the Secretary
9 considers necessary, all permit decisions and related envi-
10 ronmental reviews under all applicable Federal laws shall
11 be completed—

12 “(i) within 1 year; or

13 “(ii) if a requirement of another provision of
14 Federal law does not permit compliance with clause
15 (i), as soon thereafter as is practicable.

16 “(C) The Secretary shall provide an expeditious pre-
17 application mechanism for prospective applicants to confer
18 with the agencies involved to have each such agency deter-
19 mine and communicate to the prospective applicant not
20 later than 60 days after the prospective applicant submits
21 a request for such information concerning—

22 “(i) the likelihood of approval for a potential fa-
23 cility; and

24 “(ii) key issues of concern to the agencies and
25 public.

1 “(5)(A) As lead agency head, the Secretary, in con-
2 sultation with the affected agencies, shall prepare a single
3 environmental review document, which shall be used as the
4 basis for all decisions on the proposed project under Fed-
5 eral law.

6 “(B) The Secretary and the heads of other agencies
7 shall streamline the review and permitting of transmission
8 within corridors designated under section 503 of the Fed-
9 eral Land Policy and Management Act (43 U.S.C. 1763)
10 by fully taking into account prior analyses and decisions
11 relating to the corridors.

12 “(C) The document shall include consideration by the
13 relevant agencies of any applicable criteria or other mat-
14 ters as required under applicable law.

15 “(6)(A) If any agency has denied a Federal author-
16 ization required for a transmission facility, or has failed
17 to act by the deadline established by the Secretary pursu-
18 ant to this section for deciding whether to issue the au-
19 thorization, the applicant or any State in which the facility
20 would be located may file an appeal with the President,
21 who shall, in consultation with the affected agency, review
22 the denial or failure to take action on the pending applica-
23 tion.

24 “(B) Based on the overall record and in consultation
25 with the affected agency, the President may—

1 “(i) issue the necessary authorization with any
2 appropriate conditions; or

3 “(ii) deny the application.

4 “(C) The President shall issue a decision not later
5 than 90 days after the date of the filing of the appeal.

6 “(D) In making a decision under this paragraph, the
7 President shall comply with applicable requirements of
8 Federal law, including any requirements of—

9 “(i) the National Forest Management Act of
10 1976 (16 U.S.C. 472a et seq.);

11 “(ii) the Endangered Species Act of 1973 (16
12 U.S.C. 1531 et seq.);

13 “(iii) the Federal Water Pollution Control Act
14 (33 U.S.C. 1251 et seq.);

15 “(iv) the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.); and

17 “(v) the Federal Land Policy and Management
18 Act of 1976 (43 U.S.C. 1701 et seq.).

19 “(7)(A) Not later than 18 months after the date of
20 enactment of this section, the Secretary shall issue any
21 regulations necessary to implement this subsection.

22 “(B)(i) Not later than 1 year after the date of enact-
23 ment of this section, the Secretary and the heads of all
24 Federal agencies with authority to issue Federal author-
25 izations shall enter into a memorandum of understanding

1 to ensure the timely and coordinated review and permit-
2 ting of electricity transmission facilities.

3 “(ii) Interested Indian tribes, multistate entities, and
4 State agencies may enter the memorandum of under-
5 standing.

6 “(C) The head of each Federal agency with authority
7 to issue a Federal authorization shall designate a senior
8 official responsible for, and dedicate sufficient other staff
9 and resources to ensure, full implementation of the regula-
10 tions and memorandum required under this paragraph.

11 “(8)(A) Each Federal land use authorization for an
12 electricity transmission facility shall be issued—

13 “(i) for a duration, as determined by the Sec-
14 retary, commensurate with the anticipated use of the
15 facility; and

16 “(ii) with appropriate authority to manage the
17 right-of-way for reliability and environmental protec-
18 tion.

19 “(B) On the expiration of the authorization (includ-
20 ing an authorization issued before the date of enactment
21 of this section), the authorization shall be reviewed for re-
22 newal taking fully into account reliance on such electricity
23 infrastructure, recognizing the importance of the author-
24 ization for public health, safety, and economic welfare and
25 as a legitimate use of Federal land.

1 “(9) In exercising the responsibilities under this sec-
2 tion, the Secretary shall consult regularly with—

3 “(A) the Federal Energy Regulatory Commis-
4 sion;

5 “(B) electric reliability organizations (including
6 related regional entities) approved by the Commis-
7 sion; and

8 “(C) Transmission Organizations approved by
9 the Commission.

10 “(i) INTERSTATE COMPACTS.—(1) The consent of
11 Congress is given for 3 or more contiguous States to enter
12 into an interstate compact, subject to approval by Con-
13 gress, establishing regional transmission siting agencies
14 to—

15 “(A) facilitate siting of future electric energy
16 transmission facilities within those States; and

17 “(B) carry out the electric energy transmission
18 siting responsibilities of those States.

19 “(2) The Secretary may provide technical assistance
20 to regional transmission siting agencies established under
21 this subsection.

22 “(3) The regional transmission siting agencies shall
23 have the authority to review, certify, and permit siting of
24 transmission facilities, including facilities in national in-

1 terest electric transmission corridors (other than facilities
2 on property owned by the United States).

3 “(4) The Commission shall have no authority to issue
4 a permit for the construction or modification of an electric
5 transmission facility within a State that is a party to a
6 compact, unless the members of the compact are in dis-
7 agreement and the Secretary makes, after notice and an
8 opportunity for a hearing, the finding described in sub-
9 section (b)(1)(C).

10 “(j) RELATIONSHIP TO OTHER LAWS.—(1) Except
11 as specifically provided, nothing in this section affects any
12 requirement of an environmental law of the United States,
13 including the National Environmental Policy Act of 1969
14 (42 U.S.C. 4321 et seq.).

15 “(2) Subsection (h)(6) shall not apply to any unit of
16 the National Park System, the National Wildlife Refuge
17 System, the National Wild and Scenic Rivers System, the
18 National Trails System, the National Wilderness Preser-
19 vation System, or a National Monument.”.

20 (b) REPORTS TO CONGRESS ON CORRIDORS AND
21 RIGHTS OF WAY ON FEDERAL LANDS.—Not later than
22 90 days after the date of enactment of this Act, the Sec-
23 retary of the Interior, the Secretary, the Secretary of Agri-
24 culture, and the Chairman of the Council on Environ-

1 mental Quality shall submit to Congress a joint report
2 identifying—

3 (1)(A) all existing designated transmission and
4 distribution corridors on Federal land and the status
5 of work related to proposed transmission and dis-
6 tribution corridor designations under title V of the
7 Federal Land Policy and Management Act of 1976
8 (43 U.S.C. 1761 et seq.);

9 (B) the schedule for completing the work;

10 (C) any impediments to completing the work;

11 and

12 (D) steps that Congress could take to expedite
13 the process;

14 (2)(A) the number of pending applications to
15 locate transmission facilities on Federal land;

16 (B) key information relating to each such facil-
17 ity;

18 (C) how long each application has been pend-
19 ing;

20 (D) the schedule for issuing a timely decision as
21 to each facility; and

22 (E) progress in incorporating existing and new
23 such rights-of-way into relevant land use and re-
24 source management plans or the equivalent of those
25 plans; and

1 (3)(A) the number of existing transmission and
2 distribution rights-of-way on Federal land that will
3 come up for renewal within the following 5-, 10-,
4 and 15-year periods; and

5 (B) a description of how the Secretaries plan to
6 manage the renewals.

7 **SEC. 1222. THIRD-PARTY FINANCE.**

8 (a) **EXISTING FACILITIES.**—The Secretary, acting
9 through the Administrator of the Western Area Power Ad-
10 ministration (referred to in this section as “WAPA”) or
11 the Administrator of the Southwestern Power Administra-
12 tion (referred to in this section as “SWPA”), or both, may
13 carry out a project to design, develop, construct, operate,
14 maintain, or own, or participate with other entities in de-
15 signing, developing, constructing, operating, maintaining,
16 or owning, an electric power transmission facility and re-
17 lated facilities needed to upgrade existing transmission fa-
18 cilities owned by the SWPA or WAPA if the Secretary,
19 in consultation with the applicable Administrator, deter-
20 mines that the proposed project—

21 (1)(A) is located in a national interest electric
22 transmission corridor designated under section
23 216(a) of the Federal Power Act and will reduce
24 congestion of electric transmission in interstate com-
25 merce; or

1 (B) is necessary to accommodate an actual or
2 projected increase in demand for electric trans-
3 mission capacity;

4 (2) is consistent with—

5 (A) transmission needs identified, in a
6 transmission expansion plan or otherwise, by
7 the appropriate Transmission Organization (as
8 defined in section 3 of the Federal Power Act
9 (16 U.S.C. 796)), if any, or approved regional
10 reliability organization; and

11 (B) efficient and reliable operation of the
12 transmission grid; and

13 (3) would be operated in conformance with pru-
14 dent utility practice.

15 (b) NEW FACILITIES.—The Secretary, acting
16 through the WAPA or SWPA, or both, may carry out a
17 project to design, develop, construct, operate, maintain, or
18 own, or participate with other entities in designing, devel-
19 oping, constructing, operating, maintaining, or owning, a
20 new electric power transmission facility and related facili-
21 ties located within any State in which the WAPA or
22 SWPA operates if the Secretary, in consultation with the
23 applicable Administrator, determines that the proposed
24 project—

1 (1)(A) is located in a national interest electric
2 transmission corridor designated under section
3 216(a) of the Federal Power Act and will reduce
4 congestion of electric transmission in interstate com-
5 merce; or

6 (B) is necessary to accommodate an actual or
7 projected increase in demand for electric trans-
8 mission capacity;

9 (2) is consistent with—

10 (A) transmission needs identified, in a
11 transmission expansion plan or otherwise, by
12 the appropriate Transmission Organization, if
13 any, or approved regional reliability organiza-
14 tion; and

15 (B) efficient and reliable operation of the
16 transmission grid;

17 (3) will be operated in conformance with pru-
18 dent utility practice;

19 (4) will be operated by, or in conformance with
20 the rules of, the appropriate—

21 (A) Transmission Organization, if any; or

22 (B) if such an organization does not exist,
23 regional reliability organization; and

24 (5) will not duplicate the functions of existing
25 transmission facilities or proposed facilities that are

1 the subject of ongoing or approved siting and related
2 permitting proceedings.

3 (c) OTHER FUNDS.—

4 (1) IN GENERAL.—In carrying out a project
5 under subsection (a) or (b), the Secretary may ac-
6 cept and use funds contributed by another entity for
7 the purpose of carrying out the project.

8 (2) AVAILABILITY.—The contributed funds
9 shall be available for expenditure for the purpose of
10 carrying out the project—

11 (A) without fiscal year limitation; and

12 (B) as if the funds had been appropriated
13 specifically for the project.

14 (3) ALLOCATION OF COSTS.—In carrying out a
15 project under subsection (a) or (b), any costs of the
16 project not paid for by contributions from another
17 entity shall be—

18 (A) collected through rates charged to cus-
19 tomers using the new transmission capability
20 provided by the project; and

21 (B) allocated equitably among these
22 project beneficiaries using the new transmission
23 capability.

24 (d) RELATIONSHIP TO OTHER LAWS.—Nothing in
25 this section affects any requirement of—

1 (1) any Federal environmental law, including
2 the National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.);

4 (2) any Federal or State law relating to the
5 siting of energy facilities; or

6 (3) any authorizing law in effect on the date of
7 enactment of this Act.

8 (e) SAVINGS CLAUSE.—Nothing in this section con-
9 strains or restricts an Administrator in the use of other
10 authority delegated to the Administrator of the WAPA or
11 SWPA.

12 (f) SECRETARIAL DETERMINATIONS.—Any deter-
13 mination made pursuant to subsection (a) or (b) shall be
14 based on findings by the Secretary using the best available
15 data.

16 (g) MAXIMUM FUNDING AMOUNT.—The Secretary
17 shall not accept and use more than \$100,000,000 under
18 subsection (c)(1) for the period of fiscal years 2006
19 through 2013.

20 **SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.**

21 (a) DEFINITION OF ADVANCED TRANSMISSION
22 TECHNOLOGY.—In this section, the term “advanced
23 transmission technology” means a technology that in-
24 creases the capacity, efficiency, or reliability of an existing
25 or new transmission facility, including—

- 1 (1) high-temperature lines (including super-
- 2 conducting cables);
- 3 (2) underground cables;
- 4 (3) advanced conductor technology (including
- 5 advanced composite conductors, high-temperature
- 6 low-sag conductors, and fiber optic temperature
- 7 sensing conductors);
- 8 (4) high-capacity ceramic electric wire, connec-
- 9 tors, and insulators;
- 10 (5) optimized transmission line configurations
- 11 (including multiple phased transmission lines);
- 12 (6) modular equipment;
- 13 (7) wireless power transmission;
- 14 (8) ultra-high voltage lines;
- 15 (9) high-voltage DC technology;
- 16 (10) flexible AC transmission systems;
- 17 (11) energy storage devices (including pumped
- 18 hydro, compressed air, superconducting magnetic en-
- 19 ergy storage, flywheels, and batteries);
- 20 (12) controllable load;
- 21 (13) distributed generation (including PV, fuel
- 22 cells, and microturbines);
- 23 (14) enhanced power device monitoring;
- 24 (15) direct system state sensors;
- 25 (16) fiber optic technologies;

1 (17) power electronics and related software (in-
2 cluding real time monitoring and analytical soft-
3 ware);

4 (18) mobile transformers and mobile sub-
5 stations; and

6 (19) any other technologies the Commission
7 considers appropriate.

8 (b) **AUTHORITY.**—In carrying out the Federal Power
9 Act (16 U.S.C. 791a et seq.) and the Public Utility Regu-
10 latory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the
11 Commission shall encourage, as appropriate, the deploy-
12 ment of advanced transmission technologies.

13 **SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY IN-**
14 **CENTIVE PROGRAM.**

15 (a) **DEFINITIONS.**—In this section:

16 (1) **QUALIFYING ADVANCED POWER SYSTEM**
17 **TECHNOLOGY FACILITY.**—The term “qualifying ad-
18 vanced power system technology facility” means a
19 facility using an advanced fuel cell, turbine, or hy-
20 brid power system or power storage system to gen-
21 erate or store electric energy.

22 (2) **QUALIFYING SECURITY AND ASSURED**
23 **POWER FACILITY.**—The term “qualifying security
24 and assured power facility” means a qualifying ad-
25 vanced power system technology facility determined

1 by the Secretary, in consultation with the Secretary
2 of Homeland Security, to be in critical need of se-
3 cure, reliable, rapidly available, high-quality power
4 for critical governmental, industrial, or commercial
5 applications.

6 (b) PROGRAM.—The Secretary may establish an ad-
7 vanced power system technology incentive program to—

8 (1) support the deployment of certain advanced
9 power system technologies; and

10 (2) improve and protect certain critical govern-
11 mental, industrial, and commercial processes.

12 (c) INCENTIVE PAYMENTS.—

13 (1) IN GENERAL.—Funds provided under this
14 section shall be used by the Secretary to make incen-
15 tive payments to eligible owners or operators of ad-
16 vanced power system technologies to increase power
17 generation through enhanced operational, economic,
18 and environmental performance.

19 (2) APPLICATION.—Payments under this sec-
20 tion may only be made on receipt by the Secretary
21 of an incentive payment application establishing an
22 applicant as—

23 (A) a qualifying advanced power system
24 technology facility; or

1 (B) a qualifying security and assured
2 power facility.

3 (3) PAYMENT RATES.—Subject to availability of
4 funds—

5 (A) a payment of 1.8 cents per kilowatt-
6 hour shall be paid to the owner or operator of
7 a qualifying advanced power system technology
8 facility under this section for electricity gen-
9 erated at the facility; and

10 (B) an additional 0.7 cents per kilowatt-
11 hour shall be paid to the owner or operator of
12 a qualifying security and assured power facility
13 for electricity generated at the facility.

14 (4) PAYMENT QUANTITY.—Any facility quali-
15 fying under this section shall be eligible for an in-
16 centive payment for up to, but not more than, the
17 first 10,000,000 kilowatt-hours produced in any fis-
18 cal year.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Secretary to carry
21 out this section \$10,000,000 for each of fiscal years 2006
22 through 2012.

1 **Subtitle C—Transmission**
2 **Operation Improvements**

3 **SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.**

4 Part II of the Federal Power Act (16 U.S.C. 824 et
5 seq.) is amended by inserting after section 211 (16 U.S.C.
6 824j) the following:

7 **“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMIT-**
8 **TING UTILITIES.**

9 “(a) DEFINITION OF UNREGULATED TRANSMITTING
10 UTILITY.—In this section, the term ‘unregulated trans-
11 mitting utility’ means an entity that—

12 “(1) owns or operates facilities used for the
13 transmission of electric energy in interstate com-
14 merce; and

15 “(2) is an entity described in section 201(f).

16 “(b) TRANSMISSION OPERATION IMPROVEMENTS.—
17 Subject to section 212(h), the Commission may, by rule
18 or order, require an unregulated transmitting utility to
19 provide transmission services—

20 “(1) at rates that are comparable to those that
21 the unregulated transmitting utility charges itself;
22 and

23 “(2) on terms and conditions (not relating to
24 rates) that are comparable to those under which the
25 unregulated transmitting utility provides trans-

1 mission services to itself and that are not unduly
2 discriminatory or preferential.

3 “(c) EXEMPTION.—The Commission shall exempt
4 from any rule or order under this section any unregulated
5 transmitting utility that—

6 “(1) sells not more than 4,000,000 megawatt
7 hours of electricity per year;

8 “(2) does not own or operate any transmission
9 facilities that are necessary for operating an inter-
10 connected transmission system (or any portion of the
11 system); or

12 “(3) meets other criteria the Commission deter-
13 mines to be in the public interest.

14 “(d) LOCAL DISTRIBUTION FACILITIES.—The re-
15 quirements of subsection (b) shall not apply to facilities
16 used in local distribution.

17 “(e) EXEMPTION TERMINATION.—If the Commis-
18 sion, after an evidentiary hearing held on a complaint and
19 after giving consideration to reliability standards estab-
20 lished under section 215, finds on the basis of a prepon-
21 derance of the evidence that any exemption granted pursu-
22 ant to subsection (c) unreasonably impairs the continued
23 reliability of an interconnected transmission system, the
24 Commission shall revoke the exemption granted to the
25 transmitting utility.

1 “(f) APPLICATION TO UNREGULATED TRANSMITTING
2 UTILITIES.—The rate changing procedures applicable to
3 public utilities under subsections (c) and (d) of section 205
4 are applicable to unregulated transmitting utilities for
5 purposes of this section.

6 “(g) REMAND.—In exercising authority under sub-
7 section (b)(1), the Commission may remand transmission
8 rates to an unregulated transmitting utility for review and
9 revision if necessary to meet the requirements of sub-
10 section (b).

11 “(h) OTHER REQUESTS.—The provision of trans-
12 mission services under subsection (b) does not preclude
13 a request for transmission services under section 211.

14 “(i) LIMITATION.—The Commission may not require
15 a State or municipality to take action under this section
16 that would violate a private activity bond rule for purposes
17 of section 141 of the Internal Revenue Code of 1986.

18 “(j) TRANSFER OF CONTROL OF TRANSMITTING FA-
19 CILITIES.—Nothing in this section authorizes the Commis-
20 sion to require an unregulated transmitting utility to
21 transfer control or operational control of its transmitting
22 facilities to a Transmission Organization that is des-
23 ignated to provide nondiscriminatory transmission ac-
24 cess.”.

1 **SEC. 1232. REGIONAL TRANSMISSION ORGANIZATIONS.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et
3 seq.) (as amended by section 1221(a)) is amended by add-
4 ing at the end the following:

5 **“SEC. 217. PROMOTION OF VOLUNTARY TRANSMISSION OR-**
6 **GANIZATIONS.**

7 “(a) IN GENERAL.—The Commission may encourage
8 and may approve the voluntary formation of RTOs, ISOs,
9 or other similar organizations approved by the Commis-
10 sion for the purposes of—

11 “(1) promoting fair, open access to electric
12 transmission service;

13 “(2) facilitating wholesale competition;

14 “(3) improving efficiencies in transmission grid
15 management;

16 “(4) promoting grid reliability;

17 “(5) removing opportunities for unduly dis-
18 criminatory or preferential transmission practices;
19 and

20 “(6) providing for the efficient development of
21 transmission infrastructure needed to meet the
22 growing demands of competitive wholesale power
23 markets.

24 “(b) OPERATIONAL CONTROL.—No order issued
25 under this Act shall be conditioned on or require a trans-
26 mitting utility to transfer operational control of jurisdic-

1 tional facilities to a Transmission Organization approved
2 by the Commission.

3 “(c) ANNUAL AUDITS.—(1) Each Transmission Or-
4 ganization shall report to the Commission on a scheduled
5 basis, as determined by the Commission, the means by
6 which the Transmission Organization will ensure that the
7 Transmission Organization will operate and perform the
8 functions of the Transmission Organization in a cost effec-
9 tive manner that is also consistent with the obligations of
10 the Transmission Organization under the Commission-ap-
11 proved tariffs and agreements of the Transmission Orga-
12 nization.

13 “(2) The Commission shall annually audit the compli-
14 ance of the Transmission Organization with the filed plan
15 and any additional Commission requirements concerning
16 the performance, operations, and cost efficiencies of the
17 Transmission Organization.

18 “(3) The Commission shall establish appropriate ac-
19 counting procedures for recording costs to facilitate com-
20 parisons among Transmission Organizations and, to the
21 extent practicable, among other transmitting utilities per-
22 forming similar functions.”.

23 **SEC. 1233. FEDERAL UTILITY PARTICIPATION IN TRANS-**
24 **MISSION ORGANIZATIONS.**

25 (a) DEFINITIONS.—In this section—

1 (1) APPROPRIATE FEDERAL REGULATORY AU-
2 THORITY.—The term “appropriate Federal regu-
3 latory authority” means—

4 (A) in the case of a Federal power mar-
5 keting agency, the Secretary, except that the
6 Secretary may designate the Administrator of a
7 Federal power marketing agency to act as the
8 appropriate Federal regulatory authority with
9 respect to the transmission system of the Fed-
10 eral power marketing agency; and

11 (B) in the case of the Tennessee Valley
12 Authority, the Board of Directors of the Ten-
13 nessee Valley Authority.

14 (2) FEDERAL POWER MARKETING AGENCY.—
15 The term “Federal power marketing agency” has
16 the meaning given the term in section 3 of the Fed-
17 eral Power Act (16 U.S.C. 796).

18 (3) FEDERAL UTILITY.—The term “Federal
19 utility” means—

20 (A) a Federal power marketing agency; or
21 (B) the Tennessee Valley Authority.

22 (4) TRANSMISSION ORGANIZATION.—The term
23 “Transmission Organization” has the meaning given
24 the term in section 3 of the Federal Power Act (16
25 U.S.C. 796).

1 (5) TRANSMISSION SYSTEM.—The term “trans-
2 mission system” means an electric transmission fa-
3 cility owned, leased, or contracted for by the United
4 States and operated by a Federal utility.

5 (b) TRANSFER.—The appropriate Federal regulatory
6 authority may enter into a contract, agreement, or other
7 arrangement transferring control and use of all or part
8 of the transmission system of a Federal utility to a Trans-
9 mission Organization.

10 (c) CONTENTS.—The contract, agreement, or ar-
11 rangement shall include—

12 (1) performance standards for operation and
13 use of the transmission system that the head of the
14 Federal utility determines are necessary or appro-
15 priate, including standards that ensure—

16 (A) recovery of all of the costs and ex-
17 penses of the Federal utility related to the
18 transmission facilities that are the subject of
19 the contract, agreement, or other arrangement;

20 (B) consistency with existing contracts and
21 third-party financing arrangements; and

22 (C) consistency with the statutory authori-
23 ties, obligations, and limitations of the Federal
24 utility;

1 (2) provisions for monitoring and oversight by
2 the Federal utility of the Transmission Organiza-
3 tion's terms and conditions of the contract, agree-
4 ment, or other arrangement, including a provision
5 for the resolution of disputes through arbitration or
6 other means with the Transmission Organization or
7 with other participants, notwithstanding the obliga-
8 tions and limitations of any other law regarding ar-
9 bitration; and

10 (3) a provision that allows the Federal utility to
11 withdraw from the Transmission Organization and
12 terminate the contract, agreement, or other arrange-
13 ment in accordance with its terms.

14 (d) COMMISSION.—Neither this section, actions taken
15 pursuant to this section, nor any other transaction of a
16 Federal utility participating in a Transmission Organiza-
17 tion shall confer on the Commission jurisdiction or author-
18 ity over—

19 (1) the electric generation assets, electric capac-
20 ity, or energy of the Federal utility that the Federal
21 utility is authorized by law to market; or

22 (2) the power sales activities of the Federal
23 utility.

24 (e) EXISTING STATUTORY AND OTHER OBLIGA-
25 TIONS.—

1 (1) SYSTEM OPERATION REQUIREMENTS.—No
2 statutory provision requiring or authorizing a Fed-
3 eral utility to transmit electric power or to construct,
4 operate, or maintain the transmission system of the
5 Federal utility prohibits a transfer of control and
6 use of the transmission system pursuant to, and
7 subject to, the requirements of this section.

8 (2) OTHER OBLIGATIONS.—This subsection
9 does not—

10 (A) suspend, or exempt any Federal utility
11 from, any provision of Federal law in effect on
12 the date of enactment of this Act, including any
13 requirement or direction relating to the use of
14 the transmission system of the Federal utility,
15 environmental protection, fish and wildlife pro-
16 tection, flood control, navigation, water delivery,
17 or recreation; or

18 (B) authorize abrogation of any contract
19 or treaty obligation.

20 (3) CONFORMING AMENDMENT.—Section 311
21 of the Energy and Water Development Appropria-
22 tions Act, 2001 (16 U.S.C. 824n) is repealed.

23 **SEC. 1234. STANDARD MARKET DESIGN.**

24 The proposed rulemaking of the Commission entitled
25 “Remedying Undue Discrimination through Open Access

1 Transmission Service and Standard Electricity Market
2 Design” (Docket No. RM01–12–000) (commonly known
3 as “SMD NOPR”) is terminated and shall not be re-
4 issued.

5 **SEC. 1235. NATIVE LOAD SERVICE OBLIGATION.**

6 Part II of the Federal Power Act (16 U.S.C. 824 et
7 seq.) (as amended by section 1232) is amended by adding
8 at the end the following:

9 **“SEC. 218. NATIVE LOAD SERVICE OBLIGATION.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) The term ‘distribution utility’ means an
12 electric utility that has a service obligation to end-
13 users or to a State utility or electric cooperative
14 that, directly or indirectly, through 1 or more addi-
15 tional State utilities or electric cooperatives, provides
16 electric service to end-users.

17 “(2) The term ‘load-serving entity’ means a dis-
18 tribution utility or an electric utility that has a serv-
19 ice obligation.

20 “(3) The term ‘service obligation’ means a re-
21 quirement applicable to, or the exercise of authority
22 granted to, an electric utility under Federal, State,
23 or local law or under long-term contracts to provide
24 electric service to end-users or to a distribution util-
25 ity.

1 “(4) The term ‘State utility’ means a State or
2 any political subdivision of a State, or any agency,
3 authority, or instrumentality of any 1 or more
4 States or political subdivisions, or a corporation that
5 is wholly owned, directly or indirectly, by any 1 or
6 more of the States or political subdivisions, com-
7 petent to carry on the business of developing, trans-
8 mitting, using, or distributing power.

9 “(b) MEETING SERVICE OBLIGATIONS.—(1) Para-
10 graph (2) applies to any load-serving entity that, as of
11 the date of enactment of this section—

12 “(A) owns generation facilities, markets the
13 output of Federal generation facilities, or holds
14 rights under 1 or more wholesale contracts to pur-
15 chase electric energy, for the purpose of meeting a
16 service obligation; and

17 “(B) by reason of ownership of transmission fa-
18 cilities, or 1 or more contracts or service agreements
19 for firm transmission service, holds firm trans-
20 mission rights for delivery of the output of the gen-
21 eration facilities or the purchased energy to meet the
22 service obligation.

23 “(2) Any load-serving entity described in paragraph
24 (1) is entitled to use the firm transmission rights, or,
25 equivalent tradable or financial transmission rights, in

1 order to deliver the output or purchased energy, or the
2 output of other generating facilities or purchased energy
3 to the extent deliverable using the rights, to the extent
4 required to meet the service obligation of the load-serving
5 entity.

6 “(3)(A) To the extent that all or a portion of the
7 service obligation covered by the firm transmission rights
8 or equivalent tradable or financial transmission rights is
9 transferred to another load-serving entity, the successor
10 load-serving entity shall be entitled to use the firm trans-
11 mission rights or equivalent tradable or financial trans-
12 mission rights associated with the transferred service obli-
13 gation.

14 “(B) Subsequent transfers to another load-serving
15 entity, or back to the original load-serving entity, shall be
16 entitled to the same rights.

17 “(4) The Commission shall exercise the authority of
18 the Commission under this Act in a manner that facili-
19 tates the planning and expansion of transmission facilities
20 to meet the reasonable needs of load-serving entities to
21 satisfy the service obligations of the load-serving entities,
22 and enables load-serving entities to secure firm trans-
23 mission rights (or equivalent tradable or financial rights)
24 on a long term basis for long term power supply arrange-
25 ments made, or planned, to meet such needs.

1 “(c) ALLOCATION OF TRANSMISSION RIGHTS.—
2 Nothing in subsections (b)(1), (b)(2) and (b)(3) of this
3 section shall affect any existing or future methodology em-
4 ployed by a Transmission Organization for allocating or
5 auctioning transmission rights if such Transmission Orga-
6 nization was authorized by the Commission to allocate or
7 auction financial transmission rights on its system as of
8 January 1, 2005, and the Commission determines that
9 any future allocation or auction is just, reasonable and
10 not unduly discriminatory or preferential, provided, how-
11 ever, that if such a Transmission Organization never allo-
12 cated financial transmission rights on its system that per-
13 tained to a period before January 1, 2005, with respect
14 to any application by such Transmission Organization that
15 would change its methodology the Commission shall exer-
16 cise its authority in a manner consistent with the Act and
17 that takes into account the policies expressed in sub-
18 sections (b)(1), (b)(2) and (b)(3) as applied to firm trans-
19 mission rights held by a load-serving entity as of January
20 1, 2005, to the extent the associated generation ownership
21 or power purchase arrangements remain in effect.

22 “(d) CERTAIN TRANSMISSION RIGHTS.—The Com-
23 mission may exercise authority under this Act to make
24 transmission rights not used to meet an obligation covered
25 by subsection (b) available to other entities in a manner

1 determined by the Commission to be just, reasonable, and
2 not unduly discriminatory or preferential.

3 “(e) OBLIGATION TO BUILD.—Nothing in this Act re-
4 lieves a load-serving entity from any obligation under
5 State or local law to build transmission or distribution fa-
6 cilities adequate to meet the service obligations of the load-
7 serving entity.

8 “(f) CONTRACTS.—Nothing in this section shall pro-
9 vide a basis for abrogating any contract or service agree-
10 ment for firm transmission service or rights in effect as
11 of the date of the enactment of this subsection. If an ISO
12 in the Western Interconnection had allocated financial
13 transmission rights prior to the date of enactment of this
14 section but had not done so with respect to one or more
15 load-serving entities’ firm transmission rights held under
16 contracts to which the preceding sentence applies (or held
17 by reason of ownership or future ownership of trans-
18 mission facilities), such load-serving entities may not be
19 required, without their consent, to convert such firm
20 transmission rights to tradable or financial rights, except
21 where the load-serving entity has voluntarily joined the
22 ISO as a participating transmission owner (or its suc-
23 cessor) in accordance with the ISO tariff.

24 “(g) WATER PUMPING FACILITIES.—The Commis-
25 sion shall ensure that any entity described in section

1 201(f) that owns transmission facilities used predomi-
2 nately to support its own water pumping facilities shall
3 have, with respect to the facilities, protections for trans-
4 mission service comparable to those provided to load-serv-
5 ing entities pursuant to this section.

6 “(h) ERCOT.—This section shall not apply within
7 the area referred to in section 212(k)(2)(A).

8 “(i) JURISDICTION.—This section does not authorize
9 the Commission to take any action not otherwise within
10 the jurisdiction of the Commission.

11 “(j) TVA AREA.—(1) Subject to paragraphs (2) and
12 (3), for purposes of subsection (b)(1)(B), a load-serving
13 entity that is located within the service area of the Ten-
14 nessee Valley Authority and that has a firm wholesale
15 power supply contract with the Tennessee Valley Author-
16 ity shall be considered to hold firm transmission rights
17 for the transmission of the power provided.

18 “(2) Nothing in this subsection affects the require-
19 ments of section 212(j).

20 “(3) The Commission shall not issue an order on the
21 basis of this subsection that is contrary to the purposes
22 of section 212(j).”.

23 (h) FERC RULEMAKING ON LONG-TERM TRANS-
24 MISSION RIGHTS IN ORGANIZED MARKETS.—Within one
25 year after the date of enactment of this section and after

1 notice and an opportunity for comment, the Commission
2 shall by rule or order implement subsection (b)(4) in
3 Transmission Organizations with organized electricity
4 markets.

5 (i) **EFFECT OF EXERCISING RIGHTS.**—An entity that
6 to the extent required to meet its service obligations exer-
7 cises rights described in subsection (b) shall not be consid-
8 ered by such action as engaging in undue discrimination
9 or preference under this Act.

10 **SEC. 1236. PROTECTION OF TRANSMISSION CONTRACTS IN**
11 **THE PACIFIC NORTHWEST.**

12 Part II of the Federal Power Act (16 U.S.C. 824 et
13 seq.) (as amended by section 1235) is amended by adding
14 at the end the following:

15 **“SEC. 219. PROTECTION OF TRANSMISSION CONTRACTS IN**
16 **THE PACIFIC NORTHWEST.**

17 “(a) **DEFINITION OF ELECTRIC UTILITY OR PER-**
18 **SON.**—In this section, the term ‘electric utility or person’
19 means an electric utility or person that—

20 “(1) as of the date of enactment of the Energy
21 Policy Act of 2005 holds firm transmission rights
22 pursuant to contract or by reason of ownership of
23 transmission facilities; and

24 “(2) is located—

1 “(A) in the Pacific Northwest, as that re-
2 gion is defined in section 3 of the Pacific
3 Northwest Electric Power Planning and Con-
4 servation Act (16 U.S.C. 839a); or

5 “(B) in that portion of a State included in
6 the geographic area proposed for a regional
7 transmission organization in Commission Dock-
8 et Number RT01–35 on the date on which that
9 docket was opened.

10 “(b) PROTECTION OF TRANSMISSION CONTRACTS.—
11 Nothing in this Act confers on the Commission the author-
12 ity to require an electric utility or person to convert to
13 tradable or financial rights—

14 “(1) firm transmission rights described in sub-
15 section (a)(1); or

16 “(2) firm transmission rights obtained by exer-
17 cising contract or tariff rights associated with the
18 firm transmission rights described in subsection
19 (a)(1).”.

20 **Subtitle D—Transmission Rate** 21 **Reform**

22 **SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

23 Part II of the Federal Power Act (16 U.S.C. 824 et
24 seq.) (as amended by section 1236) is amended by adding
25 at the end the following:

1 **“SEC. 220. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

2 “(a) RULEMAKING REQUIREMENT.—Not later than
3 1 year after the date of enactment of this section, the
4 Commission shall establish, by rule, incentive-based (in-
5 cluding performance-based) rate treatments for the trans-
6 mission of electric energy in interstate commerce by public
7 utilities for the purpose of benefiting consumers by ensur-
8 ing reliability and reducing the cost of delivered power by
9 reducing transmission congestion.

10 “(b) CONTENTS.—The rule shall—

11 “(1) promote reliable and economically efficient
12 transmission and generation of electricity by pro-
13 moting capital investment in the enlargement, im-
14 provement, maintenance, and operation of all facili-
15 ties for the transmission of electric energy in inter-
16 state commerce, regardless of the ownership of the
17 facilities;

18 “(2) provide a return on equity that attracts
19 new investment in transmission facilities (including
20 related transmission technologies);

21 “(3) encourage deployment of transmission
22 technologies and other measures to increase the ca-
23 pacity and efficiency of existing transmission facili-
24 ties and improve the operation of the facilities; and

25 “(4) allow recovery of—

1 (3) are otherwise consistent with sections 205
2 and 206 of the Federal Power Act (16 U.S.C. 824d,
3 824e).

4 **Subtitle E—Amendments to PURPA**

5 **SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.**

6 (a) ADOPTION OF STANDARDS.—Section 111(d) of
7 the Public Utility Regulatory Policies Act of 1978 (16
8 U.S.C. 2621(d)) is amended by adding at the end the fol-
9 lowing:

10 “(11) NET METERING.—Each electric utility
11 shall make available upon request net metering serv-
12 ice to any electric consumer that the electric utility
13 serves. For purposes of this paragraph, the term
14 ‘net metering service’ means service to an electric
15 consumer under which electric energy generated by
16 that electric consumer from an eligible on-site gener-
17 ating facility and delivered to the local distribution
18 facilities may be used to offset electric energy pro-
19 vided by the electric utility to the electric consumer
20 during the applicable billing period.

21 “(12) FUEL SOURCES.—Each electric utility
22 shall develop a plan to minimize dependence on 1
23 fuel source and to ensure that the electric energy it
24 sells to consumers is generated using a diverse range

1 of fuels and technologies, including renewable tech-
2 nologies.

3 “(13) FOSSIL FUEL GENERATION EFFI-
4 CIENCY.—Each electric utility shall develop and im-
5 plement a 10-year plan to increase the efficiency of
6 its fossil fuel generation.”.

7 (b) COMPLIANCE.—

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

12 “(3)(A) Not later than 2 years after the enactment
13 of this paragraph, each State regulatory authority (with
14 respect to each electric utility for which it has ratemaking
15 authority) and each nonregulated electric utility shall com-
16 mence the consideration referred to in section 111, or set
17 a hearing date for such consideration, with respect to each
18 standard established by paragraphs (11) through (13) of
19 section 111(d).

20 “(B) Not later than 3 years after the date of the en-
21 actment of this paragraph, each State regulatory authority
22 (with respect to each electric utility for which it has rate-
23 making authority), and each nonregulated electric utility,
24 shall complete the consideration, and shall make the deter-
25 mination, referred to in section 111 with respect to each

1 standard established by paragraphs (11) through (13) of
2 section 111(d).”.

3 (2) FAILURE TO COMPLY.—Section 112(c) of
4 the Public Utility Regulatory Policies Act of 1978
5 (16 U.S.C. 2622(c)) is amended by adding at the
6 end the following:

7 “In the case of each standard established by paragraphs
8 (11) through (13) of section 111(d), the reference con-
9 tained in this subsection to the date of enactment of this
10 Act shall be deemed to be a reference to the date of enact-
11 ment of such paragraphs (11) through (13).”.

12 (3) PRIOR STATE ACTIONS.—

13 (A) IN GENERAL.—Section 112 of the
14 Public Utility Regulatory Policies Act of 1978
15 (16 U.S.C. 2622) is amended by adding at the
16 end the following:

17 “(d) PRIOR STATE ACTIONS.—Subsections (b) and
18 (c) of this section shall not apply to the standards estab-
19 lished by paragraphs (11) through (13) of section 111(d)
20 in the case of any electric utility in a State if, before the
21 enactment of this subsection—

22 “(1) the State has implemented for such utility
23 the standard concerned (or a comparable standard);

24 “(2) the State regulatory authority for such
25 State or relevant nonregulated electric utility has

1 conducted a proceeding to consider implementation
2 of the standard concerned (or a comparable stand-
3 ard) for such utility; or

4 “(3) the State legislature has voted on the im-
5 plementation of such standard (or a comparable
6 standard) for such utility.”.

7 (B) CROSS REFERENCE.—Section 124 of
8 such Act (16 U.S.C. 2634) is amended by add-
9 ing the following at the end thereof: “In the
10 case of each standard established by paragraphs
11 (11) through (13) of section 111(d), the ref-
12 erence contained in this subsection to the date
13 of enactment of this Act shall be deemed to be
14 a reference to the date of enactment of such
15 paragraphs (11) through (13).”.

16 **SEC. 1252. SMART METERING.**

17 (a) IN GENERAL.—Section 111(d) of the Public Utili-
18 ties Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))
19 is amended by adding at the end the following:

20 “(14) TIME-BASED METERING AND COMMU-
21 NICATIONS.—

22 “(A) Not later than 18 months after the
23 date of enactment of this paragraph, each elec-
24 tric utility shall offer each of its customer class-
25 es, and provide individual customers upon cus-

1 tomer request, a time-based rate schedule under
2 which the rate charged by the electric utility
3 varies during different time periods and reflects
4 the variance, if any, in the utility's costs of gen-
5 erating and purchasing electricity at the whole-
6 sale level. The time-based rate schedule shall
7 enable the electric consumer to manage energy
8 use and cost through advanced metering and
9 communications technology.

10 “(B) The types of time-based rate sched-
11 ules that may be offered under the schedule re-
12 ferred to in subparagraph (A) include, among
13 others—

14 “(i) time-of-use pricing whereby elec-
15 tricity prices are set for a specific time pe-
16 riod on an advance or forward basis, typi-
17 cally not changing more often than twice a
18 year, based on the utility's cost of gener-
19 ating and/or purchasing such electricity at
20 the wholesale level for the benefit of the
21 consumer. Prices paid for energy consumed
22 during these periods shall be pre-estab-
23 lished and known to consumers in advance
24 of such consumption, allowing them to
25 vary their demand and usage in response

1 to such prices and manage their energy
2 costs by shifting usage to a lower cost pe-
3 riod or reducing their consumption overall;

4 “(ii) critical peak pricing whereby
5 time-of-use prices are in effect except for
6 certain peak days, when prices may reflect
7 the costs of generating and/or purchasing
8 electricity at the wholesale level and when
9 consumers may receive additional discounts
10 for reducing peak period energy consump-
11 tion;

12 “(iii) real-time pricing whereby elec-
13 tricity prices are set for a specific time pe-
14 riod on an advanced or forward basis, re-
15 flecting the utility’s cost of generating and/
16 or purchasing electricity at the wholesale
17 level, and may change as often as hourly;
18 and

19 “(iv) credits for consumers with large
20 loads who enter into pre-established peak
21 load reduction agreements that reduce the
22 planned capacity obligations of a utility.

23 “(C) Each electric utility subject to sub-
24 paragraph (A) shall provide each customer re-
25 questing a time-based rate with a time-based

1 meter capable of enabling the utility and cus-
2 tomer to offer and receive such rate, respec-
3 tively.

4 “(D) For purposes of implementing this
5 paragraph, any reference contained in this sec-
6 tion to the date of enactment of the Public Util-
7 ity Regulatory Policies Act of 1978 shall be
8 deemed to be a reference to the date of enact-
9 ment of this paragraph.

10 “(E) In a State that permits third-party
11 marketers to sell electric energy to retail elec-
12 tric consumers, such consumers shall be entitled
13 to receive the same time-based metering and
14 communications device and service as a retail
15 electric consumer of the electric utility.

16 “(F) Notwithstanding subsections (b) and
17 (c) of section 112, each State regulatory au-
18 thority shall, not later than 18 months after the
19 date of enactment of this paragraph conduct an
20 investigation in accordance with section 115(i)
21 and issue a decision whether it is appropriate to
22 implement the standards set out in subpara-
23 graphs (A) and (C).”.

24 (b) STATE INVESTIGATION OF DEMAND RESPONSE
25 AND TIME-BASED METERING.—Section 115 of the Public

1 Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625)
2 is amended as follows:

3 (1) By inserting in subsection (b) after the
4 phrase “the standard for time-of-day rates estab-
5 lished by section 111(d)(3)” the following: “and the
6 standard for time-based metering and communica-
7 tions established by section 111(d)(14)”.

8 (2) By inserting in subsection (b) after the
9 phrase “are likely to exceed the metering” the fol-
10 lowing: “and communications”.

11 (3) By adding at the end the following:

12 “(i) TIME-BASED METERING AND COMMUNICA-
13 TIONS.—In making a determination with respect to the
14 standard established by section 111(d)(14), the investiga-
15 tion requirement of section 111(d)(14)(F) shall be as fol-
16 lows: Each State regulatory authority shall conduct an in-
17 vestigation and issue a decision whether or not it is appro-
18 priate for electric utilities to provide and install time-based
19 meters and communications devices for each of their cus-
20 tomers which enable such customers to participate in time-
21 based pricing rate schedules and other demand response
22 programs.”.

23 (c) FEDERAL ASSISTANCE ON DEMAND RE-
24 SPONSE.—Section 132(a) of the Public Utility Regulatory
25 Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by

1 striking “and” at the end of paragraph (3), striking the
2 period at the end of paragraph (4) and inserting “; and”,
3 and by adding the following at the end thereof:

4 “(5) technologies, techniques, and rate-making
5 methods related to advanced metering and commu-
6 nications and the use of these technologies, tech-
7 niques and methods in demand response programs.”.

8 (d) FEDERAL GUIDANCE.—Section 132 of the Public
9 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642)
10 is amended by adding the following at the end thereof:

11 “(d) DEMAND RESPONSE.—The Secretary shall be
12 responsible for—

13 “(1) educating consumers on the availability,
14 advantages, and benefits of advanced metering and
15 communications technologies, including the funding
16 of demonstration or pilot projects;

17 “(2) working with States, utilities, other energy
18 providers and advanced metering and communica-
19 tions experts to identify and address barriers to the
20 adoption of demand response programs; and

21 “(3) not later than 180 days after the date of
22 enactment of the Energy Policy Act of 2005, pro-
23 viding Congress with a report that identifies and
24 quantifies the national benefits of demand response

1 and makes a recommendation on achieving specific
2 levels of such benefits by January 1, 2007.”.

3 (e) DEMAND RESPONSE AND REGIONAL COORDINA-
4 TION.—

5 (1) IN GENERAL.—It is the policy of the United
6 States to encourage States to coordinate, on a re-
7 gional basis, State energy policies to provide reliable
8 and affordable demand response services to the pub-
9 lic.

10 (2) TECHNICAL ASSISTANCE.—The Secretary
11 shall provide technical assistance to States and re-
12 gional organizations formed by 2 or more States to
13 assist them in—

14 (A) identifying the areas with the greatest
15 demand response potential;

16 (B) identifying and resolving problems in
17 transmission and distribution networks, includ-
18 ing through the use of demand response;

19 (C) developing plans and programs to use
20 demand response to respond to peak demand or
21 emergency needs; and

22 (D) identifying specific measures con-
23 sumers can take to participate in these demand
24 response programs.

1 (3) REPORT.—Not later than 1 year after the
2 date of enactment of this Act, the Commission shall
3 prepare and publish an annual report, by appro-
4 priate region, that assesses demand response re-
5 sources, including those available from all consumer
6 classes, and which identifies and reviews—

7 (A) saturation and penetration rate of ad-
8 vanced meters and communications tech-
9 nologies, devices and systems;

10 (B) existing demand response programs
11 and time-based rate programs;

12 (C) the annual resource contribution of de-
13 mand resources;

14 (D) the potential for demand response as
15 a quantifiable, reliable resource for regional
16 planning purposes;

17 (E) steps taken to ensure that, in regional
18 transmission planning and operations, demand
19 resources are provided equitable treatment as a
20 quantifiable, reliable resource relative to the re-
21 source obligations of any load-serving entity,
22 transmission provider, or transmitting party;
23 and

1 (F) regulatory barriers to improved cus-
2 tomer participation in demand response, peak
3 reduction, and critical period pricing programs.

4 (f) FEDERAL ENCOURAGEMENT OF DEMAND RE-
5 SPONSE DEVICES.—It is the policy of the United States
6 that time-based pricing and other forms of demand re-
7 sponse, whereby electricity customers are provided with
8 electricity price signals and the ability to benefit by re-
9 sponding to them, shall be encouraged, and the deploy-
10 ment of such technology and devices that enable electricity
11 customers to participate in such pricing and demand re-
12 sponse systems shall be facilitated, and unnecessary bar-
13 riers to demand response participation in energy, capacity,
14 and ancillary service markets shall be eliminated. It is fur-
15 ther the policy of the United States that the benefits of
16 such demand response that accrue to those not deploying
17 such technology and devices, but who are part of the same
18 regional electricity entity, shall be recognized.

19 (g) TIME LIMITATIONS.—Section 112(b) of the Pub-
20 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.
21 2622(b)) is amended by adding at the end the following:

22 “(4)(A) Not later than 1 year after the enact-
23 ment of this paragraph, each State regulatory au-
24 thority (with respect to each electric utility for which
25 it has ratemaking authority) and each nonregulated

1 electric utility shall commence the consideration re-
2 ferred to in section 111, or set a hearing date for
3 such consideration, with respect to the standard es-
4 tablished by paragraph (14) of section 111(d).

5 “(B) Not later than 2 years after the date of
6 the enactment of this paragraph, each State regu-
7 latory authority (with respect to each electric utility
8 for which it has ratemaking authority), and each
9 nonregulated electric utility, shall complete the con-
10 sideration, and shall make the determination, re-
11 ferred to in section 111 with respect to the standard
12 established by paragraph (14) of section 111(d).”.

13 (h) FAILURE TO COMPLY.—Section 112(c) of the
14 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
15 2622(c)) is amended by adding at the end the following:
16 “In the case of the standard established by paragraph (14)
17 of section 111(d), the reference contained in this sub-
18 section to the date of enactment of this Act shall be
19 deemed to be a reference to the date of enactment of such
20 paragraph (14).”.

21 (i) PRIOR STATE ACTIONS REGARDING SMART ME-
22 TERING STANDARDS.—

23 (1) IN GENERAL.—Section 112 of the Public
24 Utility Regulatory Policies Act of 1978 (16 U.S.C.

1 2622) is amended by adding at the end the fol-
2 lowing:

3 “(e) PRIOR STATE ACTIONS.—Subsections (b) and
4 (c) of this section shall not apply to the standard estab-
5 lished by paragraph (14) of section 111(d) in the case of
6 any electric utility in a State if, before the enactment of
7 this subsection—

8 “(1) the State has implemented for such utility
9 the standard concerned (or a comparable standard);

10 “(2) the State regulatory authority for such
11 State or relevant nonregulated electric utility has
12 conducted a proceeding to consider implementation
13 of the standard concerned (or a comparable stand-
14 ard) for such utility within the previous 3 years; or

15 “(3) the State legislature has voted on the im-
16 plementation of such standard (or a comparable
17 standard) for such utility within the previous 3
18 years.”.

19 (2) CROSS REFERENCE.—Section 124 of such
20 Act (16 U.S.C. 2634) is amended by adding the fol-
21 lowing at the end thereof: “In the case of the stand-
22 ard established by paragraph (14) of section 111(d),
23 the reference contained in this subsection to the date
24 of enactment of this Act shall be deemed to be a ref-

1 erence to the date of enactment of such paragraph
2 (14).”.

3 **SEC. 1253. COGENERATION AND SMALL POWER PRODUC-**
4 **TION PURCHASE AND SALE REQUIREMENTS.**

5 (a) **TERMINATION OF MANDATORY PURCHASE AND**
6 **SALE REQUIREMENTS.**—Section 210 of the Public Utility
7 Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is
8 amended by adding at the end the following:

9 “(m) **TERMINATION OF MANDATORY PURCHASE AND**
10 **SALE REQUIREMENTS.**—

11 “(1) **OBLIGATION TO PURCHASE.**—After the
12 date of enactment of this subsection, no electric util-
13 ity shall be required to enter into a new contract or
14 obligation to purchase electric energy from a quali-
15 fying cogeneration facility or a qualifying small
16 power production facility under this section if the
17 Commission finds that the qualifying cogeneration
18 facility or qualifying small power production facility
19 has nondiscriminatory access to—

20 “(A)(i) independently administered, auc-
21 tion-based day ahead and real time wholesale
22 markets for the sale of electric energy; and (ii)
23 wholesale markets for long-term sales of capac-
24 ity and electric energy; or

1 “(B)(i) transmission and interconnection
2 services that are provided by a Commission-ap-
3 proved regional transmission entity and admin-
4 istered pursuant to an open access transmission
5 tariff that affords nondiscriminatory treatment
6 to all customers; and (ii) competitive wholesale
7 markets that provide a meaningful opportunity
8 to sell capacity, including long-term and short-
9 term sales, and electric energy, including long-
10 term, short-term and real-time sales, to buyers
11 other than the utility to which the qualifying fa-
12 cility is interconnected. In determining whether
13 a meaningful opportunity to sell exists, the
14 Commission shall consider, among other fac-
15 tors, evidence of transactions within the rel-
16 evant market; or

17 “(C) wholesale markets for the sale of ca-
18 pacity and electric energy that are, at a min-
19 imum, of comparable competitive quality as
20 markets described in subparagraphs (A) and
21 (B).

22 “(2) REVISED PURCHASE AND SALE OBLIGA-
23 TION FOR NEW FACILITIES.—(A) After the date of
24 enactment of this subsection, no electric utility shall
25 be required pursuant to this section to enter into a

1 new contract or obligation to purchase from or sell
2 electric energy to a facility that is not an existing
3 qualifying cogeneration facility unless the facility
4 meets the criteria for qualifying cogeneration facili-
5 ties established by the Commission pursuant to the
6 rulemaking required by subsection (n).

7 “(B) For the purposes of this paragraph, the
8 term ‘existing qualifying cogeneration facility’ means
9 a facility that—

10 “(i) was a qualifying cogeneration facility
11 on the date of enactment of subsection (m); or

12 “(ii) had filed with the Commission a no-
13 tice of self-certification, self recertification or
14 an application for Commission certification
15 under 18 C.F.R. 292.207 prior to the date on
16 which the Commission issues the final rule re-
17 quired by subsection (n).

18 “(3) COMMISSION REVIEW.—Any electric utility
19 may file an application with the Commission for re-
20 lief from the mandatory purchase obligation pursu-
21 ant to this subsection on a service territory-wide
22 basis. Such application shall set forth the factual
23 basis upon which relief is requested and describe
24 why the conditions set forth in subparagraphs (A),
25 (B) or (C) of paragraph (1) of this subsection have

1 been met. After notice, including sufficient notice to
2 potentially affected qualifying cogeneration facilities
3 and qualifying small power production facilities, and
4 an opportunity for comment, the Commission shall
5 make a final determination within 90 days of such
6 application regarding whether the conditions set
7 forth in subparagraphs (A), (B) or (C) of paragraph
8 (1) have been met.

9 “(4) REINSTATEMENT OF OBLIGATION TO PUR-
10 CHASE.—At any time after the Commission makes a
11 finding under paragraph (3) relieving an electric
12 utility of its obligation to purchase electric energy,
13 a qualifying cogeneration facility, a qualifying small
14 power production facility, a State agency, or any
15 other affected person may apply to the Commission
16 for an order reinstating the electric utility’s obliga-
17 tion to purchase electric energy under this section.
18 Such application shall set forth the factual basis
19 upon which the application is based and describe
20 why the conditions set forth in subparagraphs (A),
21 (B) or (C) of paragraph (1) of this subsection are
22 no longer met. After notice, including sufficient no-
23 tice to potentially affected utilities, and opportunity
24 for comment, the Commission shall issue an order
25 within 90 days of such application reinstating the

1 electric utility's obligation to purchase electric en-
2 ergy under this section if the Commission finds that
3 the conditions set forth in subparagraphs (A), (B) or
4 (C) of paragraph (1) which relieved the obligation to
5 purchase, are no longer met.

6 “(5) OBLIGATION TO SELL.—After the date of
7 enactment of this subsection, no electric utility shall
8 be required to enter into a new contract or obliga-
9 tion to sell electric energy to a qualifying cogenera-
10 tion facility or a qualifying small power production
11 facility under this section if the Commission finds
12 that—

13 “(A) competing retail electric suppliers are
14 willing and able to sell and deliver electric en-
15 ergy to the qualifying cogeneration facility or
16 qualifying small power production facility; and

17 “(B) the electric utility is not required by
18 State law to sell electric energy in its service
19 territory.

20 “(6) NO EFFECT ON EXISTING RIGHTS AND
21 REMEDIES.—Nothing in this subsection affects the
22 rights or remedies of any party under any contract
23 or obligation, in effect or pending approval before
24 the appropriate State regulatory authority or non-
25 regulated electric utility on the date of enactment of

1 this subsection, to purchase electric energy or capac-
2 ity from or to sell electric energy or capacity to a
3 qualifying cogeneration facility or qualifying small
4 power production facility under this Act (including
5 the right to recover costs of purchasing electric en-
6 ergy or capacity).

7 “(7) RECOVERY OF COSTS.—(A) The Commis-
8 sion shall issue and enforce such regulations as are
9 necessary to ensure that an electric utility that pur-
10 chases electric energy or capacity from a qualifying
11 cogeneration facility or qualifying small power pro-
12 duction facility in accordance with any legally en-
13 forceable obligation entered into or imposed under
14 this section recovers all prudently incurred costs as-
15 sociated with the purchase.

16 “(B) A regulation under subparagraph (A) shall
17 be enforceable in accordance with the provisions of
18 law applicable to enforcement of regulations under
19 the Federal Power Act (16 U.S.C. 791a et seq.).

20 “(n) RULEMAKING FOR NEW QUALIFYING FACILI-
21 TIES.—(1)(A) Not later than 180 days after the date of
22 enactment of this section, the Commission shall issue a
23 rule revising the criteria in 18 C.F.R. 292.205 for new
24 qualifying cogeneration facilities seeking to sell electric en-
25 ergy pursuant to section 210 of this Act to ensure—

1 “(i) that the thermal energy output of a new
2 qualifying cogeneration facility is used in a produc-
3 tive and beneficial manner;

4 “(ii) the electrical, thermal, and chemical out-
5 put of the cogeneration facility is used fundamen-
6 tally for industrial, commercial, or institutional pur-
7 poses and is not intended fundamentally for sale to
8 an electric utility, taking into account technological,
9 efficiency, economic, and variable thermal energy re-
10 quirements, as well as State laws applicable to sales
11 of electric energy from a qualifying facility to its
12 host facility; and

13 “(iii) continuing progress in the development of
14 efficient electric energy generating technology.

15 “(B) The rule issued pursuant to section (n)(1)(A)
16 shall be applicable only to facilities that seek to sell electric
17 energy pursuant to section 210 of this Act. For all other
18 purposes, except as specifically provided in section
19 (m)(2)(A), qualifying facility status shall be determined
20 in accordance with the rules and regulations of this Act.

21 “(2) Notwithstanding rule revisions under paragraph
22 (1), the Commission’s criteria for qualifying cogeneration
23 facilities in effect prior to the date on which the Commis-
24 sion issues the final rule required by paragraph (1) shall
25 continue to apply to any cogeneration facility that—

1 “(A) was a qualifying cogeneration facility on
2 the date of enactment of subsection (m), or

3 “(B) had filed with the Commission a notice of
4 self-certification, self-recertification or an application
5 for Commission certification under 18 C.F.R.
6 292.207 prior to the date on which the Commission
7 issues the final rule required by paragraph (1).”.

8 (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

9 (1) QUALIFYING SMALL POWER PRODUCTION
10 FACILITY.—Section 3(17)(C) of the Federal Power
11 Act (16 U.S.C. 796(17)(C)) is amended to read as
12 follows:

13 “(C) ‘qualifying small power production fa-
14 cility’ means a small power production facility
15 that the Commission determines, by rule, meets
16 such requirements (including requirements re-
17 specting fuel use, fuel efficiency, and reliability)
18 as the Commission may, by rule, prescribe;”.

19 (2) QUALIFYING COGENERATION FACILITY.—
20 Section 3(18)(B) of the Federal Power Act (16
21 U.S.C. 796(18)(B)) is amended to read as follows:

22 “(B) ‘qualifying cogeneration facility’
23 means a cogeneration facility that the Commis-
24 sion determines, by rule, meets such require-
25 ments (including requirements respecting min-

1 imum size, fuel use, and fuel efficiency) as the
2 Commission may, by rule, prescribe;”.

3 **SEC. 1254. INTERCONNECTION.**

4 (a) ADOPTION OF STANDARDS.—Section 111(d) of
5 the Public Utility Regulatory Policies Act of 1978 (16
6 U.S.C. 2621(d)) (as amended by section 1252(a)) is
7 amended by adding at the end the following:

8 “(15) INTERCONNECTION.—(A) In this para-
9 graph, the term ‘interconnection service’ means serv-
10 ice to an electric consumer by which an on-site gen-
11 erating facility on the premises of the electric con-
12 sumer is connected to the local distribution facilities.

13 “(B)(i) Each electric utility shall make avail-
14 able, on request, interconnection service to any elec-
15 tric consumer that the electric utility serves.

16 “(ii) Interconnection services shall be made
17 available under clause (i) based on the standards de-
18 veloped by the Institute of Electrical and Electronics
19 Engineers, entitled “IEEE Standard 1547 for Inter-
20 connecting Distributed Resources with Electric
21 Power Systems” (or successor standards).

22 “(C)(i) Electric utilities shall establish agree-
23 ments and procedures providing that the inter-
24 connection services made available under subpara-
25 graph (B) promote current best practices of inter-

1 connection for distributed generation, including
2 practices stipulated in model codes adopted by asso-
3 ciations of State regulatory agencies.

4 “(ii) Any agreements and procedures estab-
5 lished under clause (i) shall be just and reasonable
6 and not unduly discriminatory or preferential.”.

7 (b) COMPLIANCE.—

8 (1) TIME LIMITATIONS.—Section 112(b) of the
9 Public Utility Regulatory Policies Act of 1978 (16
10 U.S.C. 2622(b)) (as amended by section 1252(g)) is
11 amended by adding at the end the following:

12 “(5)(A) Not later than 1 year after the date of
13 enactment of this paragraph, each State regulatory
14 authority (with respect to each electric utility for
15 which the State regulatory authority has ratemaking
16 authority) and each nonregulated utility shall, with
17 respect to the standard established by section
18 111(d)(15)—

19 “(i) commence the consideration under sec-
20 tion 111(a); or

21 “(ii) set a hearing date for the consider-
22 ation.

23 “(B) Not later than 2 years after the date of
24 enactment of this paragraph, each State regulatory
25 authority (with respect to each electric utility for

1 which the State regulatory authority has ratemaking
2 authority) and each nonregulated electric utility
3 shall, with respect to the standard established by
4 section 111(d)(15), complete the consideration and
5 make the determination under section 111(a).”.

6 (2) FAILURE TO COMPLY.—Section 112(c) of
7 the Public Utility Regulatory Policies Act of 1978
8 (16 U.S.C. 2622(c)) (as amended by section
9 1252(h)) is amended by adding at the end the fol-
10 lowing: “In the case of the standard established by
11 paragraph (15), the reference contained in this sub-
12 section to the date of enactment of this Act shall be
13 considered to be a reference to the date of enact-
14 ment of paragraph (15).”.

15 (3) PRIOR STATE ACTIONS.—

16 (A) IN GENERAL.—Section 112(e) of the
17 Public Utility Regulatory Policies Act of 1978
18 (as added by section 1252(i)(1)) is amended by
19 striking “paragraph 14” and inserting “para-
20 graph (14) or (15)”.

21 (B) CONFORMING AMENDMENT.—Section
22 124 of the Public Utility Regulatory Policies
23 Act of 1978 (16 U.S.C. 2634) (as amended by
24 section 1252(i)(2)) is amended by adding at the
25 end the following: “In the case of each standard

1 established by section 111(d)(15), the reference
2 contained in this section to the date of enact-
3 ment of the Act shall be considered to be a ref-
4 erence to the date of enactment of paragraph
5 (15).”.

6 **Subtitle F—Market Transparency,**
7 **Enforcement, and Consumer**
8 **Protection**

9 **SEC. 1261. MARKET TRANSPARENCY RULES.**

10 Part II of the Federal Power Act (16 U.S.C. 824 et
11 seq.) (as amended by section 1241) is amended by adding
12 at the end the following:

13 **“SEC. 221. MARKET TRANSPARENCY RULES.**

14 “(a) **IN GENERAL.**—The Commission may issue such
15 rules as the Commission considers to be appropriate to
16 establish an electronic information system to provide the
17 Commission and the public with access to such informa-
18 tion as is necessary or appropriate to facilitate price trans-
19 parency and participation in markets for the sale in inter-
20 state commerce of electric energy at wholesale.

21 “(b) **INFORMATION TO BE MADE AVAILABLE.**—(1)
22 The system under subsection (a) shall provide, on a timely
23 basis, information about the availability and market price
24 of wholesale electric energy and transmission services to
25 the Commission, State commissions, buyers and sellers of

1 wholesale electric energy, users of transmission services,
2 and the public.

3 “(2) In determining the information to be made avail-
4 able under the system and the time at which to make such
5 information available, the Commission shall seek to ensure
6 that consumers and competitive markets are protected
7 from the adverse effects of potential collusion or other
8 anticompetitive behaviors that can be facilitated by un-
9 timely public disclosure of transaction-specific informa-
10 tion.

11 “(c) AUTHORITY TO OBTAIN INFORMATION.—The
12 Commission shall have authority to obtain information de-
13 scribed in subsections (a) and (b) from any electric utility
14 or transmitting utility (including any entity described in
15 section 201(f)).

16 “(d) EXEMPTIONS.—The rules of the Commission, if
17 adopted, shall exempt from disclosure information that the
18 Commission determines would, if disclosed—

19 “(1) be detrimental to the operation of an effec-
20 tive market; or

21 “(2) jeopardize system security.

22 “(e) COMMODITY FUTURES TRADING COMMIS-
23 SION.—(1) This section shall not affect the exclusive juris-
24 diction of the Commodity Futures Trading Commission
25 with respect to accounts, agreements, contracts, or trans-

1 actions in commodities under the Commodity Exchange
2 Act (7 U.S.C. 1 et seq.).

3 “(2) Any request for information to a designated con-
4 tract market, registered derivatives transaction execution
5 facility, board of trade, exchange, or market involving an
6 account, agreement, contract, or transaction in a com-
7 modity (including natural gas, electricity and other energy
8 commodities) within the exclusive jurisdiction of the Com-
9 modity Futures Trading Commission shall be directed to
10 the Commodity Futures Trading Commission, which shall
11 cooperate in responding to any information request by the
12 Commission.

13 “(f) SAVINGS PROVISION.—In exercising authority
14 under this section, the Commission shall not—

15 “(1) compete with, or displace from the market
16 place, any price publisher (including any electronic
17 price publisher); or

18 “(2) regulate price publishers (including any
19 electronic price publisher) or impose any require-
20 ments on the publication of information by price
21 publishers (including any electronic price publisher).

22 “(g) ERCOT.—This section shall not apply to a
23 transaction for the purchase or sale of wholesale electric
24 energy or transmission services within the area described
25 in section 212(k)(2)(A).”.

1 **SEC. 1262. FALSE STATEMENTS.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et
3 seq.) (as amended by section 1261) is amended by adding
4 at the end the following:

5 **“SEC. 222. PROHIBITION ON FILING FALSE INFORMATION.**

6 “No entity (including an entity described in section
7 201(f)) shall willfully and knowingly report any informa-
8 tion relating to the price of electricity sold at wholesale
9 or the availability of transmission capacity, which informa-
10 tion the person or any other entity knew to be false at
11 the time of the reporting, to a Federal agency with intent
12 to fraudulently affect the data being compiled by the Fed-
13 eral agency.”.

14 **SEC. 1263. MARKET MANIPULATION.**

15 Part II of the Federal Power Act (16 U.S.C. 824 et
16 seq.) (as amended by section 1262) is amended by adding
17 at the end the following:

18 **“SEC. 223. PROHIBITION OF ENERGY MARKET MANIPULA-**
19 **TION.**

20 “It shall be unlawful for any entity (including an en-
21 tity described in section 201(f)), directly or indirectly, to
22 use or employ, in connection with the purchase or sale of
23 electric energy or the purchase or sale of transmission
24 services subject to the jurisdiction of the Commission, any
25 manipulative or deceptive device or contrivance (as those
26 terms are used in section 10(b) of the Securities Exchange

1 Act of 1934 (15 U.S.C. 78j(b))), in contravention of such
2 rules and regulations as the Commission may prescribe as
3 necessary or appropriate in the public interest or for the
4 protection of electric ratepayers.”.

5 **SEC. 1264. ENFORCEMENT.**

6 (a) COMPLAINTS.—Section 306 of the Federal Power
7 Act (16 U.S.C. 825e) is amended—

8 (1) by inserting “electric utility,” after “Any
9 person,”; and

10 (2) by inserting “, transmitting utility,” after
11 “licensee” each place it appears.

12 (b) INVESTIGATIONS.—Section 307(a) of the Federal
13 Power Act (16 U.S.C. 825f(a)) is amended—

14 (1) by inserting “, electric utility, transmitting
15 utility, or other entity” after “person” each place it
16 appears; and

17 (2) in the first sentence, by inserting before the
18 period at the end the following: “, or in obtaining in-
19 formation about the sale of electric energy at whole-
20 sale in interstate commerce and the transmission of
21 electric energy in interstate commerce”.

22 (c) REVIEW OF COMMISSION ORDERS.—Section
23 313(a) of the Federal Power Act (16 U.S.C. 825l) is
24 amended by inserting “electric utility,” after “person,” in
25 the first 2 places it appears and by striking “any person

1 unless such person” and inserting “any entity unless such
2 entity”.

3 (d) CRIMINAL PENALTIES.—Section 316 of the Fed-
4 eral Power Act (16 U.S.C. 825o) is amended—

5 (1) in subsection (a)—

6 (A) by striking “\$5,000” and inserting
7 “\$1,000,000”; and

8 (B) by striking “two years” and inserting
9 “5 years”;

10 (2) in subsection (b), by striking “\$500” and
11 inserting “\$25,000”; and

12 (3) by striking subsection (c).

13 (e) CIVIL PENALTIES.—Section 316A of the Federal
14 Power Act (16 U.S.C. 825o–1) is amended—

15 (1) by striking “section 211, 212, 213, or 214”
16 each place it appears and inserting “part II”; and

17 (2) in subsection (b), by striking “\$10,000”
18 and inserting “\$1,000,000”.

19 **SEC. 1265. REFUND EFFECTIVE DATE.**

20 Section 206(b) of the Federal Power Act (16 U.S.C.
21 824e(b)) is amended—

22 (1) by striking “the date 60 days after the fil-
23 ing of such complaint nor later than 5 months after
24 the expiration of such 60-day period” in the second
25 sentence and inserting “the date of the filing of such

1 complaint nor later than 5 months after the filing of
2 such complaint”;

3 (2) by striking “60 days after” in the third sen-
4 tence and inserting “of”;

5 (3) by striking “expiration of such 60-day pe-
6 riod” in the third sentence and inserting “publica-
7 tion date”; and

8 (4) by striking the fifth sentence and inserting
9 the following: “If no final decision is rendered by the
10 conclusion of the 180-day period commencing upon
11 initiation of a proceeding pursuant to this section,
12 the Commission shall state the reasons why it has
13 failed to do so and shall state its best estimate as
14 to when it reasonably expects to make such deci-
15 sion.”.

16 **SEC. 1266. REFUND AUTHORITY.**

17 Section 206 of the Federal Power Act (16 U.S.C.
18 824e) is amended by adding at the end the following:

19 “(e)(1) In this subsection:

20 “(A) The term ‘short-term sale’ means an
21 agreement for the sale of electric energy at wholesale
22 in interstate commerce that is for a period of 48
23 hours or less.

24 “(B) The term ‘applicable Commission rule’
25 means a Commission rule applicable to sales at

1 wholesale by public utilities that the Commission de-
2 termines after notice and comment should also be
3 applicable to entities subject to this subsection.

4 “(2) If an entity described in section 201(f) volun-
5 tarily makes a short-term sale of electric energy through
6 an organized market in which the rates for the sale are
7 established by Commission-approved tariff (rather than by
8 contract) and the sale violates the terms of the tariff or
9 applicable Commission rules in effect at the time of the
10 sale, the entity shall be subject to the refund authority
11 of the Commission under this section with respect to the
12 violation.

13 “(3) This section shall not apply to—

14 “(A) any entity that sells in total (including af-
15 filiates of the entity) less than 8,000,000 megawatt
16 hours of electricity per year; or

17 “(B) any electric cooperative.

18 “(4)(A) The Commission shall have refund authority
19 under paragraph (2) with respect to a voluntary short-
20 term sale of electric energy by the Bonneville Power Ad-
21 ministration only if the sale is at an unjust and unreason-
22 able rate.

23 “(B) The Commission may order a refund under sub-
24 paragraph (A) only for short-term sales made by the Bon-
25 neville Power Administration at rates that are higher than

1 the highest just and reasonable rate charged by any other
2 entity for a short-term sale of electric energy in the same
3 geographic market for the same, or most nearly com-
4 parable, period as the sale by the Bonneville Power Ad-
5 ministration.

6 “(5) In the case of any Federal power marketing
7 agency or the Tennessee Valley Authority, the Commission
8 shall not assert or exercise any regulatory authority or
9 power under paragraph (2) other than the ordering of re-
10 funds to achieve a just and reasonable rate.”.

11 **SEC. 1267. CONSUMER PRIVACY AND UNFAIR TRADE PRAC-**
12 **TICES.**

13 (a) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) STATE REGULATORY AUTHORITY.—The
17 term “State regulatory authority” has the meaning
18 given the term in section 3 of the Federal Power Act
19 (16 U.S.C. 796).

20 (3) ELECTRIC CONSUMER; ELECTRIC UTIL-
21 ITY.—The terms “electric consumer” and “electric
22 utility” have the meanings given those terms in sec-
23 tion 3 of the Public Utility Regulatory Policies Act
24 of 1978 (16 U.S.C. 2602).

1 (b) PRIVACY.—The Commission may issue rules pro-
2 tecting the privacy of electric consumers from the dislo-
3 sure of consumer information obtained in connection with
4 the sale or delivery of electric energy to electric consumers.

5 (c) SLAMMING.—The Commission may issue rules
6 prohibiting the change of selection of an electric utility ex-
7 cept with the informed consent of the electric consumer
8 or if approved by the appropriate State regulatory author-
9 ity.

10 (d) CRAMMING.—The Commission may issue rules
11 prohibiting the sale of goods and services to an electric
12 consumer unless expressly authorized by law or the electric
13 consumer.

14 (e) RULEMAKING.—The Commission shall proceed in
15 accordance with section 553 of title 5, United States Code,
16 when prescribing a rule under this section.

17 (f) STATE AUTHORITY.—If the Commission deter-
18 mines that the regulations of a State provide equivalent
19 or greater protection than the protection provided under
20 this section, the regulations of the State shall apply in that
21 State in lieu of the regulations issued by the Commission
22 under this section.

23 **SEC. 1268. OFFICE OF CONSUMER ADVOCACY.**

24 (a) DEFINITIONS.—In this section:

1 (1) ENERGY CUSTOMER.—The term “energy
2 customer” means a residential customer or a small
3 commercial customer that receives products or serv-
4 ices from a public utility or natural gas company
5 under the jurisdiction of the Commission.

6 (2) NATURAL GAS COMPANY.—The term “nat-
7 ural gas company” has the meaning given the term
8 in section 2 of the Natural Gas Act (15 U.S.C.
9 717a), as modified by section 601(a) of the Natural
10 Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

11 (3) OFFICE.—The term “Office” means the Of-
12 fice of Consumer Advocacy established by subsection
13 (b)(1).

14 (4) PUBLIC UTILITY.—The term “public util-
15 ity” has the meaning given the term in section
16 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

17 (5) SMALL COMMERCIAL CUSTOMER.—The term
18 “small commercial customer” means a commercial
19 customer that has a peak demand of not more than
20 1,000 kilowatts per hour.

21 (b) OFFICE.—

22 (1) ESTABLISHMENT.—There is established
23 within the Department the Office of Consumer Ad-
24 vocacy.

1 (2) DUTIES.—The Office may represent the in-
2 terests of energy customers on matters concerning
3 rates or service of public utilities and natural gas
4 companies under the jurisdiction of the
5 Commission—

6 (A) at hearings of the Commission;

7 (B) in civil actions brought in connection
8 with any function carried out by the Commis-
9 sion, except as provided in section 518 of title
10 28, United States Code; and

11 (C) at hearings or proceedings of other
12 Federal regulatory agencies and commissions.

13 **SEC. 1269. AUTHORITY OF COURT TO PROHIBIT PERSONS**
14 **FROM SERVING AS OFFICERS, DIRECTORS,**
15 **AND ENERGY TRADERS.**

16 Section 314 of the Federal Power Act (16 U.S.C.
17 825m) is amended by adding at the end the following:

18 “(d) In any proceedings under subsection (a), the
19 court may prohibit, conditionally or unconditionally, and
20 permanently or for such period of time as the court deter-
21 mines, any person who is engaged or has engaged in prac-
22 tices constituting a violation of section 222 (and related
23 rules and regulations) from—

24 “(1) acting as an officer or director of an elec-
25 tric utility; or

1 “(2) engaging in the business of purchasing or
2 selling—

3 “(A) electric energy; or

4 “(B) transmission services subject to the
5 jurisdiction of the Commission.”.

6 **SEC. 1270. RELIEF FOR EXTRAORDINARY VIOLATIONS.**

7 (a) APPLICATION.—This section applies to any con-
8 tract entered into the Western Interconnection prior to
9 June 20, 2001, with a seller of wholesale electricity that
10 the Commission has—

11 (1) found to have manipulated the electricity
12 market resulting in unjust and unreasonable rates;
13 and

14 (2) revoked the seller’s authority to sell any
15 electricity at market-based rates.

16 (b) RELIEF.—Notwithstanding section 222 of the
17 Federal Power Act (as added by section 1262), any provi-
18 sion of title 11, United States Code, or any other provision
19 of law, in the case of a contract described in subsection
20 (a), the Commission shall have exclusive jurisdiction under
21 the Federal Power Act (16 U.S.C. 791a et seq.) to deter-
22 mine whether a requirement to make termination pay-
23 ments for power not delivered by the seller, or any suc-
24 cessor in interest of the seller, is unlawful on the grounds
25 that it is unjust and unreasonable.

1 (c) APPLICABILITY.—This section applies to any pro-
2 ceeding pending on the date of enactment of this section
3 involving a seller described in subsection (a) in which there
4 is not a final, nonappealable order by the Commission or
5 any other jurisdiction determining the respective rights of
6 the seller.

7 **Subtitle G—Repeal of PUHCA and** 8 **Merger Reform**

9 **SEC. 1271. SHORT TITLE.**

10 This subtitle may be cited as the “Public Utility
11 Holding Company Act of 2005”.

12 **SEC. 1272. DEFINITIONS.**

13 For purposes of this subtitle:

14 (1) AFFILIATE.—The term “affiliate” of a com-
15 pany means any company, 5 percent or more of the
16 outstanding voting securities of which are owned,
17 controlled, or held with power to vote, directly or in-
18 directly, by such company.

19 (2) ASSOCIATE COMPANY.—The term “associate
20 company” of a company means any company in the
21 same holding company system with such company.

22 (3) COMMISSION.—The term “Commission”
23 means the Federal Energy Regulatory Commission.

24 (4) COMPANY.—The term “company” means a
25 corporation, partnership, association, joint stock

1 company, business trust, or any organized group of
2 persons, whether incorporated or not, or a receiver,
3 trustee, or other liquidating agent of any of the fore-
4 going.

5 (5) ELECTRIC UTILITY COMPANY.—The term
6 “electric utility company” means any company that
7 owns or operates facilities used for the generation,
8 transmission, or distribution of electric energy for
9 sale.

10 (6) EXEMPT WHOLESALE GENERATOR AND
11 FOREIGN UTILITY COMPANY.—The terms “exempt
12 wholesale generator” and “foreign utility company”
13 have the same meanings as in sections 32 and 33,
14 respectively, of the Public Utility Holding Company
15 Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those
16 sections existed on the day before the effective date
17 of this subtitle.

18 (7) GAS UTILITY COMPANY.—The term “gas
19 utility company” means any company that owns or
20 operates facilities used for distribution at retail
21 (other than the distribution only in enclosed portable
22 containers or distribution to tenants or employees of
23 the company operating such facilities for their own
24 use and not for resale) of natural or manufactured
25 gas for heat, light, or power.

1 (8) HOLDING COMPANY.—The term “holding
2 company” means—

3 (A) any company that directly or indirectly
4 owns, controls, or holds, with power to vote, 10
5 percent or more of the outstanding voting secu-
6 rities of a public-utility company or of a holding
7 company of any public-utility company; and

8 (B) any person, determined by the Com-
9 mission, after notice and opportunity for hear-
10 ing, to exercise directly or indirectly (either
11 alone or pursuant to an arrangement or under-
12 standing with 1 or more persons) such a con-
13 trolling influence over the management or poli-
14 cies of any public-utility company or holding
15 company as to make it necessary or appropriate
16 for the rate protection of utility customers with
17 respect to rates that such person be subject to
18 the obligations, duties, and liabilities imposed
19 by this subtitle upon holding companies.

20 (9) HOLDING COMPANY SYSTEM.—The term
21 “holding company system” means a holding com-
22 pany, together with its subsidiary companies.

23 (10) JURISDICTIONAL RATES.—The term “ju-
24 risdictional rates” means rates accepted or estab-
25 lished by the Commission for the transmission of

1 electric energy in interstate commerce, the sale of
2 electric energy at wholesale in interstate commerce,
3 the transportation of natural gas in interstate com-
4 merce, and the sale in interstate commerce of nat-
5 ural gas for resale for ultimate public consumption
6 for domestic, commercial, industrial, or any other
7 use.

8 (11) NATURAL GAS COMPANY.—The term “nat-
9 ural gas company” means a person engaged in the
10 transportation of natural gas in interstate commerce
11 or the sale of such gas in interstate commerce for
12 resale.

13 (12) PERSON.—The term “person” means an
14 individual or company.

15 (13) PUBLIC UTILITY.—The term “public util-
16 ity” means any person who owns or operates facili-
17 ties used for transmission of electric energy in inter-
18 state commerce or sales of electric energy at whole-
19 sale in interstate commerce.

20 (14) PUBLIC-UTILITY COMPANY.—The term
21 “public-utility company” means an electric utility
22 company or a gas utility company.

23 (15) STATE COMMISSION.—The term “State
24 commission” means any commission, board, agency,
25 or officer, by whatever name designated, of a State,

1 municipality, or other political subdivision of a State
2 that, under the laws of such State, has jurisdiction
3 to regulate public utility companies.

4 (16) SUBSIDIARY COMPANY.—The term “sub-
5 sidiary company” of a holding company means—

6 (A) any company, 10 percent or more of
7 the outstanding voting securities of which are
8 directly or indirectly owned, controlled, or held
9 with power to vote, by such holding company;
10 and

11 (B) any person, the management or poli-
12 cies of which the Commission, after notice and
13 opportunity for hearing, determines to be sub-
14 ject to a controlling influence, directly or indi-
15 rectly, by such holding company (either alone or
16 pursuant to an arrangement or understanding
17 with 1 or more other persons) so as to make it
18 necessary for the rate protection of utility cus-
19 tomers with respect to rates that such person
20 be subject to the obligations, duties, and liabil-
21 ities imposed by this subtitle upon subsidiary
22 companies of holding companies.

23 (17) VOTING SECURITY.—The term “voting se-
24 curity” means any security presently entitling the

1 owner or holder thereof to vote in the direction or
2 management of the affairs of a company.

3 **SEC. 1273. REPEAL OF THE PUBLIC UTILITY HOLDING COM-**
4 **PANY ACT OF 1935.**

5 The Public Utility Holding Company Act of 1935 (15
6 U.S.C. 79 et seq.) is repealed.

7 **SEC. 1274. FEDERAL ACCESS TO BOOKS AND RECORDS.**

8 (a) IN GENERAL.—Each holding company and each
9 associate company thereof shall maintain, and shall make
10 available to the Commission, such books, accounts, memo-
11 randa, and other records as the Commission determines
12 are relevant to costs incurred by a public utility or natural
13 gas company that is an associate company of such holding
14 company and necessary or appropriate for the protection
15 of utility customers with respect to jurisdictional rates.

16 (b) AFFILIATE COMPANIES.—Each affiliate of a hold-
17 ing company or of any subsidiary company of a holding
18 company shall maintain, and shall make available to the
19 Commission, such books, accounts, memoranda, and other
20 records with respect to any transaction with another affil-
21 iate, as the Commission determines are relevant to costs
22 incurred by a public utility or natural gas company that
23 is an associate company of such holding company and nec-
24 essary or appropriate for the protection of utility cus-
25 tomers with respect to jurisdictional rates.

1 (c) HOLDING COMPANY SYSTEMS.—The Commission
2 may examine the books, accounts, memoranda, and other
3 records of any company in a holding company system, or
4 any affiliate thereof, as the Commission determines are
5 relevant to costs incurred by a public utility or natural
6 gas company within such holding company system and
7 necessary or appropriate for the protection of utility cus-
8 tomers with respect to jurisdictional rates.

9 (d) CONFIDENTIALITY.—No member, officer, or em-
10 ployee of the Commission shall divulge any fact or infor-
11 mation that may come to his or her knowledge during the
12 course of examination of books, accounts, memoranda, or
13 other records as provided in this section, except as may
14 be directed by the Commission or by a court of competent
15 jurisdiction.

16 **SEC. 1275. STATE ACCESS TO BOOKS AND RECORDS.**

17 (a) IN GENERAL.—Upon the written request of a
18 State commission having jurisdiction to regulate a public-
19 utility company in a holding company system, the holding
20 company or any associate company or affiliate thereof,
21 other than such public-utility company, wherever located,
22 shall produce for inspection books, accounts, memoranda,
23 and other records that—

24 (1) have been identified in reasonable detail in
25 a proceeding before the State commission;

1 (2) the State commission determines are rel-
2 evant to costs incurred by such public-utility com-
3 pany; and

4 (3) are necessary for the effective discharge of
5 the responsibilities of the State commission with re-
6 spect to such proceeding.

7 (b) LIMITATION.—Subsection (a) does not apply to
8 any person that is a holding company solely by reason of
9 ownership of 1 or more qualifying facilities under the Pub-
10 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.
11 2601 et seq.).

12 (c) CONFIDENTIALITY OF INFORMATION.—The pro-
13 duction of books, accounts, memoranda, and other records
14 under subsection (a) shall be subject to such terms and
15 conditions as may be necessary and appropriate to safe-
16 guard against unwarranted disclosure to the public of any
17 trade secrets or sensitive commercial information.

18 (d) EFFECT ON STATE LAW.—Nothing in this sec-
19 tion shall preempt applicable State law concerning the pro-
20 vision of books, accounts, memoranda, and other records,
21 or in any way limit the rights of any State to obtain books,
22 accounts, memoranda, and other records under any other
23 Federal law, contract, or otherwise.

24 (e) COURT JURISDICTION.—Any United States dis-
25 trict court located in the State in which the State commis-

1 sion referred to in subsection (a) is located shall have ju-
2 risdiction to enforce compliance with this section.

3 **SEC. 1276. EXEMPTION AUTHORITY.**

4 (a) RULEMAKING.—Not later than 90 days after the
5 effective date of this subtitle, the Commission shall issue
6 a final rule to exempt from the requirements of section
7 1274 (relating to Federal access to books and records) any
8 person that is a holding company, solely with respect to
9 1 or more—

10 (1) qualifying facilities under the Public Utility
11 Regulatory Policies Act of 1978 (16 U.S.C. 2601 et
12 seq.);

13 (2) exempt wholesale generators; or

14 (3) foreign utility companies.

15 (b) OTHER AUTHORITY.—The Commission shall ex-
16 empt a person or transaction from the requirements of
17 section 1274 (relating to Federal access to books and
18 records) if, upon application or upon the motion of the
19 Commission—

20 (1) the Commission finds that the books, ac-
21 counts, memoranda, and other records of any person
22 are not relevant to the jurisdictional rates of a pub-
23 lic utility or natural gas company; or

1 (2) the Commission finds that any class of
2 transactions is not relevant to the jurisdictional
3 rates of a public utility or natural gas company.

4 **SEC. 1277. AFFILIATE TRANSACTIONS.**

5 (a) COMMISSION AUTHORITY UNAFFECTED.—Noth-
6 ing in this subtitle shall limit the authority of the Commis-
7 sion under the Federal Power Act (16 U.S.C. 791a et seq.)
8 to require that jurisdictional rates are just and reasonable,
9 including the ability to deny or approve the pass through
10 of costs, the prevention of cross-subsidization, and the
11 issuance of such rules and regulations as are necessary
12 or appropriate for the protection of utility consumers.

13 (b) RECOVERY OF COSTS.—Nothing in this subtitle
14 shall preclude the Commission or a State commission from
15 exercising its jurisdiction under otherwise applicable law
16 to determine whether a public-utility company, public util-
17 ity, or natural gas company may recover in rates any costs
18 of an activity performed by an associate company, or any
19 costs of goods or services acquired by such public-utility
20 company from an associate company.

21 **SEC. 1278. APPLICABILITY.**

22 Except as otherwise specifically provided in this sub-
23 title, no provision of this subtitle shall apply to, or be
24 deemed to include—

25 (1) the United States;

1 (2) a State or any political subdivision of a
2 State;

3 (3) any foreign governmental authority not op-
4 erating in the United States;

5 (4) any agency, authority, or instrumentality of
6 any entity referred to in paragraph (1), (2), or (3);
7 or

8 (5) any officer, agent, or employee of any entity
9 referred to in paragraph (1), (2), (3), or (4) acting
10 as such in the course of his or her official duty.

11 **SEC. 1279. EFFECT ON OTHER REGULATIONS.**

12 Nothing in this subtitle precludes the Commission or
13 a State commission from exercising its jurisdiction under
14 otherwise applicable law to protect utility customers.

15 **SEC. 1280. ENFORCEMENT.**

16 The Commission shall have the same powers as set
17 forth in sections 306 through 317 of the Federal Power
18 Act (16 U.S.C. 825e–825p) to enforce the provisions of
19 this subtitle.

20 **SEC. 1281. SAVINGS PROVISIONS.**

21 (a) IN GENERAL.—Nothing in this subtitle, or other-
22 wise in the Public Utility Holding Company Act of 1935,
23 or rules, regulations, or orders thereunder, prohibits a per-
24 son from engaging in or continuing to engage in activities
25 or transactions in which it is legally engaged or authorized

1 to engage on the date of enactment of this Act, if that
2 person continues to comply with the terms (other than an
3 expiration date or termination date) of any such author-
4 ization, whether by rule or by order.

5 (b) EFFECT ON OTHER COMMISSION AUTHORITY.—
6 Nothing in this subtitle limits the authority of the Com-
7 mission under the Federal Power Act (16 U.S.C. 791a et
8 seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

9 **SEC. 1282. IMPLEMENTATION.**

10 Not later than 4 months after the date of enactment
11 of this subtitle, the Commission shall—

12 (1) promulgate such regulations as may be nec-
13 essary or appropriate to implement this subtitle
14 (other than section 1275, relating to State access to
15 books and records); and

16 (2) submit to Congress detailed recommenda-
17 tions on technical and conforming amendments to
18 Federal law necessary to carry out this subtitle and
19 the amendments made by this subtitle.

20 **SEC. 1283. TRANSFER OF RESOURCES.**

21 All books and records that relate primarily to the
22 functions transferred to the Commission under this sub-
23 title shall be transferred from the Securities and Exchange
24 Commission to the Commission.

1 **SEC. 1284. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except for section 1282 (relating
3 to implementation), this subtitle shall take effect 6 months
4 after the date of enactment of this subtitle.

5 (b) COMPLIANCE WITH CERTAIN RULES.—If the
6 Commission approves and makes effective any final rule-
7 making modifying the standards of conduct governing en-
8 tities that own, operate, or control facilities for trans-
9 mission of electricity in interstate commerce or transpor-
10 tation of natural gas in interstate commerce prior to the
11 effective date of this subtitle, any action taken by a public-
12 utility company or utility holding company to comply with
13 the requirements of such rulemaking shall not subject
14 such public-utility company or utility holding company to
15 any regulatory requirement applicable to a holding com-
16 pany under the Public Utility Holding Company Act of
17 1935 (15 U.S.C. 79 et seq.).

18 **SEC. 1285. SERVICE ALLOCATION.**

19 (a) FERC REVIEW.—In the case of non-power goods
20 or administrative or management services provided by an
21 associate company organized specifically for the purpose
22 of providing such goods or services to any public utility
23 in the same holding company system, at the election of
24 the system or a State commission having jurisdiction over
25 the public utility, the Commission, after the effective date
26 of this subtitle, shall review and authorize the allocation

1 of the costs for such goods or services to the extent rel-
2 evant to that associate company in order to assure that
3 each allocation is appropriate for the protection of inves-
4 tors and consumers of such public utility.

5 (b) COST ALLOCATION.—Nothing in this section shall
6 preclude the Commission or a State commission from exer-
7 cising its jurisdiction under other applicable law with re-
8 spect to the review or authorization of any costs allocated
9 to a public utility in a holding company system located
10 in the affected State as a result of the acquisition of non-
11 power goods or administrative and management services
12 by such public utility from an associate company orga-
13 nized specifically for that purpose.

14 (c) RULES.—Not later than 6 months after the date
15 of enactment of this Act, the Commission shall issue rules
16 (which rules shall be effective no earlier than the effective
17 date of this subtitle) to exempt from the requirements of
18 this section any company in a holding company system
19 whose public utility operations are confined substantially
20 to a single State and any other class of transactions that
21 the Commission finds is not relevant to the jurisdictional
22 rates of a public utility.

23 (d) PUBLIC UTILITY.—As used in this section, the
24 term “public utility” has the meaning given that term in
25 section 201(e) of the Federal Power Act.

1 **SEC. 1286. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such funds
3 as may be necessary to carry out this subtitle.

4 **SEC. 1287. CONFORMING AMENDMENTS TO THE FEDERAL**
5 **POWER ACT.**

6 (a) CONFLICT OF JURISDICTION.—Section 318 of the
7 Federal Power Act (16 U.S.C. 825q) is repealed.

8 (b) DEFINITIONS.—(1) Section 201(g)(5) of the
9 Federal Power Act (16 U.S.C. 824(g)(5)) is amended by
10 striking “1935” and inserting “2005”.

11 (2) Section 214 of the Federal Power Act (16 U.S.C.
12 824m) is amended by striking “1935” and inserting
13 “2005”.

14 **SEC. 1288. MERGER REVIEW REFORM.**

15 (a) IN GENERAL.—Section 203(a) of the Federal
16 Power Act (16 U.S.C. 824b(a)) is amended to read as fol-
17 lows:

18 “(a)(1) No public utility shall, without first having
19 secured an order of the Commission authorizing it to do
20 so—

21 “(A) sell, lease, or otherwise dispose of the
22 whole of its facilities subject to the jurisdiction
23 of the Commission, or any part thereof of a
24 value in excess of \$10,000,000;

25 “(B) merge or consolidate, directly or indi-
26 rectly, such facilities or any part thereof with

1 those of any other person, by any means what-
2 soever;

3 “(C) purchase, acquire, or take any secu-
4 rity with a value in excess of \$10,000,000 of
5 any other public utility; or

6 “(D) purchase, lease, or otherwise acquire
7 an existing generation facility—

8 “(i) that has a value in excess of
9 \$10,000,000; and

10 “(ii) that is used for interstate whole-
11 sale sales and over which the Commission
12 has jurisdiction for ratemaking purposes.

13 “(2) No holding company in a holding company
14 system that includes a transmitting utility or an
15 electric utility shall purchase, acquire, or take any
16 security with a value in excess of \$10,000,000 of, or,
17 by any means whatsoever, directly or indirectly,
18 merge or consolidate with, a transmitting utility, an
19 electric utility company, or a gas utility company, or
20 a holding company in a holding company system
21 that includes a transmitting utility, an electric utility
22 company, or a gas utility company with a value in
23 excess of \$10,000,000 without first having secured
24 an order of the Commission authorizing it to do so.

1 “(3) Upon receipt of an application for such ap-
2 proval the Commission shall give reasonable notice
3 in writing to the Governor and State commission of
4 each of the States in which the physical property af-
5 fected, or any part thereof, is situated, and to such
6 other persons as it may deem advisable.

7 “(4) After notice and opportunity for hearing,
8 the Commission shall approve the proposed disposi-
9 tion, consolidation, acquisition, or change in control,
10 if it finds that the proposed transaction—

11 “(A) will be consistent with the public in-
12 terest, taking into account the effect of the
13 transaction on competition in the electricity
14 markets, electric rates, and effective regulation;
15 and

16 “(B) shall not result in cross-subsidization
17 of a non-utility associate company or the pledge
18 or encumbrance of utility assets for the benefit
19 of an associate company, unless the Commis-
20 sion determines that the cross-subsidization,
21 pledge, or encumbrance would not be harmful.

22 “(5) The Commission shall, by rule, adopt pro-
23 cedures for the expeditious consideration of applica-
24 tions for the approval of dispositions, consolidations,
25 or acquisitions, under this section. Such rules shall

1 identify classes of transactions, or specify criteria for
2 transactions, that normally meet the standards es-
3 tablished in paragraph (4). The Commission shall
4 provide expedited review for such transactions. The
5 Commission shall grant or deny any other applica-
6 tion for approval of a transaction not later than 180
7 days after the application is filed. If the Commission
8 does not act within 180 days, such application shall
9 be deemed granted unless the Commission finds,
10 based on good cause, that further consideration is
11 required to determine whether the proposed trans-
12 action meets the standards of paragraph (4) and
13 issues an order tolling the time for acting on the ap-
14 plication for not more than 180 days, at the end of
15 which additional period the Commission shall grant
16 or deny the application.

17 “(6) For purposes of this subsection, the terms
18 ‘associate company’, ‘holding company’, and ‘holding
19 company system’ have the meaning given those
20 terms in the Public Utility Holding Company Act of
21 2005.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect 6 months after the date of
24 enactment of this Act.

1 **Subtitle H—Definitions**

2 **SEC. 1291. DEFINITIONS.**

3 (a) COMMISSION.—In this title, the term “Commis-
4 sion” means the Federal Energy Regulatory Commission.

5 (b) AMENDMENT.—Section 3 of the Federal Power
6 Act (16 U.S.C. 796) is amended—

7 (1) by striking paragraphs (22) and (23) and
8 inserting the following:

9 “(22) ELECTRIC UTILITY.—(A) The term ‘elec-
10 tric utility’ means a person or Federal or State
11 agency (including an entity described in section
12 201(f)) that sells electric energy.

13 “(B) The term ‘electric utility’ includes the
14 Tennessee Valley Authority and each Federal power
15 marketing administration.

16 “(23) TRANSMITTING UTILITY.—The term
17 ‘transmitting utility’ means an entity (including an
18 entity described in section 201(f)) that owns, oper-
19 ates, or controls facilities used for the transmission
20 of electric energy—

21 “(A) in interstate commerce;

22 “(B) for the sale of electric energy at
23 wholesale.”; and

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

1 “(26) ELECTRIC COOPERATIVE.—The term
2 ‘electric cooperative’ means a cooperatively owned
3 electric utility.

4 “(27) RTO.—The term ‘Regional Transmission
5 Organization’ or ‘RTO’ means an entity of sufficient
6 regional scope approved by the Commission—

7 “(A) to exercise operational or functional
8 control of facilities used for the transmission of
9 electric energy in interstate commerce; and

10 “(B) to ensure nondiscriminatory access to
11 the facilities.

12 “(28) ISO.—The term ‘Independent System
13 Operator’ or ‘ISO’ means an entity approved by the
14 Commission—

15 “(A) to exercise operational or functional
16 control of facilities used for the transmission of
17 electric energy in interstate commerce; and

18 “(B) to ensure nondiscriminatory access to
19 the facilities.

20 “(29) TRANSMISSION ORGANIZATION.—The
21 term ‘Transmission Organization’ means a Regional
22 Transmission Organization, Independent System Op-
23 erator, independent transmission provider, or other
24 transmission organization finally approved by the

1 Commission for the operation of transmission facili-
2 ties.”.

3 (c) APPLICABILITY.—Section 201(f) of the Federal
4 Power Act (16 U.S.C. 824(f)) is amended by striking “po-
5 litical subdivision of a state,” and inserting “political sub-
6 division of a State, an electric cooperative that receives
7 financing under the Rural Electrification Act of 1936 (7
8 U.S.C. 901 et seq.) or that sells less than 4,000,000 mega-
9 watt hours of electricity per year,”.

10 **Subtitle I—Technical and** 11 **Conforming Amendments**

12 **SEC. 1295. CONFORMING AMENDMENTS.**

13 (a) Section 201 of the Federal Power Act (16 U.S.C.
14 824) is amended—

15 (1) in subsection (b)(2)—

16 (A) in the first sentence—

17 (i) by striking “The” and inserting
18 “Notwithstanding section 201(f), the”; and

19 (ii) by striking “210, 211, and 212”
20 and inserting “203(a)(2), 206(e), 210,
21 211, 211A, 212, 215, 216, 217, 218, 219,
22 220, 221, 222, and 223”; and

23 (B) in the second sentence—

24 (i) by inserting “or rule” after “any
25 order”; and

1 (ii) by striking “210 or 211” and in-
2 sserting “203(a)(2), 206(e), 210, 211,
3 211A, 212, 215, 216, 217, 218, 219, 220,
4 221, 222, or 223”; and

5 (2) in subsection (e), by striking “210, 211, or
6 212” and inserting “206(e), 206(f), 210, 211, 211A,
7 212, 215, 216, 217, 218, 219, 220, 221, 222, or
8 223”.

9 (b) Section 206 of the Federal Power Act (16 U.S.C.
10 824e) is amended—

11 (1) in the first sentence of subsection (a), by
12 striking “hearing had” and inserting “hearing held”;
13 and

14 (2) in the seventh sentence of subsection (b), by
15 striking “the public utility to make”.

16 (c) Section 211 of the Federal Power Act (16 U.S.C.
17 824j) is amended—

18 (1) in subsection (c)—

19 (A) by striking “(2)”;

20 (B) by striking “(A)” and inserting “(1)”

21 (C) by striking “(B)” and inserting “(2)”;

22 and

23 (D) by striking “termination of modifica-
24 tion” and inserting “termination or modifica-
25 tion”; and

1 (2) in the second sentence of subsection (d)(1),
2 by striking “electric utility” the second place it ap-
3 pears and inserting “transmitting utility”.

4 (d) Section 315(c) of the Federal Power Act (16
5 U.S.C. 825n(c)) is amended by striking “subsection” and
6 inserting “section”.

7 **TITLE XIII—STUDIES**

8 **SEC. 1301. ENERGY AND WATER SAVING MEASURES IN CON-** 9 **GRESSIONAL BUILDINGS.**

10 (a) IN GENERAL.—The Architect of the Capitol,
11 building on the Master Plan Study for the Capitol complex
12 completed in July 2000, shall commission a study to
13 evaluate the energy infrastructure of the Capitol complex
14 to determine how to augment the infrastructure to become
15 more energy efficient—

16 (1) by using unconventional and renewable en-
17 ergy resources; and

18 (2) in a manner that would enable the Capitol
19 complex to have reliable utility service in the event
20 of power fluctuations, shortages, or outages.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to the Architect of the Cap-
23 itol to carry out this section \$2,000,000 for each of fiscal
24 years 2006 through 2010.

1 **SEC. 1302. INCREASED HYDROELECTRIC GENERATION AT**
2 **EXISTING FEDERAL FACILITIES.**

3 (a) STUDY.—

4 (1) IN GENERAL.—The Secretary and the Sec-
5 retary of the Interior, in consultation with the Sec-
6 retary of the Army, shall conduct a study of the po-
7 tential for increasing electric power production capa-
8 bility, in accordance with applicable law, at federally
9 owned or operated water regulation, storage, and
10 conveyance facilities.

11 (2) CONTENTS.—The study under paragraph
12 (1) shall include an identification and detailed de-
13 scription of each facility that is capable, with or
14 without modification, of producing additional hydro-
15 electric power, including an estimate of the potential
16 of the facility to generate hydroelectric power.

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 18 months
19 after the date of enactment of this Act, the Secre-
20 taries shall submit to the Committee on Energy and
21 the Committee on Commerce, Resources, Transpor-
22 tation and Infrastructure of the House of Represent-
23 atives, and the Committee on Energy and Natural
24 Resources of the Senate, a report describing the
25 findings, conclusions, and recommendations of the
26 study under subsection (a).

1 (2) INCLUSIONS.—The report under paragraph
2 (1) shall include—

3 (A) each identification, description, and es-
4 timate under subsection (a)(2);

5 (B) a description of any activity that is
6 conducted or under consideration, or that could
7 be considered, to produce additional hydro-
8 electric power at an identified facility;

9 (C) a summary of actions taken by the
10 Secretaries before the date on which the study
11 was completed to produce additional hydro-
12 electric power at an identified facility;

13 (D) a calculation of—

14 (i) the costs of installing, upgrading,
15 modifying, or taking any other action re-
16 lating to, equipment to produce additional
17 hydroelectric power at an identified facil-
18 ity; and

19 (ii) the level of involvement of Federal
20 power customers in the determination of
21 the costs;

22 (E) a description of any benefit to be
23 achieved by an installation, upgrade, modifica-
24 tion, or other action under subparagraph (D),
25 including a quantified estimate of any addi-

1 tional energy or capacity produced at an identi-
2 fied facility;

3 (F) a description of any action that is
4 planned, is being carried out on the date on
5 which the report is submitted, or might reason-
6 ably be considered to increase hydroelectric
7 power production by replacing turbine runners,
8 upgrading or rewinding generators, or con-
9 structing pumped storage facilities;

10 (G) a description of the effect of increased
11 hydroelectric power production on—

12 (i) irrigation;

13 (ii) fish;

14 (iii) wildlife;

15 (iv) Indian land;

16 (v) river health;

17 (vi) water quality;

18 (vii) navigation;

19 (viii) recreation;

20 (ix) fishing; and

21 (x) flood control; and

22 (H) any additional recommendations of the
23 Secretaries to increase hydroelectric power pro-
24 duction, and reduce costs and improve effi-
25 ciency, in accordance with applicable law, at

1 federally owned or operated water regulation,
2 storage, and conveyance facilities.

3 **SEC. 1303. ALASKA NATURAL GAS PIPELINE.**

4 Not later than 180 days after the date of enactment
5 of this Act, and every 180 days thereafter until the Alaska
6 natural gas pipeline commences operation, the Federal
7 Energy Regulatory Commission shall submit to Congress
8 a report describing—

9 (1) the progress made in licensing and con-
10 structing the pipeline; and

11 (2) any issue impeding that progress.

12 **SEC. 1304. RENEWABLE ENERGY ON FEDERAL LAND.**

13 (a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not
14 later than 90 days after the date of enactment of this Act,
15 the Secretary of the Interior shall enter into a contract
16 with the National Academy of Sciences under which the
17 National Academy of Sciences shall—

18 (1) study the potential of developing wind,
19 solar, and ocean energy resources (including tidal,
20 wave, and thermal energy) on Federal land available
21 for those uses under current law and the outer Con-
22 tinental Shelf;

23 (2) assess any Federal law (including regula-
24 tions) relating to the development of those resources

1 that is in existence on the date of enactment of this
2 Act; and

3 (3) recommend statutory and regulatory mecha-
4 nisms for developing those resources.

5 (b) SUBMISSION TO CONGRESS.—Not later than 2
6 years after the date of enactment of this Act, the Sec-
7 retary of the Interior shall submit to Congress the results
8 of the study under subsection (a).

9 **SEC. 1305. COAL BED METHANE STUDY.**

10 (a) STUDY.—

11 (1) IN GENERAL.—The Secretary of the Inte-
12 rior shall enter into an arrangement under which the
13 National Academy of Sciences shall conduct a study
14 on the effect of coalbed natural gas production on
15 surface and ground water resources, including
16 ground water aquifers, in the States of Montana,
17 Wyoming, Colorado, New Mexico, North Dakota,
18 and Utah.

19 (2) MATTERS TO BE ADDRESSED.—The study
20 shall address the effectiveness of—

21 (A) the management of coal bed methane
22 produced water;

23 (B) the use of best management practices;
24 and

1 (C) various production techniques for coal
2 bed methane natural gas in minimizing impacts
3 on water resources.

4 (b) DATA ANALYSIS.—The study shall analyze avail-
5 able hydrologic, geologic and water quality data, along
6 with—

7 (1) production techniques, produced water man-
8 agement techniques, best management practices, and
9 other factors that can mitigate effects of coal bed
10 methane development;

11 (2) the costs associated with mitigation tech-
12 niques;

13 (3) effects on surface or ground water re-
14 sources, including drinking water, associated with
15 surface or subsurface disposal of waters produced
16 during extraction of coal bed methane; and

17 (4) any other significant effects on surface or
18 ground water resources associated with production
19 of coal-bed methane.

20 (c) RECOMMENDATIONS.—The study shall analyze
21 the effectiveness of current mitigation practices of coal bed
22 methane produced water handling in relation to existing
23 Federal and State laws and regulations, and make rec-
24 ommendations as to changes, if any, to Federal law nec-
25 essary to address adverse impacts to surface or ground

1 water resources associated with coal bed methane develop-
2 ment.

3 (d) COMPLETION OF STUDY.—The National Acad-
4 emy of Sciences shall submit the findings and rec-
5 ommendations of the study to the Secretary of the Interior
6 within 12 months after the date of enactment of this Act,
7 and shall upon completion make the results of the study
8 available to the public.

9 (e) REPORT TO CONGRESS.—The Secretary of the In-
10 terior shall report to the Congress within 6 months after
11 receiving the results of the study on—

12 (1) the findings and recommendations of the
13 study;

14 (2) the Secretary's agreement or disagreement
15 with each of its findings and recommendations; and

16 (3) any recommended changes in funding to ad-
17 dress the effects of coal bed methane production on
18 surface and ground water resources.

19 **SEC. 1306. BACKUP FUEL CAPABILITY STUDY.**

20 (a) STUDY.—

21 (1) IN GENERAL.—The Secretary shall conduct
22 a study of the effect of obtaining and maintaining
23 liquid and other fuel backup capability at—

24 (A) gas-fired power generation facilities;

25 and

1 (B) other gas-fired industrial facilities.

2 (2) CONTENTS.—The study under paragraph

3 (1) shall address—

4 (A) the costs and benefits of adding a dif-
5 ferent fuel capability to a power gas-fired power
6 generating or industrial facility, taking into
7 consideration regional differences;

8 (B) methods of the Federal Government
9 and State governments to encourage gas-fired
10 power generators and industries to develop the
11 capability to power the facilities using a backup
12 fuel;

13 (C) the effect on the supply and cost of
14 natural gas of—

15 (i) a balanced portfolio of fuel choices
16 in power generation and industrial applica-
17 tions; and

18 (ii) State regulations that permit
19 agencies in the State to carry out policies
20 that encourage the use of other backup
21 fuels in gas-fired power generation; and

22 (D) changes required in the Clean Air Act
23 (42 U.S.C. 7401 et seq.) to allow natural gas
24 generators to add clean backup fuel capabilities.

1 (b) REPORT TO CONGRESS.—Not later than 1 year
2 after the date of enactment of this Act, the Secretary shall
3 submit to Congress a report on the results of the study
4 under subsection (a), including recommendations regard-
5 ing future activity of the Federal Government relating to
6 backup fuel capability.

7 **SEC. 1307. INDIAN LAND RIGHTS-OF-WAY.**

8 (a) STUDY.—

9 (1) IN GENERAL.—The Secretary and the Sec-
10 retary of the Interior (referred to in this section as
11 the “Secretaries”) shall jointly conduct a study of
12 issues regarding energy rights-of-way on tribal land
13 (as defined in section 2601 of the Energy Policy Act
14 of 1992 (as amended by section 503)) (referred to
15 in this section as “tribal land”).

16 (2) CONSULTATION.—In conducting the study
17 under paragraph (1), the Secretaries shall consult
18 with Indian tribes, the energy industry, appropriate
19 governmental entities, and affected businesses and
20 consumers.

21 (b) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the Secretaries shall submit to
23 Congress a report on the findings of the study,
24 including—

1 (1) an analysis of historic rates of compensation
2 paid for energy rights-of-way on tribal land;

3 (2) recommendations for appropriate standards
4 and procedures for determining fair and appropriate
5 compensation to Indian tribes for grants, expan-
6 sions, and renewals of energy rights-of-way on tribal
7 land;

8 (3) an assessment of the tribal self-determina-
9 tion and sovereignty interests implicated by applica-
10 tions for the grant, expansion, or renewal of energy
11 rights-of-way on tribal land; and

12 (4) an analysis of relevant national energy
13 transportation policies relating to grants, expan-
14 sions, and renewals of energy rights-of-way on tribal
15 land.

16 **SEC. 1308. REVIEW OF ENERGY POLICY ACT OF 1992 PRO-**
17 **GRAMS.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of enactment of this Act, the Secretary shall complete
20 a study to determine the effect that titles III, IV, and V
21 of the Energy Policy Act of 1992 (42 U.S.C. 13211 et
22 seq.) have had during the period beginning on the date
23 of enactment of those titles and ending on the date on
24 which the study begins on—

1 (1) the development of alternative fueled vehicle
2 technology;

3 (2) the availability of that technology in the
4 market; and

5 (3) the cost of alternative fueled vehicles.

6 (b) TOPICS.—In conducting the study under sub-
7 section (a), the Secretary shall identify—

8 (1) the number of alternative fueled vehicles ac-
9 quired by fleets or covered persons required to ac-
10 quire alternative fueled vehicles;

11 (2) the quantity, by type, of alternative fuel
12 used in alternative fueled vehicles acquired by fleets
13 or covered persons;

14 (3) the quantity of petroleum displaced by the
15 use of alternative fuels in alternative fueled vehicles
16 acquired by fleets or covered persons;

17 (4) the direct and indirect costs of compliance
18 with requirements under titles III, IV, and V of the
19 Energy Policy Act of 1992 (42 U.S.C. 13211 et
20 seq.), including—

21 (A) vehicle acquisition requirements im-
22 posed on fleets or covered persons;

23 (B) administrative and recordkeeping ex-
24 penses;

25 (C) fuel and fuel infrastructure costs;

1 (D) associated training and employee ex-
2 penses; and

3 (E) any other factors or expenses the Sec-
4 retary determines to be necessary to compile re-
5 liable estimates of the overall costs and benefits
6 of complying with programs under those titles
7 for fleets, covered persons, and the national
8 economy;

9 (5) the existence of obstacles preventing compli-
10 ance with vehicle acquisition requirements and in-
11 creased use of alternative fuel in alternative fueled
12 vehicles acquired by fleets or covered persons; and

13 (6) the projected impact of amendments to the
14 Energy Policy Act of 1992 made by this Act.

15 (c) REPORT.—On the date on which the study under
16 subsection (a) is completed, the Secretary shall submit to
17 Congress a report that—

18 (1) describes the results of the study; and

19 (2) includes any recommendations of the Sec-
20 retary for legislative or administrative changes con-
21 cerning the alternative fueled vehicle requirements
22 under titles III, IV and V of the Energy Policy Act
23 of 1992 (42 U.S.C. 13211 et seq.).

1 **SEC. 1309. STUDY OF FEASIBILITY AND EFFECTS OF RE-**
2 **DUCING USE OF FUEL FOR AUTOMOBILES.**

3 (a) STUDY.—

4 (1) IN GENERAL.—Not later than 30 days after
5 the date of the enactment of this Act, the Adminis-
6 trator of the National Highway Traffic Safety Ad-
7 ministration shall conduct a study of the feasibility
8 and effects of reducing, by a significant percentage,
9 by model year 2012, the amount of fuel consumed
10 by automobiles.

11 (2) INCLUSIONS.—The study under paragraph
12 (1) shall include an examination of—

13 (A) the Federal policy of establishing aver-
14 age fuel economy standards for automobiles and
15 requiring each automobile manufacturer to
16 comply with average fuel economy standards
17 that apply to the automobiles the manufacturer
18 produces (including recommendations of alter-
19 natives to that policy);

20 (B) methods by which automobile manu-
21 facturers could contribute toward achieving the
22 reduction described in paragraph (1);

23 (C) the potential of using fuel cell tech-
24 nology in motor vehicles to determine the extent
25 to which fuel cell technology contributes to

1 achieving the reduction described in paragraph
2 (1); and

3 (D) the effects of the reduction described
4 in paragraph (1) on—

5 (i) gasoline supplies;

6 (ii) the automobile industry, including
7 sales of automobiles manufactured in the
8 United States;

9 (iii) motor vehicle safety;

10 (iv) air quality; and

11 (v) the consumer price for light duty
12 trucks typically purchased for agricultural
13 purposes, including by providing estimates
14 for price differences for the years 2008
15 through 2012, comparing—

16 (I) light duty truck fuel economy
17 if no legislative changes are made to
18 average fuel economy standards; to

19 (II) light duty truck fuel econ-
20 omy under the reduction described in
21 paragraph (1).

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, the Administrator shall submit
24 to Congress a report on the findings, conclusions, and rec-
25 ommendations of the study under subsection (a).

1 **SEC. 1310. HYBRID DISTRIBUTED POWER SYSTEMS.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Secretary shall develop, and submit to
4 Congress a report on, a strategy for a comprehensive re-
5 search, development, demonstration, and commercial ap-
6 plication program to develop hybrid distributed power sys-
7 tems that combine—

8 (1) 1 or more renewable electric power genera-
9 tion technologies of 10 megawatts or less located
10 near the site of electric energy use; and

11 (2) nonintermittent electric power generation
12 technologies suitable for use in a distributed power
13 system.

14 **SEC. 1311. MOBILITY OF SCIENTIFIC AND TECHNICAL PER-**
15 **SONNEL.**

16 Not later than 2 years after the date of enactment
17 of this section, the Secretary shall transmit to Congress
18 a report that—

19 (1) identifies any policies or procedures of a
20 contractor operating a National Laboratory or sin-
21 gle-purpose research facility that create disincentives
22 to the temporary or permanent transfer of scientific
23 and technical personnel among the contractor-oper-
24 ated National Laboratories or contractor-operated
25 single-purpose research facilities; and

1 (2) provides recommendations for improving
2 interlaboratory exchange of scientific and technical
3 personnel.

4 **SEC. 1312. NATIONAL ACADEMY OF SCIENCES REPORT.**

5 Not later than 90 days after the date of enactment
6 of this Act, the Secretary shall enter into an arrangement
7 with the National Academy of Sciences for the Academy
8 to—

9 (1) conduct a study on—

10 (A) the obstacles to accelerating the re-
11 search, development, demonstration, and com-
12 mercial application cycle for energy technology;
13 and

14 (B) the adequacy of Department policies
15 and procedures for, and oversight of, technology
16 transfer-related disputes between contractors of
17 the Department and the private sector; and

18 (2) report to Congress on recommendations de-
19 veloped as a result of the study.

20 **SEC. 1313. REPORT ON RESEARCH AND DEVELOPMENT**
21 **PROGRAM EVALUATION METHODOLOGIES.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, the Secretary shall enter
24 into appropriate arrangements with the National Academy
25 of Sciences to investigate and report on the scientific and

1 technical merits of any evaluation methodology currently
2 in use or proposed for use in relation to the scientific and
3 technical programs of the Department by the Secretary
4 or other Federal official.

5 (b) REPORT.—Not later than 180 days after receiv-
6 ing the report of the National Academy of Sciences, the
7 Secretary shall submit to Congress a report, along with
8 any other views or plans of the Secretary with respect to
9 the future use of the evaluation methodology.

10 **SEC. 1314. TRANSMISSION SYSTEM MONITORING STUDY.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of enactment of this Act, the Secretary and the
13 Chairperson of the Federal Energy Regulatory Commis-
14 sion shall conduct a study, and submit to Congress a re-
15 port, on any action the Secretary determines to be nec-
16 essary to establish a system that makes available to all
17 transmission system owners and regional transmission or-
18 ganizations in the Eastern and Western Interconnections
19 real-time information on the functional status of all trans-
20 mission lines within those Interconnections.

21 (b) INCLUSIONS.—The study under this section shall
22 include—

23 (1) an assessment of any technical method of
24 implementing the information transmission system
25 described in subsection (a); and

1 (2) an identification of any action the Secretary
2 and the Chairperson shall carry out to implement
3 the information transmission system.

4 **SEC. 1315. INTERAGENCY REVIEW OF COMPETITION IN THE**
5 **WHOLESALE AND RETAIL MARKETS FOR**
6 **ELECTRIC ENERGY.**

7 (a) **TASK FORCE.**—There is established an inter-
8 agency task force, to be known as the “Electric Energy
9 Market Competition Task Force” (referred to in this sec-
10 tion as the “task force”), consisting of 5 members—

11 (1) 1 of whom shall be an employee of the De-
12 partment of Justice, to be appointed by the Attorney
13 General of the United States;

14 (2) 1 of whom shall be an employee of the Fed-
15 eral Energy Regulatory Commission, to be appointed
16 by the Chairperson of that Commission;

17 (3) 1 of whom shall be an employee of the Fed-
18 eral Trade Commission, to be appointed by the
19 Chairperson of that Commission;

20 (4) 1 of whom shall be an employee of the De-
21 partment, to be appointed by the Secretary; and

22 (5) 1 of whom shall be an employee of the
23 Rural Utilities Service, to be appointed by the Sec-
24 retary of Agriculture.

25 (b) **STUDY AND REPORT.**—

1 (1) STUDY.—The task force shall conduct a
2 study and analysis of competition within the whole-
3 sale and retail market for electric energy in the
4 United States.

5 (2) REPORT.—

6 (A) FINAL REPORT.—Not later than 1
7 year after the date of enactment of this Act, the
8 task force shall submit to Congress a final re-
9 port on the findings of the task force under
10 paragraph (1).

11 (B) PUBLIC COMMENT.—Not later than
12 the date that is 60 days before a final report
13 is submitted to Congress under subparagraph
14 (A), the task force shall—

15 (i) publish in the Federal Register a
16 draft of the report; and

17 (ii) provide an opportunity for public
18 comment on the report.

19 (c) CONSULTATION.—In conducting the study under
20 subsection (b), the task force shall consult with and solicit
21 comments from any advisory entity of the task force, the
22 States, representatives of the electric power industry, and
23 the public.

1 **SEC. 1316. STUDY ON THE BENEFITS OF ECONOMIC DIS-**
2 **PATCH.**

3 (a) DEFINITION OF ECONOMIC DISPATCH.—In this
4 section, the term “economic dispatch” means the oper-
5 ation of a generation facility to produce energy at the low-
6 est cost in order to reliably serve consumers, taking into
7 consideration any operational limit of a generation or
8 transmission facility.

9 (b) STUDY.—The Secretary, in coordination and con-
10 sultation with the States, shall conduct a study of—

11 (1) the procedures currently used by electric
12 utilities to carry out economic dispatch;

13 (2) possible revisions to those procedures to im-
14 prove the ability of nonutility generation resources
15 to offer the output of the resources for sale for in-
16 clusion in economic dispatch; and

17 (3) the potential benefits to residential, com-
18 mercial, and industrial electricity consumers, nation-
19 ally and in each State, of revising economic dispatch
20 procedures to improve the ability of nonutility gen-
21 eration resources to offer the output of the resources
22 for inclusion in economic dispatch.

23 (c) REPORT TO CONGRESS AND THE STATES.—Not
24 later than 90 days after the date of enactment of this Act,
25 and annually thereafter, the Secretary shall submit to
26 Congress and each State a report describing the results

1 of the study under subsection (b), including recommenda-
2 tions of the Secretary for such legislative and administra-
3 tive actions as the Secretary determines to be appropriate.

4 **SEC. 1317. STUDY OF RAPID ELECTRICAL GRID RESTORA-**
5 **TION.**

6 (a) STUDY.—

7 (1) IN GENERAL.—The Secretary shall conduct
8 a study of the benefits of using mobile transformers
9 and mobile substations to rapidly restore electrical
10 service to areas subjected to blackouts as a result
11 of—

- 12 (A) equipment failure;
- 13 (B) natural disasters;
- 14 (C) acts of terrorism; or
- 15 (D) war.

16 (2) CONTENTS.—The study under paragraph
17 (1) shall contain an analysis of—

- 18 (A) the feasibility of using mobile trans-
19 formers and mobile substations to reduce de-
20 pendence on foreign entities for key elements of
21 the electrical grid system of the United States;
- 22 (B) the feasibility of using mobile trans-
23 formers and mobile substations to rapidly re-
24 store electrical power to—

- 25 (i) military bases;

1 (ii) the Federal Government;
2 (iii) communications industries;
3 (iv) first responders; and
4 (v) other critical infrastructures, as
5 determined by the Secretary;

6 (C) the quantity of mobile transformers
7 and mobile substations necessary—

8 (i) to eliminate dependence on foreign
9 sources for key electrical grid components
10 in the United States;

11 (ii) to rapidly deploy technology to
12 fully restore full electrical service to
13 prioritized Governmental functions; and

14 (iii) to identify manufacturing sources
15 in existence on the date of enactment of
16 this Act that have previously manufactured
17 specialized mobile transformer or mobile
18 substation products for Federal agencies.

19 (b) REPORT.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary
22 shall submit to the President and Congress a report
23 on the study under subsection (a).

1 (2) INCLUSION.—The report shall include a de-
2 scription of the results of the analysis under sub-
3 section (a)(2).

4 **SEC. 1318. STUDY OF DISTRIBUTED GENERATION.**

5 (a) STUDY.—

6 (1) IN GENERAL.—

7 (A) POTENTIAL BENEFITS.—The Sec-
8 retary, in consultation with the Federal Power
9 Commission, shall conduct a study of the poten-
10 tial benefits of cogeneration and small power
11 production.

12 (B) RECIPIENTS.—The benefits described
13 in subparagraph (A) include benefits that are
14 received directly or indirectly by—

15 (i) an electricity distribution or trans-
16 mission service provider;

17 (ii) other customers served by an elec-
18 tricity distribution or transmission service
19 provider; and

20 (iii) the general public in the area
21 served by the public utility in which the co-
22 generator or small power producer is lo-
23 cated.

24 (2) INCLUSIONS.—The study shall include an
25 analysis of—

- 1 (A) the potential benefits of—
- 2 (i) increased system reliability;
- 3 (ii) improved power quality;
- 4 (iii) the provision of ancillary services;
- 5 (iv) reduction of peak power require-
- 6 ments through onsite generation;
- 7 (v) the provision of reactive power or
- 8 volt-ampere reactives;
- 9 (vi) an emergency supply of power;
- 10 (vii) offsets to investments in genera-
- 11 tion, transmission, or distribution facilities
- 12 that would otherwise be recovered through
- 13 rates;
- 14 (viii) diminished land use effects and
- 15 right-of-way acquisition costs; and
- 16 (ix) reducing the vulnerability of a
- 17 system to terrorism; and
- 18 (B) any rate-related issue that may impede
- 19 or otherwise discourage the expansion of cogen-
- 20 eration and small power production facilities,
- 21 including a review of whether rates, rules, or
- 22 other requirements imposed on the facilities are
- 23 comparable to rates imposed on customers of
- 24 the same class that do not have cogeneration or
- 25 small power production.

1 (3) VALUATION OF BENEFITS.—In carrying out
2 the study, the Secretary shall determine an appro-
3 priate method of valuing potential benefits under
4 varying circumstances for individual cogeneration or
5 small power production units.

6 (b) REPORT.—Not later than 18 months after the
7 date of enactment of this Act, the Secretary shall—

8 (1) complete the study;

9 (2) provide an opportunity for public comment
10 on the results of the study; and

11 (3) submit to the President and Congress a re-
12 port describing—

13 (A) the results of the study; and

14 (B) information relating to the public com-
15 ments received under paragraph (2).

16 (c) PUBLICATION.—After submission of the report
17 under subsection (b) to the President and Congress, the
18 Secretary shall publish the report.

19 **SEC. 1319. STUDY ON INVENTORY OF PETROLEUM AND**
20 **NATURAL GAS STORAGE.**

21 (a) DEFINITION OF PETROLEUM.—In this section,
22 the term “petroleum” means—

23 (1) crude oil;

24 (2) motor gasoline;

25 (3) jet fuel;

1 (4) distillates; and

2 (5) propane.

3 (b) STUDY.—

4 (1) IN GENERAL.—The Secretary shall conduct
5 a study of petroleum and natural gas storage capac-
6 ity and operational inventory levels, nationwide and
7 by major geographical regions.

8 (2) INCLUSIONS.—The study shall include an
9 analysis of, for petroleum and natural gas—

10 (A) historical normal ranges of inventory
11 levels;

12 (B) historical and projected storage capac-
13 ity trends;

14 (C) estimated operation inventory levels
15 below which outages, delivery slowdown, ration-
16 ing, interruptions in service, or other indicators
17 of shortage begin to appear;

18 (D) explanations for inventory levels drop-
19 ping below normal ranges; and

20 (E) the ability of industry to meet the de-
21 mand of the United States for petroleum and
22 natural gas without shortages or price spikes, if
23 inventory levels are below normal ranges.

1 (c) REPORT.—Not later than 1 year after the date
2 of enactment of this Act, the Secretary shall submit to
3 Congress a report on the results of the study, including—

4 (1) the findings of the study; and

5 (2) any recommendations of the Secretary for
6 preventing future supply shortages.

7 **SEC. 1320. NATURAL GAS SUPPLY SHORTAGE REPORT.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of enactment of this Act, the Secretary shall submit
10 to Congress a report on natural gas supplies and demand.

11 (b) PURPOSE.—The purpose of the report under sub-
12 section (a) is to develop recommendations for achieving
13 a balance between natural gas supply and demand in order
14 to—

15 (1) provide residential consumers with natural
16 gas at reasonable and stable prices;

17 (2) accommodate long-term maintenance and
18 growth of domestic natural gas-dependent industrial,
19 manufacturing, and commercial enterprises;

20 (3) facilitate the attainment of national ambient
21 air quality standards under the Clean Air Act (43
22 U.S.C. 7401 et seq.);

23 (4) achieve continued progress in reducing the
24 emissions associated with electric power generation;
25 and

1 (5) support the development of the preliminary
2 phases of hydrogen-based energy technologies.

3 (c) COMPREHENSIVE ANALYSIS.—The report shall
4 include a comprehensive analysis of, for the period begin-
5 ning on January 1, 2004, and ending on December 31,
6 2015, natural gas supply and demand in the United
7 States, including—

8 (1) estimates of annual domestic demand for
9 natural gas, taking into consideration the effect of
10 Federal policies and actions that are likely to in-
11 crease or decrease the demand for natural gas;

12 (2) projections of annual natural gas supplies,
13 from domestic and foreign sources, under Federal
14 policies in existence on the date of enactment of this
15 Act;

16 (3) an identification of estimated natural gas
17 supplies that are not available under those Federal
18 policies;

19 (4) scenarios for decreasing natural gas demand
20 and increasing natural gas supplies that compare
21 the relative economic and environmental impacts of
22 Federal policies that—

23 (A) encourage or require the use of natural
24 gas to meet air quality, carbon dioxide emission
25 reduction, or energy security goals;

1 (B) encourage or require the use of energy
2 sources other than natural gas, including coal,
3 nuclear, and renewable sources;

4 (C) support technologies to develop alter-
5 native sources of natural gas and synthetic gas,
6 including coal gasification technologies;

7 (D) encourage or require the use of energy
8 conservation and demand side management
9 practices; and

10 (E) affect access to domestic natural gas
11 supplies; and

12 (5) recommendations for Federal actions to
13 achieve the purposes described in subsection (b), in-
14 cluding recommendations that—

15 (A) encourage or require the use of energy
16 sources other than natural gas, including coal,
17 nuclear, and renewable sources;

18 (B) encourage or require the use of energy
19 conservation or demand side management prac-
20 tices;

21 (C) support technologies for the develop-
22 ment of alternative sources of natural gas and
23 synthetic gas, including coal gasification tech-
24 nologies; and

1 (D) would improve access to domestic nat-
2 ural gas supplies.

3 (d) CONSULTATION.—In preparing the report under
4 subsection (a), the Secretary shall consult with—

5 (1) experts in natural gas supply and demand;
6 and

7 (2) representatives of—

8 (A) State and local governments;

9 (B) tribal organizations; and

10 (C) consumer and other organizations.

11 (e) HEARINGS.—In preparing the report under sub-
12 section (a), the Secretary may hold public hearings and
13 provide other opportunities for public comment, as the
14 Secretary considers appropriate.

15 **SEC. 1321. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING**
16 **AND DEVELOPMENT PRACTICES.**

17 (a) REVIEW.—

18 (1) IN GENERAL.—In consultation with affected
19 private surface owners, representatives of the oil and
20 gas industry, and other interested parties, the Sec-
21 retary of the Interior shall undertake a review of the
22 current policies and practices with respect to man-
23 agement of Federal subsurface oil and gas develop-
24 ment activities and the effects of those activities on
25 the privately owned surface.

1 (2) INCLUSIONS.—The review shall include—

2 (A) a comparison of the rights and respon-
3 sibilities under existing mineral and land law
4 for the owner of a Federal mineral lease, the
5 private surface owners and the Department;

6 (B) a comparison of the surface owner
7 consent provisions in section 714 of the Surface
8 Mining Control and Reclamation Act of 1977
9 (30 U.S.C. 1304) concerning surface mining of
10 Federal coal deposits and the surface owner
11 consent provisions for oil and gas development,
12 including coalbed methane production;

13 (C) an analysis and comparison of existing
14 State laws addressing surface owner protection
15 on split estates in which the surface estate is
16 privately held and the subsurface estate is fed-
17 erally owned, or other split estate situations;
18 and

19 (D) recommendations for administrative or
20 legislative action necessary to facilitate reason-
21 able access for Federal oil and gas activities
22 while addressing surface owner concerns and
23 minimizing impacts to private surface.

1 (b) REPORT.—The Secretary of the Interior shall re-
2 port the results of such review to Congress not later than
3 180 days after the date of enactment of this Act.

4 **SEC. 1322. RESOLUTION OF FEDERAL RESOURCE DEVELOP-**
5 **MENT CONFLICTS IN THE POWDER RIVER**
6 **BASIN.**

7 (a) REVIEW.—The Secretary of the Interior shall re-
8 view Federal and State laws in existence on the date of
9 enactment of this Act in order to resolve any conflict relat-
10 ing to the Powder River Basin in Wyoming and Montana
11 between—

12 (1) the development of Federal coal; and

13 (2) the development of Federal and non-Federal
14 coalbed methane.

15 (b) REPORT.—Not later than 180 days after the date
16 of enactment of this Act, the Secretary of the Interior
17 shall submit to Congress a report that—

18 (1) describes methods of resolving a conflict de-
19 scribed in subsection (a); and

20 (2) identifies a method preferred by the Sec-
21 retary of the Interior, including proposed legislative
22 language, if any, required to implement the method.

23 **SEC. 1323. STUDY OF ENERGY EFFICIENCY STANDARDS.**

24 (a) STUDY.—The Secretary shall enter into a con-
25 tract with the National Academy of Sciences under which

1 the National Academy of Sciences, not later than 1 year
2 after the date of enactment of this Act, shall conduct a
3 study of whether the goals of energy efficiency standards
4 are best served—

5 (1) by measuring energy consumed, and effi-
6 ciency improvements, at the site of energy consump-
7 tion; or

8 (2) through the full fuel cycle, beginning at the
9 source of energy production.

10 (b) REPORT.—Not later than 1 year after the date
11 of enactment of this Act, the Secretary shall submit to
12 Congress a report on the study under subsection (a).

13 **SEC. 1324. TELECOMMUTING STUDY.**

14 (a) DEFINITIONS.—In this section:

15 (1) FEDERAL EMPLOYEE.—The term “Federal
16 employee” has the meaning given the term “em-
17 ployee” in section 2105 of title 5, United States
18 Code.

19 (2) TELECOMMUTING.—The term “telecom-
20 muting” means the performance of work functions
21 using communications technologies, which eliminates
22 or substantially reduces the need to commute to and
23 from traditional worksites.

24 (b) STUDY REQUIRED.—The Secretary, in consulta-
25 tion with the Chairperson of the Federal Energy Regu-

1 latory Commission, the Director of the Office of Personnel
2 Management, the Administrator of General Services, and
3 the Administrator of National Telecommunications and
4 Information Administration, shall conduct a study of the
5 energy conservation implications of the widespread adop-
6 tion of telecommuting by Federal employees in the United
7 States.

8 (c) INCLUSIONS.—The study under subsection (b)
9 shall include an analysis of the following subjects in rela-
10 tion to the energy saving potential of telecommuting by
11 Federal employees:

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

15 (2) Other energy reductions accomplished by
16 telecommuting.

17 (3) Existing regulatory barriers that hamper
18 telecommuting, including barriers to broadband tele-
19 communications services deployment.

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

22 (d) REPORT.—Not later than 180 days after the date
23 of enactment of this Act, the Secretary shall submit to
24 the President and Congress a report on the study under

1 subsection (b), including a description of the results of the
2 analysis of each of subject referred to in subsection (c).

3 **SEC. 1325. OIL BYPASS FILTRATION TECHNOLOGY.**

4 The Secretary and the Administrator of the Environ-
5 mental Protection Agency shall—

6 (1) conduct a joint study of the benefits of oil
7 bypass filtration technology in—

8 (A) reducing demand for oil; and

9 (B) protecting the environment;

10 (2) evaluate various products and manufactur-
11 ers with respect to oil bypass filtration technology;
12 and

13 (3) after conducting the evaluation under para-
14 graph (2), examine the feasibility of using oil bypass
15 filtration technology in Federal motor vehicle fleets.

16 **SEC. 1326. TOTAL INTEGRATED THERMAL SYSTEMS.**

17 The Secretary shall—

18 (1) conduct a study of the benefits of total inte-
19 grated thermal systems in—

20 (A) reducing demand for oil; and

21 (B) protecting the environment; and

22 (2) examine the feasibility of using total inte-
23 grated thermal systems in Federal motor vehicle
24 fleets (including the motor vehicle fleet of the De-
25 partment of Defense).

1 **SEC. 1327. UNIVERSITY COLLABORATION.**

2 (a) REPORT.—Not later than 2 years after the date
3 of enactment of this Act, the Secretary shall submit to
4 Congress a report that examines the feasibility of pro-
5 moting collaborations between large institutions of higher
6 education and small institutions of higher education (as
7 determined by the Secretary) through grants, contracts,
8 and cooperative agreements made by the Secretary for en-
9 ergy projects.

10 (b) CONSIDERATION.—In preparing the report under
11 subsection (a), the Secretary shall take into consideration
12 the feasibility of providing incentives for including small
13 institutions of higher education (including institutions
14 that primarily serve minorities), as determined by the Sec-
15 retary, in—

- 16 (1) energy research grants;
17 (2) contracts; and
18 (3) cooperative agreements.

19 **SEC. 1328. HYDROGEN PARTICIPATION STUDY.**

20 Not later than 1 year after the date of enactment
21 of this Act, the Secretary shall submit to Congress a re-
22 port evaluating methodologies to ensure the widest partici-
23 pation practicable in setting goals and milestones under
24 the hydrogen program of the Department, including inter-
25 national participants.

1 **TITLE XIV—INCENTIVES FOR**
2 **INNOVATIVE TECHNOLOGIES**

3 **SEC. 1401. DEFINITIONS.**

4 In this title:

5 (1) **COMMERCIAL TECHNOLOGY.**—

6 (A) **IN GENERAL.**—The term “commercial
7 technology” means a technology in general use
8 in the commercial marketplace.

9 (B) **INCLUSIONS.**—The term “commercial
10 technology” does not include a technology solely
11 by use of the technology in a demonstration
12 project funded by the Department.

13 (2) **COST.**—The term “cost” has the meaning
14 given the term “cost of a loan guarantee” within the
15 meaning of section 502(5)(C) of the Federal Credit
16 Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

17 (3) **ELIGIBLE PROJECT.**—The term “eligible
18 project” means a project described in section 1403.

19 (4) **GUARANTEE.**—

20 (A) **IN GENERAL.**—The term “guarantee”
21 has the meaning given the term “loan guar-
22 antee” in section 502 of the Federal Credit Re-
23 form Act of 1990 (2 U.S.C. 661a).

24 (B) **INCLUSION.**—The term “guarantee”
25 includes a loan guarantee commitment (as de-

1 fined in section 502 of the Federal Credit Re-
2 form Act of 1990 (2 U.S.C. 661a)).

3 (5) OBLIGATION.—The term “obligation”
4 means the loan or other debt obligation that is guar-
5 anteed under this section.

6 **SEC. 1402. TERMS AND CONDITIONS.**

7 (a) IN GENERAL.—Except for division C of Public
8 Law 108–324, the Secretary shall make guarantees under
9 this or any other Act for projects on such terms and condi-
10 tions as the Secretary determines, after consultation with
11 the Secretary of the Treasury, only in accordance with this
12 section.

13 (b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—
14 No guarantee shall be made unless—

15 (1) an appropriation for the cost has been
16 made; or

17 (2) the Secretary has received from the bor-
18 rower a payment in full for the cost of the obligation
19 and deposited the payment into the Treasury.

20 (c) AMOUNT.—Unless otherwise provided by law, a
21 guarantee by the Secretary shall not exceed an amount
22 equal to 80 percent of the project cost of the facility that
23 is the subject of the guarantee, as estimated at the time
24 at which the guarantee is issued.

25 (d) REPAYMENT.—

1 (1) IN GENERAL.—No guarantee shall be made
2 unless the Secretary determines that there is reason-
3 able prospect of repayment of the principal and in-
4 terest on the obligation by the borrower.

5 (2) AMOUNT.—No guarantee shall be made un-
6 less the Secretary determines that the amount of the
7 obligation (when combined with amounts available to
8 the borrower from other sources) will be sufficient to
9 carry out the project.

10 (3) SUBORDINATION.—The obligation shall be
11 subject to the condition that the obligation is not
12 subordinate to other financing.

13 (e) INTEREST RATE.—An obligation shall bear inter-
14 est at a rate that does not exceed a level that the Secretary
15 determines appropriate, taking into account the prevailing
16 rate of interest in the private sector for similar loans and
17 risks.

18 (f) TERM.—The term of an obligation shall require
19 full repayment over a period not to exceed the lesser of—

20 (1) 30 years; or

21 (2) 90 percent of the projected useful life of the
22 physical asset to be financed by the obligation (as
23 determined by the Secretary).

24 (g) DEFAULTS.—

25 (1) PAYMENT BY SECRETARY.—

1 (A) IN GENERAL.—If a borrower defaults
2 on the obligation (as defined in regulations pro-
3 mulgated by the Secretary and specified in the
4 guarantee contract), the holder of the guarantee
5 shall have the right to demand payment of the
6 unpaid amount from the Secretary.

7 (B) PAYMENT REQUIRED.—Within such
8 period as may be specified in the guarantee or
9 related agreements, the Secretary shall pay to
10 the holder of the guarantee the unpaid interest
11 on, and unpaid principal of the obligation as to
12 which the borrower has defaulted, unless the
13 Secretary finds that there was no default by the
14 borrower in the payment of interest or principal
15 or that the default has been remedied.

16 (C) FORBEARANCE.—Nothing in this sub-
17 section precludes any forbearance by the holder
18 of the obligation for the benefit of the borrower
19 which may be agreed upon by the parties to the
20 obligation and approved by the Secretary.

21 (2) SUBROGATION.—

22 (A) IN GENERAL.—If the Secretary makes
23 a payment under paragraph (1), the Secretary
24 shall be subrogated to the rights of the recipi-
25 ent of the payment as specified in the guar-

1 antee or related agreements including, where
2 appropriate, the authority (notwithstanding any
3 other provision of law) to—

4 (i) complete, maintain, operate, lease,
5 or otherwise dispose of any property ac-
6 quired pursuant to such guarantee or re-
7 lated agreements; or

8 (ii) permit the borrower, pursuant to
9 an agreement with the Secretary, to con-
10 tinue to pursue the purposes of the project
11 if the Secretary determines this to be in
12 the public interest.

13 (B) SUPERIORITY OF RIGHTS.—The rights
14 of the Secretary, with respect to any property
15 acquired pursuant to a guarantee or related
16 agreements, shall be superior to the rights of
17 any other person with respect to the property.

18 (C) TERMS AND CONDITIONS.—A guar-
19 antee agreement shall include such detailed
20 terms and conditions as the Secretary deter-
21 mines appropriate to—

22 (i) protect the interests of the United
23 States in the case of default; and

24 (ii) have available all the patents and
25 technology necessary for any person se-

1 lected, including the Secretary, to complete
2 and operate the project.

3 (3) PAYMENT OF PRINCIPAL AND INTEREST BY
4 SECRETARY.—With respect to any obligation guar-
5 anteed under this section, the Secretary may enter
6 into a contract to pay, and pay, holders of the obli-
7 gation, for and on behalf of the borrower, from
8 funds appropriated for that purpose, the principal
9 and interest payments which become due and pay-
10 able on the unpaid balance of the obligation if the
11 Secretary finds that—

12 (A)(i) the borrower is unable to meet the
13 payments and is not in default;

14 (ii) it is in the public interest to permit the
15 borrower to continue to pursue the purposes of
16 the project; and

17 (iii) the probable net benefit to the Federal
18 Government in paying the principal and interest
19 will be greater than that which would result in
20 the event of a default;

21 (B) the amount of the payment that the
22 Secretary is authorized to pay shall be no great-
23 er than the amount of principal and interest
24 that the borrower is obligated to pay under the
25 agreement being guaranteed; and

1 (C) the borrower agrees to reimburse the
2 Secretary for the payment (including interest)
3 on terms and conditions that are satisfactory to
4 the Secretary.

5 (4) ACTION BY ATTORNEY GENERAL.—

6 (A) NOTIFICATION.—If the borrower de-
7 faults on an obligation, the Secretary shall no-
8 tify the Attorney General of the default.

9 (B) RECOVERY.—On notification, the At-
10 torney General shall take such action as is ap-
11 propriate to recover the unpaid principal and
12 interest due from—

13 (i) such assets of the defaulting bor-
14 rower as are associated with the obligation;
15 or

16 (ii) any other security pledged to se-
17 cure the obligation.

18 (h) FEES.—

19 (1) IN GENERAL.—The Secretary shall charge
20 and collect fees for guarantees in amounts the Sec-
21 retary determines are sufficient to cover applicable
22 administrative expenses.

23 (2) AVAILABILITY.—Fees collected under this
24 subsection shall—

1 (A) be deposited by the Secretary into the
2 Treasury; and

3 (B) remain available until expended, sub-
4 ject to such other conditions as are contained in
5 annual appropriations Acts.

6 (i) RECORDS; AUDITS.—

7 (1) IN GENERAL.—A recipient of a guarantee
8 shall keep such records and other pertinent docu-
9 ments as the Secretary shall prescribe by regulation,
10 including such records as the Secretary may require
11 to facilitate an effective audit.

12 (2) ACCESS.—The Secretary and the Comp-
13 troller General of the United States, or their duly
14 authorized representatives, shall have access, for the
15 purpose of audit, to the records and other pertinent
16 documents.

17 (j) FULL FAITH AND CREDIT.—The full faith and
18 credit of the United States is pledged to the payment of
19 all guarantees issued under this section with respect to
20 principal and interest.

21 **SEC. 1403. ELIGIBLE PROJECTS.**

22 (a) IN GENERAL.—The Secretary may make guaran-
23 tees under this section only for projects that—

24 (1) avoid, reduce, or sequester air pollutants or
25 anthropogenic emissions of greenhouse gases; and

1 (2) employ new or significantly improved tech-
2 nologies as compared to commercial technologies in
3 service in the United States at the time the guar-
4 antee is issued.

5 (b) CATEGORIES.—Projects from the following cat-
6 egories shall be eligible for a guarantee under this section:

7 (1) Renewable energy systems.

8 (2) Advanced fossil energy technology (includ-
9 ing coal gasification meeting the criteria in sub-
10 section (d)).

11 (3) Hydrogen fuel cell technology for residen-
12 tial, industrial or transportation applications.

13 (4) Advanced nuclear energy facilities.

14 (5) Carbon capture and sequestration practices
15 and technologies, including agricultural and forestry
16 practices that store and sequester carbon.

17 (6) Efficient electrical generation, transmission,
18 and distribution technologies.

19 (7) Efficient end-use energy technologies.

20 (8) Notwithstanding subsection (a)(2), produc-
21 tion facilities for fuel efficient vehicles.

22 (c) GASIFICATION PROJECTS.—The Secretary may
23 make guarantees for the following gasification projects:

24 (1) INTEGRATED GASIFICATION COMBINED
25 CYCLE PROJECTS.—Integrated gasification combined

1 cycle plants meeting the emission levels under sub-
2 section (d), including—

3 (A) projects for the generation of
4 electricity—

5 (i) for which, during the term of the
6 guarantee—

7 (I) coal, biomass, petroleum coke,
8 or a combination of coal, biomass, and
9 petroleum coke will account for at
10 least 65 percent of annual heat input;
11 and

12 (II) electricity will account for at
13 least 65 percent of net useful annual
14 energy output;

15 (ii) that have a design that is deter-
16 mined by the Secretary to be capable of ac-
17 commodating the equipment likely to be
18 necessary to capture the carbon dioxide
19 that would otherwise be emitted in flue gas
20 from the plant;

21 (iii) that have an assured revenue
22 stream that covers project capital and op-
23 erating costs (including servicing all debt
24 obligations covered by the guarantee) that

1 is approved by the Secretary and the rel-
2 evant State public utility commission; and

3 (iv) on which construction commences
4 not later than the date that is 3 years
5 after the date of the issuance of the guar-
6 antee;

7 (B) a project to produce energy from coal
8 (of not more than 13,000 Btu/lb and mined in
9 the western United States) using appropriate
10 advanced integrated gasification combined cycle
11 technology that minimizes and offers the poten-
12 tial to sequester carbon dioxide emissions and
13 that—

14 (i) may include repowering of existing
15 facilities;

16 (ii) may be built in stages;

17 (iii) shall have a combined output of
18 at least 100 megawatts;

19 (iv) shall be located in a western State
20 at an altitude greater than 4,000 feet; and

21 (v) shall demonstrate the ability to
22 use coal with an energy content of not
23 more than 9,000 Btu/lb;

24 (C) a project located in a taconite-pro-
25 ducing region of the United States that is enti-

1 tled under the law of the State in which the
2 plant is located to enter into a long-term con-
3 tract approved by a State public utility commis-
4 sion to sell at least 450 megawatts of output to
5 a utility; and

6 (D) a facility that—

7 (i) generates separate hydrogen-rich
8 (at least 75 percent hydrogen by volume)
9 and carbon monoxide-rich (at least 75 per-
10 cent carbon monoxide by volume) product
11 streams from the gasification of coal; and

12 (ii) uses those separate streams to fa-
13 cilitate the production of ultra clean pre-
14 mium fuels through the Fischer-Tropsch
15 process.

16 (2) INDUSTRIAL GASIFICATION PROJECTS.—Fa-
17 cilities that gasify coal, biomass, or petroleum coke
18 in any combination to produce synthesis gas for use
19 as a fuel or feedstock and for which electricity ac-
20 counts for less than 65 percent of the useful energy
21 output of the facility.

22 (d) EMISSION LEVELS.—In addition to any other ap-
23 plicable Federal or State emission limitation requirements,
24 a project shall attain at least—

1 (1) total sulfur dioxide emissions in flue gas
2 from the project that do not exceed 0.05 lb/
3 mmBTU;

4 (2) a 90-percent removal rate (including any
5 fuel pretreatment) of mercury from the coal-derived
6 gas, and any other fuel, combusted by the project;

7 (3) total nitrogen oxide emissions in the flue
8 gas from the project that do not exceed 0.08 lb/
9 mmBTU; and

10 (4) total particulate emissions in the flue gas
11 from the project that do not exceed 0.01 lb/
12 mmBTU.

13 (e) **QUALIFICATION OF FACILITIES RECEIVING TAX**
14 **CREDITS.**—A project that receives tax credits for clean
15 coal technology shall not be disqualified from receiving a
16 guarantee under this title.

17 **SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as are necessary to provide the cost of guarantees under
20 this title.