107th CONGRESS
1st SESSION

S. xxx

IN THE SENATE OF THE UNITED STATES

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

A BILL

To Protect the Energy Security of the United States and Decrease America's Dependency on Foreign Oil Sources to 50% by the Year 2011 by Enhancing the Use of Renewable Energy Resources, Conserving Energy Resources, Improving Energy Efficiencies, and Increasing Domestic Energy Supplies; Improve Environmental Quality by Reducing Emissions of Air Pollutants and Greenhouse Gases; Mitigate the Effect of Increases in Energy Prices on the American Consumer, including the Poor and the Elderly; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "National Energy Security Act of 2001".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Increasing dependence on foreign sources of oil causes systemic harm to all sectors of the United States economy, threatens national security, undermines the ability of federal, State, and local units of government to provide essential services, and jeopardizes the peace, security, and welfare of the American people;

(2) dependence on imports of foreign oil was 46% in 1992, rose to more than 55% by the beginning of 2000, and is estimated by the Department of Energy to rise to 65% by 2020 unless current policies are altered;

(3) even with increased energy efficiency, energy use in the United States is expected to increase 27% by 2020;

(4) the United States lacks a comprehensive national energy policy and has taken actions that limit the availability and capability of the domestic energy sources of oil and gas, coal, nuclear and hydroelectric;

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

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

(7) this comprehensive energy strategy must be multi-faceted and enhance the use of renewable energy resources (including hydroelectric, solar, wind, geothermal and biomass), conserve energy resources (including improving energy efficiencies), and

increase domestic supplies of conventional energy resources (including oil, natural gas, coal, and nuclear);

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

(9) immediate actions must also be taken to mitigate the economic effects of recent increases in the price of crude oil, natural gas, and electricity and the related impacts on American consumers, including the poor and the elderly.

(b) PURPOSES.—The purposes of this Act are to protect the energy security of the United States by decreasing America's dependence on foreign oil sources to not more than 50% by 2010, by enhancing the use of renewable energy resources, conserving energy resources (including improving energy efficiencies), and increasing domestic energy supplies, improving environmental quality by reducing emissions of air pollutants and greenhouse gases, and mitigating the immediate effect of increases in energy prices on the American consumer, including the poor and the elderly.

TITLE I– GENERAL PROVISIONS TO PROTECT ENERGY SUPPLY AND SECURITY

SEC. 101. CONSULTATION AND REPORT ON FEDERAL AGENCY ACTIONS AFFECTING DOMESTIC ENERGY SUPPLY.

Prior to taking or initiating any action that could have a significant adverse effect on the availability or supply of domestic energy resources or on the domestic capability to distribute or

transport such resources, the head of a federal agency proposing or participating in such action shall notify the Secretary of Energy in writing of the nature and scope of the action, the need for such action, the potential effect of such action on energy resource supplies, price, distribution, and transportation, and any alternatives to such action or options to mitigate the effects and shall provide the Secretary of Energy with adequate time to review the proposed action and make recommendations to avoid or minimize the adverse effect of the proposed action. The proposing agency shall consider any such recommendations made by the Secretary of Energy. The Secretary of Energy shall provide an annual report to the Committee on Energy and Natural Resources of the United States Senate and to the appropriate Committees of the House of Representatives on all actions brought to his attention, what mitigation or alternatives, if any, were implemented, and what the short-term, mid-term, and long-term effect of the final action will likely be on domestic energy resource supplies and their development, distribution, or transmission.

SEC. 102. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.

(a) REPORT.—Beginning on October 1, 2001, and annually thereafter, the Secretary of Energy, in consultation with the Secretary of Defense and the heads of other relevant Federal agencies, shall submit a report to the President and the Congress which evaluates the progress the United States has made toward obtaining the goal of not more than 50% dependence on foreign oil sources by 2010.

(b) ALTERNATIVES.—The report shall specify what specific legislative or administrative actions that must be implemented to meet this goal and set forth a range of options and alternatives with a benefit/cost analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The

Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the report. The report shall indicate, in detail, options and alternatives to (1) increase the use of renewable domestic energy sources, including conventional and non-conventional sources such as, but not limited to, increased hydroelectric generation at existing federal facilities, (2) conserve energy resources, including improving efficiencies and decreasing consumption, and (3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

(c) REFINERY CAPACITY.— As part of the reports submitted in 2001, 2005, and 2008, the Secretary shall examine and report on the condition of the domestic refinery industry and the extent of domestic storage capacity for various categories of petroleum products and make such recommendations as he believes will enhance domestic capabilities to respond to short-term shortages of various fuels due to climate or supply interruptions and ensure long-term supplies on a reliable and affordable basis.

(d) NOTIFICATION TO CONGRESS. — Whenever the Secretary determines that stocks of petroleum products have declined or are anticipated to decline to levels that would jeopardize national security or threaten supply shortages or price increases on a national or regional basis, he shall immediately notify the Congress of the situation and shall make such recommendations for administrative or legislative action as he believes are necessary to alleviate the situation.

SEC. 103. STRATEGIC PETROLEUM RESERVE STUDY AND REPORT.

The President shall immediately establish an Interagency Panel on the Strategic Petroleum Study (referred to as the "Panel" in this section) to study oil markets and estimate the

extent and frequency of fluctuations in the supply and price of, and demand for crude oil in the future and determine appropriate capacity of and uses for the Strategic Petroleum Reserve. The Panel may recommend changes in existing authorities to strengthen the ability of the Strategic Petroleum Reserve to respond to energy requirements. The Panel shall complete its study and submit a report containing its findings and any recommendations to the President and the Congress within six months from the date of enactment of this Act.

SEC. 104. STUDY OF EXISTING RIGHTS-OF-WAY TO DETERMINE CAPABILITY TO SUPPORT NEW PIPELINES OR OTHER TRANSMISSION FACILITIES.

Within one year from the date of enactment of this Act, the head of each federal agency that has authorized a right-of-way across federal lands for transportation of energy supplies or transmission of electricity shall review each such right-of-way and submit a report to the Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission whether the right-of-way can be used to support new or additional capacity and what modifications or other changes, if any, would be necessary to accommodate such additional capacity. In performing the review, the head of each agency shall consult with agencies of State or local units of government as appropriate and consider whether safety or other concerns related to current uses might preclude the availability of a right-of-way for additional or new transportation or transmission facilities and shall set forth those considerations in the report.

SEC. 105. USE OF FEDERAL FACILITIES.

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

(b) Based on this inventory and other information, the Secretary of the Interior and

Secretary of Army shall each submit a report to the Congress within six months from the date of enactment of this Act. Each report shall—

(1) Describe, in detail, each facility that is capable, with or without modification, of producing additional hydroelectric power. For each such facility, the report shall state the full potential for the facility to generate hydroelectric power, whether the facility is currently generating hydroelectric power, and the costs to install, upgrade, modify, or take other actions to increase the hydroelectric generating capability of the facility. For each facility that currently has hydroelectric generating equipment, the report shall indicate the condition of such equipment, maintenance requirements, and schedule for any improvements as well as the purposes for which power is generated, and.

(2) Describe what actions are planned or underway to increase hydroelectric production from facilities under his jurisdiction and shall include any recommendations the Secretary deems advisable to increase such production, reduce costs, and improve efficiency at federal facilities, including, but not limited to, use of lease of power privilege and contracting with non-federal entities for operation and maintenance.

SEC. 106. NUCLEAR GENERATION STUDY

The Chairman of the Nuclear Regulatory Commission shall submit a report to the Congress within six months from the date of enactment of this Act on the state of nuclear power generation and production in the United States and the potential for increasing nuclear generating capacity and production as part of this nation's energy mix. The report shall include an assessment of agency readiness to license new advanced reactor designs and discuss the needed confirmatory and anticipatory research activities that would support such a state of readiness.

The report shall also review the status of the relicensing process for civilian nuclear power plants, including current and anticipated applications, and recommendations for improvements in the process, including, but not limited to recommendations for expediting the process and ensuring that relicensing is accomplished in a timely manner.

SEC. 107. DEVELOPMENT OF A NATIONAL SPENT NUCLEAR FUEL STRATEGY AND ESTABLISHMENT OF AN OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) Prior to the federal government taking any irreversible action relating to the disposal of spent nuclear fuel, , Congress must determine whether the spent fuel should be treated as waste subject to permanent burial or should be considered an energy resource that is needed to meet future energy requirements.

(b) OFFICE OF SPENT NUCLEAR FUEL RESEARCH. -- There is hereby established an Office of Spent Nuclear Fuel Research (referred to as the "Office" in this section) within the Office of Nuclear Energy Science and Technology of the Department of Energy. The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(c) ASSOCIATE DIRECTOR.—The Associate Director of the Office of Spent Nuclear Fuel Research shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Associate Director of the Office shall report to the Director of the Office of Nuclear Energy Science and Technology. The first such Associate Director shall be appointed

within 90 days of the enactment of this Act.

(d) GRANT AND CONTRACT AUTHORITY.—In carrying out his responsibilities under this Section, the Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in (e)(2).

(e)(1) DUTIES.—The Associate Director of the Office shall involve national laboratories, universities, the commercial nuclear industry, and other organizations to investigate technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(2) The Associate Director of the Office shall:

(A) develop a research plan to provide recommendations by 2015;

(B) identify technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

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

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) encourage that research efforts include participation of international collaborators;

(H) be authorized to fund international collaborators when they bring unique capabilities not available in the United States and their host country is unable to

provide for their support;

(I) ensure that research efforts with the Office are coordinated with research on advanced fuel cycles and reactors conducted within the Office of Nuclear Energy Science and Technology.

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

SEC. 108. STUDY AND REPORT ON STATUS OF DOMESTIC REFINING INDUSTRY AND PRODUCT DISTRIBUTION SYSTEM.

(a) ANNUAL REPORT. – The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, the States, the National Petroleum Council, and other representatives of the petroleum refining, distribution and retailing industries, shall submit a report to the Congress on the condition of the domestic petroleum refining industry and the petroleum product distribution system. The first such report shall be submitted no later than January 1, 2002, and revised annually thereafter.

(b) RECOMMENDATIONS. – Each annual report shall include any recommendations that the Secretary believes should be implemented either through legislation or regulation to ensure that there is adequate domestic refining capacity and motor fuel supplies to meet the economic, social, and security requirements of the United States.

(c) PREPARATION. – In preparing each annual report, the Secretary shall -

(1) provide an assessment of the condition of the domestic petroleum refining industry and the nation's motor fuel distribution system, including the ability to

make future capital investments necessary to manufacture, transport, and store different petroleum products required by local, state, and federal statute and regulations;

(2) examine the reliability and cost of feedstocks and energy supplied to the refining industry as well as the reliability and cost of products manufactured by such industry;

(3) provide an assessment of the collective effect of current and future motor fuel requirements on –

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

(B) gasoline (reformulated and conventional) and diesel fuel (on-highway and off-highway) supplies;

(C) retail motor fuel price volatility;

(4) explore opportunities to streamline permitting and siting decisions and approvals for expanding existing and/or building new domestic refining capacity;

(5) recommend actions that can be taken to reduce future motor supply concerns, and

(6) provide an assessment of whether uniform, regional, or national performance-based fuel specifications would reduce supply disruptions and price spikes.

(d) CONFIDENTIALITY OF DATA – Any information requested by the Secretary to be

submitted by industry for purposes of this section shall be treated as confidential and shall be used only for the preparation of the annual report.

SEC. 109. REVIEW OF FEDERAL ENERGY REGULATORY COMMISSION NATURAL GAS PIPELINE CERTIFICATION PROCEDURES. --- The Federal Energy Regulatory Commission shall, in consultation with other appropriate federal agencies, immediately undertake a comprehensive review of policies, procedures, and regulations for the certification of natural gas pipelines to determine how to reduce the cost and time of obtaining a certificate. The Commission shall report its findings within 6 months of the date of the enactment of this Act to the Senate Committee on Energy and Natural Resources and the appropriate Committees of the United States House of Representatives, including any recommendations for legislative changes.

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

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

(b) The report shall specify specific legislative or administrative actions that could be implemented to improve baseload generation and set forth a range of options and alternatives

with a benefit/cost analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The report shall indicate, in detail, options and alternatives to (1) increase the use of non-emitting domestic energy sources, including conventional and non-conventional sources such as, but not limited to, increased nuclear energy generation, and, (2) conserve energy resources, including improving efficiencies and decreasing fuel consumption.

SEC. 111. STUDY OF FINANCING FOR NEW TECHNOLOGIES.

(a) The Secretary of Energy shall undertake an independent assessment of innovative financing techniques to encourage and enable construction of new electricity supply technologies with high initial capital costs that might not be otherwise be built in a deregulated market.

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

(c) The assessment shall include a comprehensive examination of all available techniques to safeguard private investors in high capital cost technologies – including advanced design power plants including, but not limited to, nuclear – against government-imposed risks that are beyond the investors' control. Such techniques may include (but need not be limited to) federal loan guarantees, federal price guarantees, special tax considerations, and direct federal government investment.

SEC. 112. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY

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

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

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

SEC. 113. INTERAGENCY AGREEMENT ON ENVIRONMENTAL REVIEW OF INTERSTATE NATURAL GAS PIPELINE PROJECTS. — The Secretary of Energy, in coordination with the Federal Energy Regulatory Commission, shall establish an administrative interagency task force to develop an interagency agreement to expedite and facilitate the environmental review and permitting of interstate natural gas pipeline projects. The task force shall include the Bureau of Land Management and the Fish and Wildlife Service in the Department of the Interior, the United States Army Corps of Engineers, the United States Forest Service, the Environmental Protection Agency, the Advisory Council on Historic Preservation and such other agencies as the Office and the Federal Energy Regulatory Commission deem appropriate. The interagency agreement shall require that agencies complete their review of

interstate pipeline projects within a specific period of time after referral of the matter by the Federal Energy Regulatory Commission. The agreement shall be completed within six months after the effective date of this section.

SEC. 114. PIPELINE INTEGRITY, SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL- The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program shall include materials inspection techniques, risk assessment methodology, and information systems surety.

(b) PURPOSE- The purpose of the cooperative research program shall be to promote research and development to--

(1) ensure long-term safety, reliability and service life for existing pipelines;

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

(3) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(4) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

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

(6) improve the capability, reliability, and practicality of external leak detection devices;

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

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

(9) minimize the environmental impact of pipelines;

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

(11) provide risk assessment tools for optimizing risk mitigation strategies; and

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

(c) AREAS- In carrying out this section, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil, and petroleum product pipelines for--

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

(2) automated internal pipeline inspection sensor systems;

(3) land use guidance and set back management along pipeline rights-of-way for communities;

(4) internal corrosion control;

(5) corrosion-resistant coatings;

(6) improved cathodic protection;

(7) inspection techniques where internal inspection is not feasible, including measurement of structural integrity ;

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

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

(10) assessing the remaining strength of existing pipes;

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

(12) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

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

(d) RESEARCH AND DEVELOPMENT PROGRAM PLAN - Within 240 days after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a five-year program plan to guide activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) IMPLEMENTATION - The Secretary of Transportation shall have primary responsibility for ensuring the five-year plan provided for in subsection (d) is implemented as intended by this section. In carrying out the research, development, and demonstration activities under this section, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(f) REPORTS TO CONGRESS - The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

(g) PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE. –

(1) ESTABLISHMENT- The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the five-year research, development, and demonstration program plan as defined in Sec. 3(e). The Advisory Committee

shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under this section.

(2) MEMBERSHIP- The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

(h) AUTHORIZATION OF APPROPRIATIONS. — There are authorized to be appropriated to the Secretary of Transportation and to the Secretary of Energy for carrying out this section such sums as may be necessary for each of the fiscal years 2002 through 2006.

SEC. 115. RESEARCH AND DEVELOPMENT FOR NEW NATURAL GAS TECHNOLOGIES.

(a) The Secretary of Energy shall conduct a comprehensive five-year program for research, development and demonstration to improve the reliability, efficiency, safety and integrity of the natural gas transportation and distribution infrastructure and for distributed energy resources (including microturbines, fuel cells, advanced engine-generators gas turbines reciprocating engines, hybrid power generation systems, and all ancillary equipment for dispatch, control and maintenance).

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

TITLE II - TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM FOR ADVANCED CLEAN COAL TECHNOLOGY FOR COAL-BASED ELECTRICITY GENERATING FACILITIES.

SEC. 201. PURPOSE. -- The purpose of this title is to direct the Secretary of Energy (referred to as "Secretary" in this title) to -

(1) establish a coal-based technology development program designed to achieve cost and performance goals;

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

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

SEC. 202. COST AND PERFORMANCE GOALS.

(a) IN GENERAL.– The Secretary shall perform an assessment that identifies costs and associated performance of technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015, and the years after 2020.

(b) CONSULTATION.– In establishing cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries

(5) manufacturers of equipment using advanced coal technologies;

(6) organizations representing workers; and

(7) organizations formed to-

(A) further the goals of environmental protection;

(B) promote the use of coal; or

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

(c) TIMING.–The Secretary shall-

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

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

SEC. 203. STUDY.

(a) IN GENERAL.– Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall conduct a study to

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

(2) assess costs that would be incurred by, and the period of time that would be required for, the development and demonstration of technologies that contribute, either

individually or in various combinations, to the achievement of cost and performance goals; and

(3) develop recommendations for technology development programs, which the Department of Energy could carry out in cooperation with industry, to develop and demonstrate such technologies.

(b) COOPERATION.– In carrying out this section, the Secretary shall give appropriate consideration to the expert advice of representatives from the entities described in section 111(b).

SEC. 204. TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

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

(1) this Act;

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

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

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

(b) CONDITIONS.– The research, development, demonstration, and commercial application programs identified in section 203(a) shall be designed to achieve the cost and performance goals, either individually or in various combinations.

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

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

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

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.– There is authorized to be appropriated to carry out the provisions of sections 202, 203, and 204, $100,000,000 for each of fiscal years 2002 through 2012, to remain available until expended.

(b) CONDITIONS OF AUTHORIZATION. – The authorization of appropriations under subsection (a) –

(1) shall be in addition to authorizations of appropriations in effect on the date of enactment of this Act; and

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

SEC. 206. POWER PLANT IMPROVEMENT INITIATIVE.

(a) IN GENERAL. – The Secretary shall carry out a power plant improvement initiative program that will demonstrate commercial applications of advanced coal-based technologies applicable to new or existing power plants, including co-production plants, that, either individually or in combination, advance the efficiency, environmental performance and cost competitiveness well beyond that which is in operation or has been demonstrated to date.

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

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

(2) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(3) the demonstration activities that will benefit new or existing coal-based electric generation units having at least a 50 megawatt nameplate rating including improvements to allow the units to achieve either: —

(A) an overall design efficiency improvement of not less than 3 percentage points as compared with the efficiency of the unit as operated on the date of the enactment of this title and before any retrofit, repowering, replacement or installation;

(B) a significant improvement in the environmental performance related to the control of sulfur dioxide, nitrogen oxide or mercury in a manner that is well below the cost of technologies that are in operation or have been demonstrated to date; or

(C) a means of recycling or reusing a significant proportion of coal combustion wastes produced by coal-based generating units excluding practices that are commercially available at the date of enactment.

SEC. 207. FINANCIAL ASSISTANCE

(a) IN GENERAL — Not later than 180 days after the date on which the Secretary submits to Congress the plan under section 206(b), the Secretary shall solicit proposals for projects which

serve or benefit new or existing facilities and, either individually or in combination, are designed to achieve the levels of performance set forth in section 206(b)(3).

(b) PROJECT CRITERIA — A solicitation under subsection (a) may include solicitation of a proposal for a project to demonstrate—

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

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

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

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

(2) improve the competitiveness of coal among various forms of energy to maintain a diversity of fuel choices in the U.S. to meet electricity generation requirements; and

(3) achieve in a cost-effective manner, 1 or more of the criteria set out in the solicitation; and

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

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

(e) EXEMPTION FROM NEW SOURCE REVIEW PROVISIONS. —A project funded under this section shall be exempt from the new source review provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

SEC. 208. FUNDING.

To carry out sections 206 and 207, there are authorized to be appropriated such sums as may be necessary.

SEC. 209. RESEARCH AND DEVELOPMENT FOR ADVANCED SAFE AND EFFICIENT COAL MINING TECHNOLOGIES.

(a) The Secretary of Energy shall establish a cooperative research partnership involving appropriate federal agencies, coal producers, including associations, equipment manufacturers, universities with mining engineering departments, and other relevant entities to develop mining research priorities identified by the Mining Industry of the Future Program and in the National Academy of Sciences report on Mining Technologies, establish a process for joint industry-government research, and expand mining research capabilities at universities.

(b) There are authorized to be appropriated to carry out the requirements of this section, $10,000,000 in fiscal year 2002, $12,000,000 in fiscal year 2003, and $15,000,0000 in fiscal year 2004. At least 20 percent of any funds appropriated shall be dedicated to research carried out at universities.

SEC. 210. RAILROAD EFFICIENCY.

(a) The Secretary shall, in conjunction with the Secretaries of Transportation and Defense, and the Administrator of the Environmental Protection Agency, establish a public-private research partnership involving the federal government, railroad carriers, locomotive

manufacturers, and the Association of American Railroads. The goal of the initiative shall include developing and demonstrating locomotive technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.

(b) There are authorized to be appropriated to carry out the requirements of this Section $50 million in fiscal year 2002, $60 million in fiscal year 2003, and $70 million in fiscal year 2004.

TITLE III - OIL AND GAS

SUBTITLE A - DEEPWATER AND FRONTIER ROYALTY RELIEF

SEC. 301. SHORT TITLE. --This part may be referred to as the "Outer Continental Shelf Deep Water and Frontier Royalty Relief Act".

SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

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

(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and

(2) by inserting after subparagraph (A), as so designated, the following:

"(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to--

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes".

"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the

Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400-800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final

agency action. The Secretary's determination or redetermination shall be subject to judicial review under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

“(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

“(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

“(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

“(iv) For purposes of this subparagraph, the term `new production' is--

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

“(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after

the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".

(b) Section 8(a)(1)(D) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337(a)(1)(D)) is amended by striking the word "area;" and inserting in lieu thereof the word "area," and the following new text:

"except in the Arctic areas of Alaska, where the Secretary is authorized to set the net profit share at 16 and 2/3 percent. For purposes of this section, 'Arctic areas' means the Beaufort Sea and Chukchi Sea Planning Areas of Alaska."

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

"(10) After an oil and gas lease is granted pursuant to any of the bidding systems of paragraph (1) of this subsection, the Secretary shall reduce any future royalty or rental obligation of the lessee on any lease issued by the Secretary (and proposed by the lessee for such reduction) by an amount equal to –

(a) 10 percent of the qualified costs of exploratory wells drilled or geophysical work performed on any lease issued by the Secretary, whichever is greater, pursuant to this Act in Arctic areas of Alaska and

(b) an additional 10 percent of the qualified costs of any such exploratory wells which are located ten or more miles from another well drilled for oil and gas.

For purposes of this Act --

‘qualified costs’ shall mean the costs allocated to the exploratory well or geophysical work in support of an exploration program pursuant to 26 U.S.C. as amended;

‘exploratory well’ shall mean either an exploratory well as defined by the United States Securities and Exchange Commission in 17 C.F.R. 210.4-10(a)(10), as amended, or a well three or more miles from any oil or gas well or a pipeline which transports oil or gas to a market or terminal;

‘geophysical work’ shall mean all geophysical data gathering methods used in hydrocarbon exploration and includes seismic, gravity, magnetic, and electromagnetic measurements; and,

all distances shall be measured in horizontal distance. When a measurement beginning or ending point is a well, the measurement point shall be the bottom hole location of that well.”

SEC. 303. NEW LEASES. -- Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(a)(1)) is amended--

(1) by redesignating subparagraph (H) as subparagraph (I);

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

(3) by inserting after subparagraph (G) the following new subparagraph:

“(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or”.

SEC. 304. LEASE SALES. -- For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this part, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this part, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 305. REGULATIONS. -- The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this part within 180 days after the enactment of this Act.

SEC. 306. SAVINGS CLAUSE. -- Nothing in this part shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

SUBTITLE B - OIL AND GAS ROYALTIES IN KIND

SEC. 310. PROGRAM ON OIL AND GAS ROYALTIES IN KIND

(a) APPLICABILITY OF SECTION. - Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in kind accepted by the Secretary of the

Interior under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192) or section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353) or any other mineral leasing law from the date of enactment of this Act through September 30, 2006.

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

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due at the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition at no cost to the United States.

(3) The Secretary of the Interior may - (A) sell or otherwise dispose of any royalty oil or gas taken in kind for not less than fair market value; and (B) transport or process any oil or gas royalty taken in kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of–

(A) transporting the oil or gas,

(B) processing the gas, or

(C) disposing of the oil or gas.

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

(c) REIMBURSEMENT OF COST. - If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs, or, at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

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

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

(1) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standards for comparing to amounts likely to have been received had royalties been taken in value;

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

(3) actual amounts realized from taking royalties in kind, and costs and savings associated with taking royalties in kind; and

(4) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) DEDUCTION OF EXPENSES. –

(1) Prior to making disbursements under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8 (g) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(g)) or other applicable provision of law, of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under paragraphs (b)(3) and (c), and shall deposit such amounts to miscellaneous receipts.

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

(g) CONSULTATION WITH STATES. The Secretary of the Interior will consult with a State prior to conducting a royalty in kind program within the State and may delegate management of any portion of the Federal royalty in kind program to such State except as otherwise prohibited by Federal law. The Secretary shall also consult annually with any State from which Federal royalty oil or gas is being taken in kind to ensure to the maximum extent practicable that the royalty in kind program provides revenues to the State greater than or equal to those which would be realized under a comparable royalty in value program.

(h) PROVISIONS FOR SMALL REFINERIES. —

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

(2) In selling oil under this subsection, the Secretary of the Interior may at his discretion prorate such oil among such refineries in the area in which the oil is produced **.**

(i) DISPOSITION TO FEDERAL AGENCIES. –

(1) Any royalty oil or gas taken in kind from onshore oil and gas leases may be sold at not less than the fair market value to any department or agency of the United States.

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

SUBTITLE C - USE OF ROYALTY IN KIND OIL TO FILL THE STRATEGIC PETROLEUM RESERVE

SEC. 320. USE OF ROYALTY IN KIND OIL TO FILL THE STRATEGIC PETROLEUM RESERVE. The Secretary of the Interior shall enter into an agreement with the Secretary of Energy to transfer title to the federal share of crude oil production from federal lands for use at the discretion of the Secretary of Energy in filling the Strategic Petroleum Reserve during periods of crude oil market stability. The Secretary of Energy may also use the federal share of crude oil produced from federal lands for other disposal within the Federal Government, as he may determine, to carry out the energy policy of the United States.

SUBTITLE D—IMPROVEMENTS TO FEDERAL OIL AND GAS LEASE MANAGEMENT

SEC. 330. SHORT TITLE. -- This Part may be cited as the "Federal Oil and Gas Lease Management Improvement Act of 2000".

SEC. 331. DEFINITIONS. --- In this Part—

(a) APPLICATION FOR A PERMIT TO DRILL.—The term `application for a permit to drill' means a drilling plan including design, mechanical, and engineering aspects for drilling a well.

(b) FEDERAL LAND.—

(1) IN GENERAL.—The term `Federal land' means all land and interests in land owned by the United States that are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or non-mineral estate.

(2) EXCLUSION.—The term `Federal land' does not include--

(i) Indian land (as defined in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702)); or

(ii) submerged land on the Outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

(c) OIL AND GAS CONSERVATION AUTHORITY.—The term `oil and gas conservation authority' means the agency or agencies in each State responsible for regulating for conservation purposes operations to explore for and produce oil and natural gas.

(d) PROJECT.—The term `project' means an activity by a lessee, an operator, or an operating rights owner to explore for, develop, produce, or transport oil or gas resources.

(e) SECRETARY.—The term `Secretary' means--

(1) the Secretary of the Interior, with respect to land under the administrative jurisdiction of the Department of the Interior; and

(2) the Secretary of Agriculture, with respect to land under the administrative jurisdiction of the Department of Agriculture.

(f) SURFACE USE PLAN OF OPERATIONS.—The term `surface use plan of operations' means a plan for surface use, disturbance, and reclamation.

SEC. 332. NO PROPERTY RIGHT. – Nothing in this Part gives a State a property right or interest in any Federal lease or land.

SEC. 333. TRANSFER OF AUTHORITY.

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

(b) TRANSFER OF AUTHORITY.—

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

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

(A) processing and approving applications for permits to drill, subject to surface use agreements and other terms and conditions determined by the Secretary;

(B) production operations;

(C) well testing;

(D) well completion;

(E) well spacing;

(F) communization;

(G) conversion of a producing well to a water well;

(H) well abandonment procedures;

(I) inspections;

(J) enforcement activities; and

(K) site security.

(c) RETAINED AUTHORITY.—The Secretary shall —

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

(2) spend appropriated funds to ensure that timely decisions are made respecting oil and gas leasing, taking into consideration multiple uses of Federal land, socioeconomic and environmental impacts, and the results of consultations with State and local government officials.

SEC. 334. ACTIVITY FOLLOWING TRANSFER OF AUTHORITY.

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

(b) STATE AUTHORITY.—

(1) IN GENERAL.—Following the transfer of authority, each State shall enforce its own oil and gas conservation laws and requirements pertaining to transferred oil and gas lease operations and related operations with due regard to the national interest in the expedited, environmentally sound development of oil and gas resources in a manner consistent with oil and gas conservation principles.

(2) APPEALS.—Following a transfer of authority under section 333, an appeal of any decision made by a State oil and gas conservation authority shall be made in accordance with State administrative procedures.

(c) PENDING ENFORCEMENT ACTIONS.—The Secretary may continue to enforce any pending actions respecting acts committed before the date on which authority is transferred to a State under section 333 until those proceedings are concluded.

(d) PENDING APPLICATIONS.—

(1) TRANSFER TO STATE.—All applications respecting oil and gas lease operations and related operations on Federal land pending before the Secretary on the date on which authority is transferred under section 333 shall be immediately transferred to the oil and gas conservation authority of the State in which the lease is located.

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

SEC. 335. COMPENSATION FOR COSTS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall compensate any State for costs incurred to carry out the authorities transferred under section 333.

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

(c) COST BREAKDOWN REPORT.—Each State seeking compensation shall report to the Secretary a cost breakdown for the authorities transferred.

SEC. 336. APPLICATIONS.

(a) LIMITATION ON COST RECOVERY.—Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of

Title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating to oil and gas leases.

(b) COMPLETION OF PLANNING DOCUMENTS AND ANALYSES.—

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

(2) PREPARATION BY APPLICANT OR LESSEE.—If the Secretary is unable to complete the document or analysis within the time prescribed by paragraph (1), the Secretary shall notify the applicant or lessee of the opportunity to prepare the required document or analysis for the agency's review and use in decisionmaking.

(c) REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES. – If

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

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

the Secretary shall reimburse the lessee, operator, or operating rights owner for its costs through royalty credits attributable to the lease, unit agreement, or project area.

SEC. 337. TIMELY ISSUANCE OF DECISIONS.

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

(b) OFFER TO LEASE.—

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

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

(c) APPLICATION FOR PERMIT TO DRILL.—

(1) DEADLINE.—The Secretary and a State that has accepted a transfer of authority under section 610 shall approve or disapprove an application for permit to drill not later than 30 days after receiving a complete application.

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

(d) SURFACE USE PLAN OF OPERATIONS.—The Secretary shall approve or disapprove a surface use plan of operations not later than 30 days after receipt of a complete plan.

(e) ADMINISTRATIVE APPEALS.—

(1) DEADLINE.—From the time that a Federal oil and gas lessee or operator files a notice of administrative appeal of a decision or order of an officer or employee of the Department of the Interior or the Forest Service respecting a Federal oil and gas Federal lease, the Secretary shall have 2 years in which to issue a final decision in the appeal.

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

SEC. 338. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

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

(b) LAND DESIGNATED FOR MULTIPLE USE.—

(1) IN GENERAL.—Land designated as available for multiple use under Bureau of Land Management resource management plans and Forest Service leasing analyses shall be available for oil and gas leasing without lease stipulations more stringent than restrictions on surface use and operations imposed under the laws (including regulations) of the State oil and gas conservation authority unless the Secretary includes in the decision approving the management plan or leasing analysis a written explanation why more stringent stipulations are warranted.

(2) APPEAL.—Any decision to require a more stringent stipulation shall be administratively appealable and, following a final agency decision, shall be subject to judicial review.

(c) REJECTION OF OFFER TO LEASE.—

(1) IN GENERAL.—If the Secretary rejects an offer to lease on the ground that the land is unavailable for leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) PREVIOUS RESOURCE MANAGEMENT DECISION.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

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

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

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

SEC. 339. REPORTS.

(a) IN GENERAL.—Not later than March 31, 2002, the Secretaries shall jointly submit to the Congress a report explaining the most efficient means of eliminating overlapping jurisdiction, duplication of effort, and inconsistent policymaking and policy implementation as between the Bureau of Land Management and the Forest Service.

(b) RECOMMENDATIONS.—The report shall include recommendations on statutory changes needed to implement the report's conclusions.

SUBTITLE E—ROYALTY REINVESTMENT IN AMERICA

SEC. 351. ROYALTY INCENTIVE PROGRAM.

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

(b) NO CREDITING AGAINST ONSHORE FEDERAL ROYALTY OBLIGATIONS.—In no case shall such capital expenditures made on Outer Continental Shelf leases be credited against onshore Federal royalty obligations.

TITLE IV - NUCLEAR

SUBTITLE A - PRICE-ANDERSON AMENDMENTS

SEC. 401. SHORT TITLE. – This Subtitle may be cited as the “Price-Anderson Amendments Act of 2001".

SEC. 402. INDEMNIFICATION AUTHORITY.

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

(b) INDEMNIFICATION OF DOE CONTRACTORS- Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ", until August 1, 2002,".

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS- Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking "August 1, 2002" each place it appears and inserting "August 1, 2012".

SEC. 403. MAXIMUM ASSESSMENT. – Section 170 b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended by striking "$10,000,000" and inserting "$20,000,000".

SEC. 404. DOE LIABILITY LIMIT.

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

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary--

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and

"(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract

and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.”.

(b) CONTRACT AMENDMENTS- Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking subsection (3) and inserting the following:

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

SEC. 405. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION- Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking “$100,000,000" and inserting “$500,000,000".

(b) LIABILITY LIMIT- Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking “$100,000,000" and inserting “$500,000,000".

SEC. 406. REPORTS. – Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking “August 1, 1998" and inserting “August 1, 2008".

SEC. 407. INFLATION ADJUSTMENT.

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

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

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

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since--

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

"(B) the previous adjustment under this subsection.".

SEC. 408. CIVIL PENALTIES.

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

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

"d. Notwithstanding subsection a., no contractor, subcontractor, or supplier considered to be nonprofit under the Internal Revenue Code of 1954 shall be subject to a civil penalty under this section in excess of the amount of any performance fee paid by the Secretary to such contractor, subcontractor, or supplier under the contract under which the violation or violations; occur.".

SEC. 409. EFFECTIVE DATE.

(a) IN GENERAL- The amendments made by this Subtitle shall become effective on the date of the enactment of this Subtitle.

(b) INDEMNIFICATION PROVISIONS- The amendments made by sections 703, 704, and 705 shall not apply to any nuclear incident occurring before the date of the enactment of this Subtitle.

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

SUBTITLE B - FUNDING FROM THE DEPARTMENT OF ENERGY

SEC. 410. NUCLEAR ENERGY RESEARCH INITIATIVE. --- There are authorized to be appropriated $60,000,000 for fiscal year 2002 and such sums as are necessary for each fiscal year thereafter for a Nuclear Energy Research Initiative to be managed by the Director of the Office of Nuclear Energy, for grants to be competitively awarded and subject to peer review for research relating to nuclear energy. The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations in the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, an annual report on the activities of the Nuclear Energy Research Initiative.

SEC. 411. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM. --- There are authorized to be appropriated $10,000,000 for fiscal year 2002 and such sums as are necessary for each fiscal year thereafter for a Nuclear Energy Plant Optimization Program to be managed by the Director of the Office of Nuclear Energy, for a joint program with industry cost-shared by at least 50 percent and subject to annual review by the Secretary of Energy's Nuclear Energy Research

Advisory Council. The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations in the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, an annual report on the activities of the Nuclear Energy Plant Optimization Program.

SEC. 412. NUCLEAR ENERGY TECHNOLOGY DEVELOPMENT PROGRAM. --- There are authorized to be appropriated $25,000,000 for fiscal year 2002 and such sums as are necessary for each fiscal year thereafter for a Nuclear Energy Technology Development Program to be managed by the Director of the Office of Nuclear Energy, for a roadmap to design and develop a new nuclear energy facility in the United States and subject to annual review by the Secretary of Energy's Nuclear Energy Research Advisory Council. The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations in the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, an annual report on the activities of the Nuclear Technology Development Program.

SUBTITLE C - GRANTS FOR INCENTIVE PAYMENTS FOR CAPITAL IMPROVEMENTS TO INCREASE EFFICIENCY

SEC. 420. NUCLEAR ENERGY PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.– For electric energy generated and sold by an existing nuclear energy facility during the incentive period, the Secretary of Energy shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the

Secretary of an incentive payment application, which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) DEFINITIONS. – For purposes of this section:

(1) QUALIFIED NUCLEAR ENERGY FACILITY. – The term "qualified nuclear energy facility" means an existing reactor used to generate electricity for sale.

(2) EXISTING REACTOR.– The term "existing reactor" means any nuclear reactor the construction of which was completed and licensed by the Nuclear Regulatory Commission before the date of enactment of this section.

(c) INCENTIVE PERIOD. – A qualified nuclear energy facility may receive payments under this section for a period of 15 years (referred to in this section as the "incentive period.")

(d) AMOUNT OF PAYMENT.–

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

(2) The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2001 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions, the calendar year 2001 shall be substituted for the calendar year 1979.

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

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

SEC. 421. NUCLEAR ENERGY EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS. – The Secretary of Energy shall make incentive payments to the owners or operators of qualified nuclear energy facilities to be used to make capital improvements in the facilities that are directly related to improving the electrical output efficiency of such facilities by at least 1 percent.

(b) LIMITATIONS. –

(1) Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than one payment may be made with respect to improvements at a single facility.

(2) No payment in excess of $1,000,000 may be made with respect to improvements at a single facility.

(3) Payments may be made by the Department or used by a facility to offset the costs of NRC permitting fees for a capital improvement.

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

(c) AUTHORIZATION.– There is authorized to be appropriated to carry out this section not more than $20,000,000 in each fiscal year after the fiscal year 2001.

TITLE V–ARCTIC COASTAL PLAIN DOMESTIC ENERGY SECURITY ACT OF 2001

SEC. 501. SHORT TITLE.

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

SEC. 502. DEFINITIONS.

When used in this title the term—

(1) “1002 Area” means that area identified as “Coastal Plain” in the map entitled “Arctic National Wildlife Refuge”, dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1,549,000 acres; and

(2) “Secretary”, except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 503. LEASING PROGRAM FOR LANDS WITHIN THE ANWR 1002 AREA.

(a) AUTHORIZATION.—The Congress hereby authorizes and directs the Secretary, acting through the Bureau of Land Management in consultation with the Fish and Wildlife Service and other appropriate Federal offices and agencies, to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the 1002 Area and to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the 1002 Area will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.

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

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

(e) FEDERAL LAND.—The 1002 Area shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982 .

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

(g) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the 1002 Area to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(h) CONVEYANCE.—In order to maximize Federal revenues by removing clouds on title of lands and clarifying land ownership patterns within the 1002 Area, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the

Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 504. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and the environment of the 1002 Area. Such rules and regulations shall be promulgated no later than fourteen months after the date of enactment of this title and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this title and all operations on the 1002 Area related to the leasing, exploration, development and production of oil and gas.

(b) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 505. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The “Final Legislative Environmental Impact Statement” (April 1987) prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal and procedural requirements of

the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program authorized by this title, to conduct the first lease sale and any subsequent lease sale authorized by this title, and to grant rights-of-way and easements to carry out the purposes of this title.

SEC. 506. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for–

(1) receipt and consideration of sealed nominations for any area in the 1002 Area for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale; and

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALES ON 1002 AREA.–The Secretary shall, by regulation, provide for lease sales of lands on the 1002 Area. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres be offered in such sale. With respect to

subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the 1002 Area. The initial lease sale shall be held within twenty months of the date of enactment of this title. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 507. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the 1002 Area upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12 ½ per centum in amount or value of the production removed or sold from the lease.

(b) ANTITRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and the Attorney General shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.

(c) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(d) IMMUNITY.—Nothing in this title shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

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

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

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

SEC. 508. LEASE TERMS AND CONDITIONS.

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

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

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

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

(4) require that exploration activities pursuant to any lease issued or maintained under this title shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;

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

(6) require posting of bond as required by section 509 of this title;

(7) provide that the Secretary may close, on a seasonal basis, portions of the 1002 Area to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

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

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this title in the interest of conservation of the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be canceled by the

Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's post office address of record;

(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this title, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this title;

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

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

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

(15) require that the holder of a lease or leases on lands within the 1002 Area shall be fully responsible and liable for the reclamation of those lands within and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the 1002 Area by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;

(16) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;

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

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

(19) provide that the holder of a lease, its agents, and contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing Section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(20) require project agreements to the extent feasible that will ensure productivity and consistency recognizing a national interest in both labor stability and the ability of construction

labor and management to meet the particular needs and conditions of projects to be developed under leases issued pursuant to this Act; and

(21) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

SEC. 509. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount–

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 510. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this title shall provide the Secretary access to all data and information from any lease granted pursuant to this title (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

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

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

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 511. EXPEDITED JUDICIAL REVIEW.

(a) Any complaint seeking judicial review of any provision in this title, or any other action of the Secretary under this title may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint: *Provided,* That any complaint seeking judicial review of an action of the Secretary in promulgating any regulation

under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(b) Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

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

Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of Section 28(c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the 1002 Area for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the 1002 Area. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued as required by section 504 of this title shall include provisions granting rights-of-way and easements across the 1002 Area.

SEC. 513. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) RESPONSIBILITY OF THE SECRETARY.–The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this title.

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

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, subsistence resources, and the environment of, the 1002 Area; and

(2) allow prompt access at the site of any operations subject to regulation under this title to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the 1002 Area which is subject to any environmental or safety regulation promulgated pursuant to this title or conditions contained in any lease issued pursuant to this title to assure compliance with such environmental or safety regulations or conditions; and

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

SEC. 514. NEW REVENUES.

(a) DEPOSIT INTO TREASURY. -- Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties,

rents, fees, or interest derived from the leasing of oil and gas within the 1002 Area shall be deposited into the Treasury of the United States, solely as provided in this section. The Secretary of the Treasury shall pay to the State of Alaska the same percentage of such revenues as is set forth under the heading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" in Public Law 96-514 (94 Stat. 2957, 2964) semiannually to the State of Alaska, on March 30 and September 30 of each year and shall deposit the balance of all such revenues as miscellaneous receipts in the Treasury. Notwithstanding any other provision of law, the Secretary of the Treasury shall monitor the total revenue deposited into the Treasury as miscellaneous receipts from oil and gas leases issued under the authority of this subtitle and shall deposit amounts received as bonus bids into a special fund established in the Treasury of the United States known as the Renewable Energy Research and Development Fund (in this section referred to as the "Renewable Energy Fund").

(b) USE OF RENEWABLE ENERGY FUND.--Of the amounts in the Renewable Energy Fund, an amount equal to ten percent of the total deposits shall be made available to the Secretary of Energy, without further appropriation, at the beginning of each fiscal year in which amounts are available, and may be expended by the Secretary of Energy for research and development of renewable domestic energy resources of wind, solar, biomass, geothermal and hydroelectric. Such amounts shall remain available until expended and shall be in addition to funds appropriated in the preceding fiscal year to the Secretary of Energy for renewable energy research, development and demonstration programs authorized by section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813). The Secretary of Energy shall develop procedures for the use of the Renewable Energy Fund that ensure accountability and demonstrated results. Beginning the first full fiscal

year after deposits are made into the Renewable Energy Fund, the Secretary of Energy shall submit an annual report to the Committee on Energy and Natural Resources of the United States Senate and the appropriate Committees of the United States House of Representatives detailing the use of any expenditures.

TITLE VI - ENERGY EFFICIENCY, CONSERVATION, AND ASSISTANCE TO LOW-INCOME FAMILIES

SEC. 601. EXTENSION OF LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

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

(b) PAYMENTS TO STATES - Section 2602(d)(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621) is amended by striking “2004" and inserting “2010".

(c) EMERGENCY FUNDS - Section 2602(e) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621), is amended by striking “$600,000,000" and inserting “$1,000,000,000".

SEC. 602. ENERGY EFFICIENT SCHOOLS PROGRAM

(a) ESTABLISHMENT- There is established in the Department of Energy the Energy Efficient Schools Program (hereafter in this section referred to as the “Program”).

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

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

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

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

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

(1) demonstrated a need for such grants in order to respond appropriately to increasing elementary and secondary school enrollments or to make major investments in renovation of school facilities;

(2) demonstrated that the districts do not have adequate funds to respond appropriately to such enrollments or achieve such investments without assistance; and

(3) made a commitment to use the grant funds to develop energy efficient school buildings in accordance with the plan developed and approved pursuant to paragraph (e)(1).

(d) OTHER GRANTS-

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

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

(B) organizing and conducting programs for school board members, school district personnel, architects, engineers, and others to advance the concepts of energy efficient school buildings;

(C) obtaining technical services and assistance in planning and designing energy efficient school buildings; and

(D) collecting and monitoring data and information pertaining to the energy efficient school building projects.

(2) GRANTS TO PROMOTE PARTICIPATION- Grants under paragraph (b)(3) may be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with school administrations, students, and communities, and coordinating public benefit programs.

(e) IMPLEMENTATION-

(1) PLANS- Grants under subsection (b) shall be provided only to school districts that, in consultation with State offices of energy and education, have developed plans that the State energy office determines to be feasible and appropriate in order to achieve the purposes for which such grants were made.

(2) SUPPLEMENTING GRANT FUNDS- The State agency referred to in paragraph (1) shall encourage qualifying school districts to supplement their grant funds with funds from other sources in the implementation of their plans.

(f) ALLOCATION OF FUNDS -

(1) IN GENERAL- Except as provided in subsection (c), funds appropriated for the implementation of this section shall be provided to State energy offices to administer the program of assistance to school districts under this section.

(g) PURPOSES- Except as provided in subsection (c), funds appropriated under this section shall be allocated as follows:

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

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

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

(h) OTHER FUNDS- The Secretary of Energy may, through the Program established under subsection (a), retain an amount, not to exceed $300,000 per year, to assist State energy offices in coordinating and implementing such Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve energy efficient school buildings.

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

(j) DEFINITIONS–

(1) ELEMENTARY AND SECONDARY SCHOOL- The terms “elementary school” and “secondary school” shall have the same meaning given such terms in paragraphs (14) and (25) of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14),(25)).

(2) ENERGY EFFICIENT SCHOOL BUILDING- The term “energy efficient school building” refers to a school building which, in its design, construction, operation, and maintenance maximizes use of renewable energy and efficient energy practices, is cost-effective on a life-cycle basis, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(3) RENEWABLE ENERGY- The term “renewable energy” means energy produced by solar, wind, geothermal, hydroelectric power, and biomass power.

SEC. 603. AMENDMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.

(a) ELIGIBILITY- Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended by–

(1) in definition (7)(A), striking “125" and inserting “150", and

(2) in definition (7)(C), striking “125" and inserting “150".

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

(1) striking “$200,000,000" and inserting “$250,000,000";

(2) striking “1991" and inserting “2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, $500,000,000 for fiscal year 2005"; and

(3) striking “1992, 1993 and 1994" and inserting “for each fiscal year thereafter”.

SEC. 604. AMENDMENTS TO STATE ENERGY PROGRAM.

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

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

(2) inserting after subsection (e) the following new subsection (f) –

“(f) The Secretary shall, at least once every three years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under section 362(b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”.

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

(1) striking “October 1, 1991" and inserting “January 1, 2001",

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

(3) striking “2000" and inserting “2010".

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

(1) striking “and”,

(2) striking the period and inserting ",$75,000,000 for fiscal year 2002, $100,000,000 for fiscal years 2003 and 2004, $125,000,000 for fiscal year 2005 and such sums as are necessary for each fiscal year thereafter.".

SEC. 605. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO FEDERAL ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) ENERGY SAVINGS THROUGH CONSTRUCTION OF REPLACEMENT FACILITIES- Section 804 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended--

(1) in paragraph (2)--

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

(B) by inserting "(A)" after "(2)"; and

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

"(B) The term "energy savings" also means a reduction in the cost of energy, from such a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned facilities by reason of the construction and operation of one or more new buildings or facilities."; and

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

(b) COST SAVINGS FROM OPERATION AND MAINTENANCE EFFICIENCIES IN REPLACEMENT FACILITIES- Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

“(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at new and/or additional buildings or facilities, from a base cost of operation and maintenance established through a methodology set forth in the contract.

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

(c) FIVE-YEAR EXTENSION OF AUTHORITY- Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking `October 1, 2003' and inserting `October 1, 2008'.

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

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

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

“(6) A utility incentive program may include a contract or contract term for a reduction in the cost of energy, from a base cost established through a methodology set forth in such a contract, that would otherwise be utilized in one or more federally owned buildings or other federally owned facilities by reason of the construction and/or operation of one or more buildings or facilities, as well as benefits ancillary to the purpose of such contract or contract term, including savings resulting from reduced costs of operation and maintenance at new and/or additional buildings or facilities when

compared with the costs of operation and maintenance at existing buildings or facilities.”.

SEC. 606. FEDERAL ENERGY EFFICIENCY REQUIREMENT

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

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

(c) ANNUAL REPORT –

(1) IN GENERAL – Each agency shall measure and report annually to Congress and the President its progress in meeting the requirements of this section.

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

(d) EXEMPTION OF CERTAIN FACILITIES – A facility may be deemed exempt when the Secretary determines that compliance with the Energy Policy Act of 1992 is not practical for that particular facility. No later than one year from date of enactment, the Secretary shall, in consultation with the Administrator of the Energy Information

Administration, set guidelines for agencies to use in excluding certain kinds of facilities to meet the requirements of this section.

(e) APPLICABILITY – The Department of Defense (DOD) is subject to this order only to the extent that it does not impair or adversely affect military operations and training (including tactical aircraft, ships, weapons systems, combat training, and border security).

(f) DEFINITIONS – For the purposes of this section,

(1) ‘‘agency’’ means an executive agency as defined in 5 U.S.C. 105. Military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

(2) ‘‘facility’’ means any individual building or collection of buildings, grounds, or structure, as well as any fixture or part thereof, including the associated energy or water-consuming support systems, which is constructed, renovated, or purchased in whole or in part for use by the Federal Government. It includes leased facilities where the Federal Government has a purchase option or facilities planned for purchase. In any provision of this order, the term ‘‘facility’’ also includes any building 100 percent leased for use by the Federal Government where the Federal Government pays directly or indirectly for the utility costs associated with its leased space, and Government-owned contractor-operated facilities.

SEC. 607. ENERGY EFFICIENCY SCIENCE INITIATIVE. ---- There are authorized to be appropriated $25,000,000 for fiscal year 2001 and such sums as are necessary for each fiscal year thereafter, but not to exceed $50,000,000 in any fiscal year, for an Energy Efficiency Science

Initiative to be managed by the Assistant Secretary for Energy Efficiency and Renewable Energy in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency. The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations of the United States House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, an annual report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

TITLE VII – ALTERNATIVE FUELS AND RENEWABLE ENERGY

SUBTITLE A – ALTERNATIVE FUELS

SEC. 701. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES – Section 102(a) of title 23, United States Code, is amended by inserting "(unless, at the discretion of the State highway department, the vehicle operates on, or is fueled by, an alternative fuel (as defined in section 301 of Public Law 102-486 (42 U.S.C. 13211(2)))" after "required".

SEC. 702. ALTERNATIVE FUEL VEHICLE CREDITS FOR INSTALLATION OF QUALIFYING INFRASTRUCTURE – Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding the following at the end:

"(e) CREDIT FOR ACQUISITION OR INSTALLATION OF QUALIFYING INFRASTRUCTURE -- The Secretary shall allocate an infrastructure credit to a fleet or

covered person that is required to acquire an alternative fueled vehicle under this title, or to a Federal fleet as defined by section 303(b)(3) of Title III of this Act, for the acquisition or installation of the fuel or the needed infrastructure, including the supply and delivery systems, necessary to operate or maintain the alternative fueled vehicle. Such necessary infrastructure shall include, but is not limited to, the following:

"(A) equipment required to refuel of recharge the alternative fueled vehicle;

"(B) facilities or equipment required to maintain, repair or operate the alternative fueled vehicle;

"(C) training programs, educational materials or other activities necessary to provide information regarding the operation, maintenance or benefits associated with the alternative fueled vehicle; and

"(D) such other activity as the Secretary deems an appropriate expenditure in support of the operation, maintenance or further wide spread adoption or utilization of the alternative fueled vehicle.

"(f) QUALIFYING INFRASTRUCTURE CREDIT -- The term "infrastructure credit" shall mean –

"(A) that equipment or activity defined in subsection (e) above; and

"(B) be equivalent in cost to the acquisition of an alternative fueled vehicle for which the expenditure on the infrastructure is made.

"(g) LIMITATION ON NUMBER OF INFRASTRUCTURE CREDITS ISSUED -- Each fleet or covered person that is required to acquire an alternative fueled vehicle under this

title, or each Federal fleet as defined by section 303(b)(3) of Title III of this Act, shall be limited in the number of infrastructure credits that may be acquired and used to meet the alternative fueled vehicle requirements of this Act to no more than the equivalent of one half of the alternative fueled vehicles required per annum."

SEC. 703. STATE AND LOCAL GOVERNMENT USE OF FEDERAL ALTERNATIVE FUEL REFUELING FACILITIES – Section 304 of the Energy Policy Act of 1992 (42 U.S.C. 13213) is amended by adding the following at the end:

"(c) STATE AND LOCAL GOVERNMENT OWNED VEHICLES. – Federal agencies may include any alternative fuel vehicles owned by States or local governments in any commercial arrangements for the purpose of fueling Federal alternative fueled vehicles as authorized under subsection (a) of this section. The Secretary may allocate equivalent infrastructure credits to a Federal fleet as defined by section 303(b)(3) of Title III of this Act, for the inclusion of such vehicles in any such commercial fueling arrangements.".

SEC. 704. FEDERAL FLEET FUEL ECONOMY AND USE OF ALTERNATIVE FUELS

(A) FUEL ECONOMY – Through cost-effective measures, each agency shall increase the average EPA fuel economy rating of passenger cars and light trucks acquired by at least 3 miles per gallon (mpg) by the end of fiscal year 2005 compared to acquisitions in fiscal year 2000.

(b) USE OF ALTERNATIVE FUELS – Through cost-effective measures, each agency shall, by the end of fiscal year 2005, use alternative fuels for at least 50 percent of the total annual volume of fuel used by the agency. No more than 25 percent of fuel purchased by

State and local governments at Federally-owned refueling facilities as described under Section 403 may be included by an agency in meeting the requirement of this section.

(c) IMPLEMENTATION PLAN – No later than one year after date of enactment of this section, each agency shall develop and submit to Congress and the President an implementation plan for fulfilling the requirements of this section. Each agency should develop an implementation plan that meets its unique fleet configuration and fleet requirements.

(d) ANNUAL REPORT –

(1) IN GENERAL – Each agency shall measure and report annually to Congress and the President its progress in meeting the requirements of this section.

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

(e) APPLICABILITY – This order applies to each federal agency operating 20 or more motor vehicles within the United States.

(f) EXEMPTION OF CERTAIN VEHICLES – Department of Defense military tactical vehicles are exempt from this order. Law enforcement, emergency, and any other vehicle class or type determined by the Secretary, in consultation with the Federal Energy

Management Program, are exempted from the requirements of this section. No later than one year from date of enactment, the Secretary shall, in consultation with the Federal Energy Management Program, set guidelines for agencies to use in the determination of exemptions.

(g) DEFINITIONS – For the purposes of this section,

(1) ‘‘agency’’ means an executive agency as defined in 5 U.S.C. 105. Military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

(2) ‘‘alternative fuel’’ means any fuel defined as an alternative fuel pursuant to Section 301 of the Energy Policy Act of 1992 (P.L. 102-486).

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

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

(2) in subsection (g)(4)(B), after the words, “solely on alternative fuel”, insert the words “, including a three wheeled enclosed electric vehicle having a VIN number”.

SEC. 705. LOCAL GOVERNMENT GRANT PROGRAM

(a) ESTABLISHMENT – Within one year of date of enactment of this section, the Secretary of Energy shall establish a program for making grants to local governments for

covering the incremental cost of qualified alternative fuel motor vehicles.

(b) CRITERIA – In deciding to whom grants shall be made under this subsection, the Secretary of Energy shall consider the goal of assisting the greatest number of applicants, provided that no grant award shall exceed $1,000,000.

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

(d) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED – For purposes of this section, the term "qualified motor vehicle" means any motor vehicle which is capable of operating only on an alternative fuel.

(e) INCREMENTAL COST – For purposes of this section, the incremental cost of any qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel motor vehicle of the same model.

(f) AUTHORIZATION OF APPROPRIATIONS – For the purposes of this section, there are authorized to be appropriated $100,000,000 annually for each of the fiscal years 2002 through 2006.

SUBTITLE B – RENEWABLE ENERGY

SEC. 710. RESIDENTIAL RENEWABLE ENERGY GRANT PROGRAM

(a) IN GENERAL – The Secretary of Energy shall develop and implement a grant program that to offset a portion of the total cost of certain eligible residential renewable energy systems.

(b) ELIGIBILITY – Grants may be awarded for any of the following:

(1) new installation of an eligible residential renewable energy system for an existing dwelling unit,

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

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

(4) construction of a new home or rental property which includes an eligible residential renewable energy system.

(c) TOTAL COST –

(1) IN GENERAL – For purposes of this section, `total cost' means expenditure of funds for the following:

(A) any equipment whose primary purpose is to provide for the collection, conversion, transfer, distribution, storage or control of electricity or heat generated from renewable energy,

(B) installation charges,

(C) labor costs properly allocable to the onsite preparation, assembly, or original installation of the system, and

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

(2) LEASED SYSTEMS – In the case of a system that is leased, `total cost' means the principal recovery portion of all lease payments scheduled to be made during the full term of the lease, excluding interest charges and maintenance expenses.

(3) EXISTING SYSTEMS – In the case of addition to or augmentation of an existing system, `total cost' shall include only those expenditures related to the incremental cost of the addition or augmentation, and not the full cost of the system.

(d) COST BUY-DOWN – Grants provided under this section shall not exceed $3,000 per eligible residential renewable energy system, and shall be limited further as follows:

(1) For fiscal years 2002 and 2003, grants provided under this section shall be limited to the smaller of -

(A) 50% of the total cost of the energy system, or

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

(2) For fiscal years 2004 and 2005, grants provided under this section shall be limited to the smaller of -

(A) 40% of the total cost of the energy system, or

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

(3) For fiscal years 2006 and 2007, grants provided under this section shall be limited to the smaller of -

(A) 30% of the total cost of the energy system, or

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

(4) For fiscal years 2008 and 2009, grants provided under this section shall be limited to the smaller of -

(A) 20% of the total cost of the energy system, or

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

(5) For fiscal years 2010 and 2011, grants provided under this section shall be limited to the smaller of -

(A) 10% of the total cost of the energy system, or

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

(e) LIMITATIONS – No grant shall be allowed under this section for an eligible residential renewable energy system unless –

(1) such expenditure is made for property installed on or in connection with a dwelling unit which is located in the United States and which is used as a residence,

(2) in the case of solar water heating equipment, such equipment is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such

property is installed, and

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

(f) DEFINITIONS- For purposes of this section--

(1) RENEWABLE ENERGY SYSTEM – The term ‘renewable energy system’ means property that uses any of the following renewable energy forms to create electricity, heat, or other forms of useful energy:

(A) solar thermal,

(B) solar photovoltaic,

(C) wind,

(D) biomass,

(E) hydroelectric, or

(F) geothermal.

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

(3) ENERGY STORAGE MEDIUM- Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

(g) SPECIAL RULES- For purposes of this section –

(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION- In the case of an individual who is a tenant-stockholder (as defined in 26 U.S.C. 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in 26 U.S.C. 216(b)(3)) of any expenditures of such corporation.

(2) CONDOMINIUMS-

(A) IN GENERAL- In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

(B) CONDOMINIUM MANAGEMENT ASSOCIATION- For purposes of this paragraph, the term `condominium management association' means an organization which meets the requirements of paragraph (1) of 26 U.S.C. 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(3) RENEWABLE ENERGY SYSTEMS FOR MULTIPLE DWELLINGS-

(A) IN GENERAL- Any expenditure otherwise qualifying as an expenditure described in paragraph (1) of subsection (c) shall not be treated as failing to so qualify merely because such expenditure was made with

respect to 2 or more dwelling units.

(B) LIMITS APPLIED SEPARATELY- In the case of any expenditure described in subparagraph (A), the amount of the grant available under subsection (d) shall be computed separately with respect to the amount of the expenditure made for each dwelling unit.

(h) ANNUAL REPORT – The Secretary shall submit to Congress and the President an annual report on grants distributed pursuant to this section. The report shall include, at minimum, the following:

(1) a summary of the eligible residential renewable energy systems receiving grants in the year just concluded,

(2) an estimate of new renewable energy generation installed as a result of grants awarded, and its distribution by renewable energy source and geographic location,

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

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

(i) AUTHORIZATION OF APPROPRIATIONS – For the purposes of this section, there are authorized to be appropriated $30,000,000 for fiscal year 2002 and such sums as are necessary for each fiscal year thereafter, but not to exceed $150,000,000 in any fiscal year.

SEC. 711. ASSESSMENT OF RENEWABLE ENERGY RESOURCES

(a) IN GENERAL – No later than twelve months after the date of enactment of this

section, the Secretary of Energy shall submit to the Congress an assessment of all renewable energy resources available within the United States.

(b) RESOURCE ASSESSMENT – Such report shall include a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources, and an estimate of the costs needed to develop each resource. The report shall also include such other information as the Secretary of Energy believes would be useful in siting renewable energy generation, such as appropriate terrain, population and load centers, nearby energy infrastructure, and location of energy and water resources.

(c) AVAILABILITY – The information and cost estimates in this report shall be updated annually and made available to the public, along with the data used to create the report.

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

SUBTITLE C – HYDROELECTRIC LICENSING REFORM

SEC. 721. SHORT TITLE. – This Act may be cited as the `Hydroelectric Licensing Process Improvement Act of 2001'.

SEC. 722. FINDINGS. – Congress finds that--

(1) hydroelectric power is an irreplaceable source of clean, economic, renewable energy with the unique capability of supporting reliable electric service while maintaining environmental quality;

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

(3) hydroelectric power projects provide multiple benefits to the United States, including recreation, irrigation, flood control, water supply, and fish and wildlife benefits;

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

(5) the process of licensing hydroelectric projects by the Commission--

(A) does not produce optimal decisions, because the agencies that participate in the process are not required to consider the full effects of their mandatory and recommended conditions on a license;

(B) is inefficient, in part because agencies do not always submit their mandatory and recommended conditions by a time certain;

(C) is burdened by uncoordinated environmental reviews and duplicative permitting authority; and

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

(6) while the alternative licensing procedures available to applicants for hydroelectric project licenses provide important opportunities for the collaborative resolution of many of the issues in hydroelectric project licensing, those procedures are not appropriate in every case and cannot substitute for statutory reforms of the hydroelectric licensing process.

SEC. 723. PURPOSE. – The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost

power by --

(1) requiring agencies to consider the full effects of their mandatory and recommended conditions on a hydroelectric power license and to document the consideration of a broad range of factors;

(2) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license; and

(3) making other improvements in the licensing process.

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

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

`SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

`(a) DEFINITIONS - In this section:

`(1) CONDITION - The term `condition' means--

`(A) a condition to a license for a project on a Federal reservation determined by a consulting agency for the purpose of the first proviso of section 4(e); and

`(B) a prescription relating to the construction, maintenance, or

operation of a fishway determined by a consulting agency for the purpose of the first sentence of section 18.

`(2) CONSULTING AGENCY- The term `consulting agency' means--

`(A) in relation to a condition described in paragraph (1)(A), the Federal agency with responsibility for supervising the reservation; and

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

`(b) FACTORS TO BE CONSIDERED-

`(1) IN GENERAL- In determining a condition, a consulting agency shall take into consideration--

`(A) the impacts of the condition on--

`(i) economic and power values;

`(ii) electric generation capacity and system reliability;

`(iii) air quality (including consideration of the impacts on greenhouse gas emissions); and

`(iv) drinking, flood control, irrigation, navigation, or recreation water supply;

`(B) compatibility with other conditions to be included in the

license, including mandatory conditions of other agencies, when available; and

`(C) means to ensure that the condition addresses only direct project environmental impacts, and does so at the lowest project cost.

`(2) DOCUMENTATION-

`(A) IN GENERAL- In the course of the consideration of factors under paragraph (1) and before any review under subsection (e), a consulting agency shall create written documentation detailing, among other pertinent matters, all proposals made, comments received, facts considered, and analyses made regarding each of those factors sufficient to demonstrate that each of the factors was given full consideration in determining the condition to be submitted to the Commission.

`(B) SUBMISSION TO THE COMMISSION- A consulting agency shall include the documentation under subparagraph (A) in its submission of a condition to the Commission.

`(c) SCIENTIFIC REVIEW-

`(1) IN GENERAL- Each condition determined by a consulting agency shall be subjected to appropriately substantiated scientific review.

`(2) DATA- For the purpose of paragraph (1), a condition shall be considered to have been subjected to appropriately substantiated scientific

review if the review--

`(A) was based on current empirical data or field-tested data; and

`(B) was subjected to peer review.

`(d) RELATIONSHIP TO IMPACTS ON FEDERAL RESERVATION- In the case of a condition for the purpose of the first proviso of section 4(e), each condition determined by a consulting agency shall be directly and reasonably related to the impacts of the project within the Federal reservation.

`(e) ADMINISTRATIVE REVIEW-

`(1) OPPORTUNITY FOR REVIEW- Before submitting to the Commission a proposed condition, and at least 90 days before a license applicant is required to file a license application with the Commission, a consulting agency shall provide the proposed condition to the license applicant and offer the license applicant an opportunity to obtain expedited review before an administrative law judge or other independent reviewing body of--

`(A) the reasonableness of the proposed condition in light of the effect that implementation of the condition will have on the energy and economic values of a project; and

`(B) compliance by the consulting agency with the requirements of this section, including the requirement to consider the factors described in subsection (b)(1).

`(2) COMPLETION OF REVIEW-

`(A) IN GENERAL- A review under paragraph (1) shall be completed not more than 180 days after the license applicant notifies the consulting agency of the request for review.

`(B) FAILURE TO MAKE TIMELY COMPLETION OF REVIEW- If review of a proposed condition is not completed within the time specified by subparagraph (A), the Commission may treat a condition submitted by the consulting agency as a recommendation is treated under section 10(j).

`(3) REMAND- If the administrative law judge or reviewing body finds that a proposed condition is unreasonable or that the consulting agency failed to comply with any of the requirements of this section, the administrative law judge or reviewing body shall--

`(A) render a decision that--

`(i) explains the reasons for a finding that the condition is unreasonable and may make recommendations that the administrative law judge or reviewing body may have for the formulation of a condition that would not be found unreasonable; or

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

agency should take to meet the requirement; and

`(B) remand the matter to the consulting agency for further action.

`(4) SUBMISSION TO THE COMMISSION- Following administrative review under this subsection, a consulting agency shall--

`(A) take such action as is necessary to--

`(i) withdraw the condition;

`(ii) formulate a condition that follows the recommendation of the administrative law judge or reviewing body; or

`(iii) otherwise comply with this section; and

`(B) include with its submission to the Commission of a proposed condition--

`(i) the record on administrative review; and

`(ii) documentation of any action taken following administrative review.

`(f) SUBMISSION OF FINAL CONDITION-

`(1) IN GENERAL- After an applicant files with the Commission an application for a license, the Commission shall set a date by which a consulting agency shall submit to the Commission a final condition.

`(2) LIMITATION- Except as provided in paragraph (3), the date for submission of a final condition shall be not later than 1 year after the date

on which the Commission gives the consulting agency notice that a license application is ready for environmental review.

`(3) DEFAULT- If a consulting agency does not submit a final condition to a license by the date set under paragraph (1)--

`(A) the consulting agency shall not thereafter have authority to recommend or establish a condition to the license; and

`(B) the Commission may, but shall not be required to, recommend or establish an appropriate condition to the license that--

`(i) furthers the interest sought to be protected by the provision of law that authorizes the consulting agency to propose or establish a condition to the license; and

`(ii) conforms to the requirements of this Act.

`(4) EXTENSION- The Commission may make 1 extension, of not more than 30 days, of a deadline set under paragraph (1).

`(g) ANALYSIS BY THE COMMISSION-

`(1) ECONOMIC ANALYSIS- The Commission shall conduct an economic analysis of each condition submitted by a consulting agency to determine whether the condition would render the project uneconomic.

`(2) CONSISTENCY WITH THIS SECTION- In exercising authority under section 10(j)(2), the Commission shall consider whether any

recommendation submitted under section 10(j)(1) is consistent with the purposes and requirements of subsections (b) and (c) of this section.

`(h) COMMISSION DETERMINATION ON EFFECT OF CONDITIONS- When requested by a license applicant in a request for rehearing, the Commission shall make a written determination on whether a condition submitted by a consulting agency–

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

`(2) was subjected to scientific review in accordance with subsection (c);

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

`(4) is reasonable;

`(5) is supported by substantial evidence; and

`(6) is consistent with this Act and other terms and conditions to be included in the license.'.

(b) CONFORMING AND TECHNICAL AMENDMENTS-

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

(A) in the first proviso of the first sentence by inserting after `conditions' the following: `, determined in accordance with section 32,'; and

(B) in the last sentence, by striking the period and inserting `(including consideration of the impacts on greenhouse gas emissions)'.

(2) SECTION 18- Section 18 of the Federal Power Act (16 U.S.C. 811) is amended in the first sentence by striking `prescribed by the Secretary of Commerce' and inserting `prescribed, in accordance with section 32, by the Secretary of the Interior or the Secretary of Commerce, as appropriate'.

SEC. 725. COORDINATED ENVIRONMENTAL REVIEW PROCESS. – Part I of the Federal Power Act (16 U.S.C. 791a et seq.) (as amended by section 4) is amended by adding at the end the following:

`SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

`(a) LEAD AGENCY RESPONSIBILITY- The Commission, as the lead agency for environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects licensed under this part, shall conduct a single consolidated environmental review--

`(1) for each such project; or

`(2) if appropriate, for multiple projects located in the same area.

`(b) CONSULTING AGENCIES- In connection with the formulation of a condition in accordance with section 32, a consulting agency shall not perform any environmental review in addition to any environmental review performed by the Commission in connection with the action to which the condition relates.

`(c) DEADLINES-

`(1) IN GENERAL- The Commission shall set a deadline for the submission of comments by Federal, State, and local government agencies in connection with the preparation of any environmental impact statement or environmental assessment required for a project.

`(2) CONSIDERATIONS- In setting a deadline under paragraph (1), the Commission shall take into consideration--

`(A) the need of the license applicant for a prompt and reasonable decision;

`(B) the resources of interested Federal, State, and local government agencies; and

`(C) applicable statutory requirements.'.

SEC. 726. STUDY OF SMALL HYDROELECTRIC PROJECTS.

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

(b) DEFINITION OF SMALL HYDROELECTRIC PROJECT- The Commission may by regulation define the term `small hydroelectric project' for the purpose of subsection (a), except that the term shall include at a minimum a hydroelectric project that has a generating capacity of 5 megawatts or less.

TITLE VIII – ELECTRIC SUPPLY RELIABILITY; PURPA REPEAL; PUHCA REPEAL

SUBTITLE A – ELECTRIC ENERGY TRANSMISSION RELIABILTY

SEC. 801. SHORT TITLE. – This Subtitle may be cited as the "National Electric Reliability Act".

SEC. 802. ELECTRIC ENERGY TRANSMISSION RELIABILITY.

(a) ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT –

(1) IN GENERAL. – The Federal Power Act is amended by adding the following new section after section 214:

"SEC. 215. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

"(a) DEFINITIONS. – As used in this section:

"(1) AFFILIATED REGIONAL RELIABILITY ENTITY. – The term "affiliated regional reliability entity" means an entity delegated authority under the provisions of subsection (h).

"(2) BULK POWER SYSTEM. – The term "bulk power system" means all facilities and control systems necessary for operating an interconnected transmission grid (or any portion thereof), including high-voltage transmission lines; substations; control centers; communications; data, and operations planning facilities; and the output of generating units necessary to maintain transmission system reliability.

"(3) ELECTRIC RELIABILITY ORGANIZATION, OR ORGANIZATION. – The term "Electric Reliability Organization" or "Organization" means the organization approved by the Commission under subsection (d)(4).

"(4) ENTITY RULE. – The term "entity rule" means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce one or more Organization Standards. An entity rule shall be approved by the organization and once approved, shall be treated as an Organization Standard.

"(5) INDUSTRY SECTOR. – The term "industry sector" means a group of users of the bulk power system with substantially similar commercial interests, as determined by the Board of the Electric Reliability Organization.

"(6) INTERCONNECTION. – The term "interconnection" means a geographic area in which the operation of bulk power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

"(7) ORGANIZATION STANDARD. – The term "Organization Standard" means a policy or standard duly adopted by the Electric Reliability Organization to provide for the reliable operation of a bulk power system.

"(8) PUBLIC INTEREST GROUP. – The term "public interest group" means any nonprofit private or public organization that has an interest in the activities of the Electric Reliability Organization, including, but not

limited to, ratepayer advocates, environmental groups, and State and local government organizations that regulate market participants and promulgate government policy.

"(9) VARIANCE. – The term "variance" means an exception or variance from the requirements of an Organization Standard (including a proposal for an Organization Standard where there is no Organization Standard) that is adopted by an affiliated regional reliability entity and applicable to all or a part of the region for which the affiliated regional reliability entity is responsible. A variance shall be approved by the organization and once approved, shall be treated as an Organization Standard.

"(10) SYSTEM OPERATOR. – The term "system operator" means any entity that operates or is responsible for the operation of a bulk power system, including but not limited to a control area operator, an independent system operator, a regional transmission organization, a transmission company, a transmission system operator, or a regional security coordinator.

"(11) USER OF THE BULK POWER SYSTEM. – The term "user of the bulk power system" means any entity that sells, purchases, or transmits electric power over a bulk power system, or that owns, operates, or maintains facilities or control systems that are part of a bulk power system, or that is a system operator.

"(b) COMMISSION AUTHORITY –

"(1) Within the United States, the Commission shall have jurisdiction over the Electric Reliability Organization, all affiliated regional reliability entities, all system operators, and all users of the bulk-power system, for purposes of approving and enforcing compliance with the requirements of this section.

"(2) The Commission may, by rule, define any other term used in this section, provided such definition is consistent with the definitions in, and the purpose and intent of, this Act.

"(3) Not later than 90 days after the date of enactment of this section, the Commission shall issue a proposed rule for implementing the requirements of this section. The Commission shall provide notice and opportunity for comment on the proposed rule. The Commission shall issue a final rule under this subsection within 180 days after the date of enactment of this section.

"(4) Nothing in this section shall be construed as limiting or impairing any authority of the Commission under any other provision of this Act, including its exclusive authority to determine rates, terms, and conditions of transmission services subject to its jurisdiction.

"(c) EXISTING RELIABILITY STANDARDS – Following enactment of this section, and prior to the approval of an organization under subsection (d), any

entity, including the North American Electric Reliability Council and its member regional reliability councils, may file any reliability standard, guidance, or practice that such entity would propose to be made mandatory and enforceable. The Commission, after allowing an opportunity to submit comments, may approve any such proposed mandatory standard, guidance, or practice, or any amendment thereto, if it finds that the standard, guidance, or practice, or amendment is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission may, without further proceeding or finding, grant its approval to any standard, guidance, or practice for which no substantive objections are filed in the comment period. Filed standards, guidances, or practices, including any amendments thereto, shall be mandatory and applicable according to their terms following approval by the Commission and shall remain in effect until:

(1) withdrawn, disapproved, or superseded by an Organization Standard, issued or approved by the Electric Reliability Organization and made effective by the Commission under subsection (e); or

(2) disapproved by the Commission if, upon complaint or upon its own motion and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice unjust, unreasonable, unduly discriminatory, or preferential or not in the public interest.

Standards, guidances, or practices in effect pursuant to the provisions of this subsection shall be enforceable by the Commission.

"(d) ORGANIZATION APPROVAL –

"(1) Following the issuance of a final Commission rule under subsection (b)(3), an entity may submit an application to the Commission for approval as the Electric Reliability Organization. The applicant shall specify in its application its governance and procedures, as well as its funding mechanism and initial funding requirements.

"(2) The Commission shall provide public notice of the application and afford interested parties an opportunity to comment.

"(3) The Commission shall approve the application if the Commission determines that the applicant –

"(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of the bulk power system;

"(B) permits voluntary membership to any user of the bulk power system or public interest group;

"(C) assures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards and the exercise of oversight of bulk power system reliability;

"(D) assures that no two industry sectors have the ability to control, and no one industry sector has the ability to veto, the Electric Reliability Organization's discharge of its responsibilities (including actions by committees recommending standards to the board or other board actions to implement and enforce standards);

"(E) provides for governance by a board wholly comprised of independent directors;

"(F) provides a funding mechanism and requirements that are just, reasonable, and not unduly discriminatory or preferential and are in the public interest, and which satisfy the requirements of subsection (l);

"(G) establishes procedures for development of Organization Standards that provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards, and which standards development process has the following attributes:

"(i) openness,

"(ii) balance of interests, and

"(iii) due process, except that the procedures may include

alternative procedures for emergencies;

"(H) establishes fair and impartial procedures for implementation and enforcement of Organization Standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

"(I) establishes procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information the directors determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

"(J) provides for the consideration of recommendations of States and State commissions; and

"(K) addresses other matters that the Commission may deem necessary or appropriate to ensure that the procedures, governance, and funding of the Electric Reliability Organization are just, reasonable, not unduly discriminatory or preferential, and are in the public interest.

"(4) The Commission shall approve only one Electric Reliability Organization. If the Commission receives two or more timely applications

that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.

"(e) ESTABLISHMENT OF AND MODIFICATIONS TO ORGANIZATION STANDARDS. –

"(1) The Electric Reliability Organization shall file with the Commission any new or modified organization standards, including any variances or entity rules, and the Commission shall follow the procedures under paragraph (2) for review of that filing.

"(2) Submissions under paragraph (1) shall include:

"(A) a concise statement of the purpose of the proposal, and

"(B) a record of any proceedings conducted with respect to such proposal.

The Commission shall provide notice of the filing of such proposal and afford interested entities 30 days to submit comments. The Commission, after taking into consideration any submitted comments, shall approve or disapprove such proposal not later than 60 days after the deadline for the submission of comments, except that the Commission may extend the 60 day period for an additional 90 days for good cause, and except further that if the Commission does not act to approve or disapprove a proposal within the foregoing periods, the proposal shall go into effect subject to its terms,

without prejudice to the authority of the Commission thereafter to modify the proposal in accordance with the standards and requirements of this section. Proposals approved by the Commission shall take effect according to their terms but not earlier than 30 days after the effective date of the Commission's order, except as provided in paragraph (3) of this subsection.

"(3)(A) In the exercise of its review responsibilities under this subsection, the Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a new or modified organization standard, but shall not defer to the organization with respect to the effect of the standard on competition. The Commission shall approve a proposed new or modified organization standard if it determines the proposal to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(B) An existing or proposed organization standard which is disapproved in whole or in part by the Commission shall be remanded to the Electric Reliability Organization for further consideration.

"(C) The Commission, on its own motion or upon complaint, may direct the Electric Reliability Organization to develop an organization standard, including modification to an existing organization standard, addressing a specific matter by a date certain if the Commission considers such new or modified organization standard necessary or appropriate to further the

purposes of this section. The Electric Reliability Organization shall file any such new or modified organization standard in accordance with this subsection.

"(D) An affiliated regional reliability entity may propose a variance or entity rule to the Electric Reliability Organization. The affiliated regional reliability entity may request that the Electric Reliability Organization expedite consideration of the proposal, and may file a notice of such request with the Commission, if expedited consideration is necessary to provide for bulk-power system reliability. If the Electric Reliability Organization fails to adopt the variance or entity rule, either in whole or in part, the affiliated regional reliability entity may request that the Commission review such action. If the Commission determines, after its review of such a request, that the action of the Electric Reliability Organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably rejected the proposed variance or entity rule, then the Commission may remand the proposed variance or entity rule for further consideration by the Electric Reliability Organization or may direct the Electric Reliability Organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by

the affiliated regional reliability entity. Any such variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the Electric Reliability Organization for review and filing with the Commission in accordance with the procedures specified in this subsection.

"(E) Notwithstanding any other provision of this subsection, a proposed organization standard or amendment shall take effect according to its terms if the Electric Reliability Organization determines that an emergency exists requiring that such proposed organization standard or amendment take effect without notice or comment. The Electric Reliability Organization shall notify the Commission immediately following such determination and shall file such emergency organization standard or amendment with the Commission not later than 5 days following such determination and shall include in such filing an explanation of the need for such emergency standard. Subsequently, the Commission shall provide notice of the organization standard or amendment for comment, and shall follow the procedures set out in paragraphs (2) and (3) for review of the new or modified organization standard. Any such organization standard that has gone into effect shall remain in effect unless and until suspended or disapproved by the Commission. If the Commission determines at any time that the emergency organization standard or amendment is not necessary, the Commission may suspend such emergency organization standard or amendment.

"(4) All users of the bulk power system shall comply with any organization standard that takes effect under this section.

"(f) COORDINATION WITH CANADA AND MEXICO- The Electric Reliability Organization shall take all appropriate steps to gain recognition in Canada and Mexico. The United States shall use its best efforts to enter into international agreements with the appropriate governments of Canada and Mexico to provide for effective compliance with organization standards and to provide for the effectiveness of the Electric Reliability Organization in carrying out its mission and responsibilities. All actions taken by the Electric Reliability Organization, any affiliated regional reliability entity, and the Commission shall be consistent with the provisions of such international agreements.

"(g) CHANGES IN PROCEDURES, GOVERNANCE, OR FUNDING –

"(1) The Electric Reliability Organization shall file with the Commission any proposed change in its procedures, governance, or funding, or any changes in the affiliated regional reliability entity's procedures, governance, or funding relating to delegated functions, and shall include with the filing an explanation of the basis and purpose for the change.

"(2) A proposed procedural change may take effect 90 days after filing with the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of an existing procedure. Otherwise, a proposed procedural change shall take effect only

upon a finding by the Commission, after notice and opportunity for comments, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (d)(4).

"(3) A change in governance or funding shall not take effect unless the Commission finds that the change is just, reasonable, not unduly discriminatory or preferential, in the public interest, and satisfies the requirements of subsection (d)(4).

"(4) The Commission, upon complaint or upon its own motion, may require the Electric Reliability Organization to amend the procedures, governance, or funding if the Commission determines that the amendment is necessary to meet the requirements of this section. The Electric Reliability Organization shall file the amendment in accordance with paragraph (1) of this subsection.

"(h) DELEGATIONS OF AUTHORITY. –

"(1) The Electric Reliability Organization shall, upon request by an entity, enter into an agreement with such entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the organization finds that the entity requesting the delegation satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4), and if the delegation promotes

the effective and efficient implementation and administration of bulk power system reliability. The Electric Reliability Organization may enter into an agreement to delegate to the entity any other authority, except that the Electric Reliability Organization shall reserve the right to set and approve standards for bulk power system reliability.

"(2) The Electric Reliability Organization shall file with the Commission any agreement entered into under this subsection and any information the Commission requires with respect to the affiliated regional reliability entity to which authority is to be delegated. The Commission shall approve the agreement, following public notice and an opportunity for comment, if it finds that the agreement meets the requirements of paragraph (1), and is just, reasonable, not unduly discriminatory or preferential, and is in the public interest. A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to promote the effective and efficient implementation and administration of bulk power system reliability. No delegation by the Electric Reliability Organization shall be valid unless approved by the Commission.

"(3)(A) A delegation agreement entered into under this subsection shall specify the procedures for an affiliated regional reliability entity to propose entity rules or variances for review by the Electric Reliability Organization. With respect to any such proposal that would apply on an interconnection-

wide basis, the Electric Reliability Organization shall presume such proposal valid if made by an interconnection-wide affiliated regional reliability entity unless the Electric Reliability Organization makes a written finding that the proposal –

"(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

"(ii) has a significant adverse impact on reliability or commerce in other interconnections;

"(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that it would constitute a serious and substantial threat to public health, safety, welfare, or national security; or

"(iv) creates a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

"(B) With respect to any such proposal that would apply only to part of an interconnection, the Electric Reliability Organization shall find such proposal valid if the affiliated regional reliability entity or entities making the proposal demonstrate that it –

"(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

"(ii) would not have an adverse impact on commerce that is not necessary for reliability;

"(iii) provides a level of bulk power system reliability adequate to protect public health, safety, welfare, and national security, and would not have a significant adverse impact on reliability; and

"(iv) in the case of a variance, is based on legitimate differences between regions or between subregions within the affiliated regional reliability entity's geographic area.

The Electric Reliability Organization shall approve or disapprove such proposal within 120 days, or the proposal shall be deemed approved. Following approval of any such proposal under this paragraph, the Electric Reliability Organization shall seek Commission approval pursuant to the procedures prescribed under subsection (e)(3). Affiliated regional reliability entities may not make requests for approval directly to the Commission except pursuant to subsection (e)(3)(D).

"(4) If an affiliated regional reliability entity requests, consistent with paragraph (1) of this subsection, that the Electric Reliability Organization delegate authority to it, but is unable within 180 days to reach agreement with the Electric Reliability Organization with respect to such requested delegation, such entity may seek relief from the Commission. If, following notice and opportunity for comment, the Commission determines that a

delegation to the entity would meet the requirements of paragraph (1) above, and that the delegation would be just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably withheld such delegation, the Commission may, by order, direct the Electric Reliability Organization to make such delegation.

"(5)(A) The Commission may, upon its own motion or upon complaint, and with notice to the appropriate affiliated regional reliability entity or entities, direct the Electric Reliability Organization to propose a modification to an agreement entered into under this subsection if the Commission determines that –

"(i) the affiliated regional reliability entity no longer has the capacity to carry out effectively or efficiently its implementation or enforcement responsibilities under that agreement, has failed to meet its obligations under that agreement, or has violated any provision of this section;

"(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of its implementation or enforcement responsibilities under the agreement;

"(iii) the geographic boundary of a transmission entity approved by

the Commission is not wholly within the boundary of an affiliated regional reliability entity and such difference is inconsistent with the effective and efficient implementation and administration of bulk power system reliability; or

"(iv) the agreement is inconsistent with another delegation agreement as a result of actions taken under paragraph (4) of this subsection.

"(B) Following an order of the Commission issued under subparagraph (A), the Commission may suspend the affected agreement if the Electric Reliability Organization or the affiliated regional reliability entity does not propose an appropriate and timely modification. If the agreement is suspended, the Electric Reliability Organization shall assume the previously delegated responsibilities. The Commission shall allow the Electric Reliability Organization and the affiliated regional reliability entity an opportunity to appeal the suspension.

"(i) ORGANIZATION MEMBERSHIP. – Every system operator shall be required to be a member of the Electric Reliability Organization and shall be required also to be a member of any affiliated regional reliability entity operating under an agreement effective pursuant to subsection (h) applicable to the region in which the system operator operates or is responsible for the operation of bulkpower system facilities.

"(j) INJUNCTIONS AND DISCIPLINARY ACTION. –

(1) Consistent with the range of actions approved by the Commission under subsection (d)(4)(H), the Electric Reliability Organization may impose a penalty, limitation of activities, functions, operations, or other disciplinary action the Electric Reliability Organization finds appropriate against a user of the bulk power system if the Electric Reliability Organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the user of the bulk-power system has violated an organization standard. The Electric Reliability Organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a user of the bulk-power system that affected or threatened to affect bulk power system facilities located in the United States, and the sanctioned party shall have the right to seek modification or rescission of such disciplinary action by the Commission. If the organization finds it necessary to prevent a serious threat to reliability, the organization may seek injunctive relief in a Federal court in the district in which the affected facilities are located.

"(2) A disciplinary action taken under paragraph (1) may take effect not earlier than the 30th day after the Electric Reliability Organization files with the Commission its written finding and record of proceedings before the Electric Reliability Organization and the Commission posts its written finding, unless the Commission, on its own motion or upon application by

the user of the bulk power system which is the subject of the action, suspends the action. The action shall remain in effect or remain suspended unless and until the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the action, but the Commission shall conduct such hearing under procedures established to ensure expedited consideration of the action taken.

"(3) The Commission, on its own motion or on complaint, may order compliance with an organization standard and may impose a penalty, limitation of activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a user of the bulk power system with respect to actions affecting or threatening to affect bulk power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the user of the bulk power system has violated or threatens to violate an organization standard.

"(4) The Commission may take such action as is necessary against the Electric Reliability Organization or an affiliated regional reliability entity to assure compliance with an organization standard, or any Commission order affecting the Electric Reliability Organization or an affiliated regional reliability entity.

"(k) RELIABILITY REPORTS. – The Electric Reliability Organization shall

conduct periodic assessments of the reliability and adequacy of the interconnected bulk power system in North America and shall report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

"(l) ASSESSMENT AND RECOVERY OF CERTAIN COSTS. – The reasonable costs of the Electric Reliability Organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation and enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the Electric Reliability Organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all end users. The Commission shall provide by rule for the review of such costs and allocations, pursuant to the standards in this subsection and subsection (d)(4)(F).

"(m) SAVINGS PROVISIONS. –

"(1) The Electric Reliability Organization shall have authority to develop, implement and enforce compliance with standards for the reliable operation of only the bulk power system.

"(2) This section does not provide the Electric Reliability Organization or the Commission with the authority to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any Organization Standard.

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, the Commission shall issue a final order determining whether a state action is inconsistent with an Organization Standard, after notice and opportunity for comment, taking into consideration any recommendations of the Electric Reliability Organization.

"(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any state action, pending the Commission's issuance of a final order.

"(n) REGIONAL ADVISORY BODIES. – The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric loan served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States, upon execution of an international agreement or agreements described in subsection (f). A regional advisory body may provide advice to the electric

reliability organization, an affiliated regional reliability entity, or the Commission regarding the governance of an existing or proposed affiliated regional reliability entity within the same region, whether an organization standard, entity rule, or variance proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with the requirements of subsection (l). The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

"(o) COORDINATION WITH REGIONAL TRANSMISSION ORGANIZATIONS. –

"(1) Each regional transmission organization authorized by the Commission shall be responsible for maintaining the short-term reliability of the bulk power system that it operates, consistent with organization standards.

"(2) Except as provided in paragraph (5), in connection with a proceeding under subsection (e) to consider a proposed organization standard, each regional transmission organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding whether the proposed organization standard hinders or conflicts with that regional

transmission organization’s ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission.. Where such hindrance or conflict is identified, the Commission shall address such hindrance or conflict, and the need for any changes to such rule, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission in its order under subsection (e) regarding the proposed standard. Where such hindrance or conflict is identified between a proposed organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional transmission organization, nothing in this section shall require a change in the regional transmission organization’s obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule, or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that the proposed organization standard needs to be changed, it shall remand the proposed organization standard to the electric reliability organization under subsection (e)(3)(B).

“(3) Except as provided in paragraph (5), to the extent hindrances and conflicts arise after approval of a reliability standard under subsection (c) or organization standard under subsection (e), each regional transmission

organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding any reliability standard approved under subsection (c) or organization standard that hinders or conflicts with that regional transmission organization"s ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission. The Commission shall seek to assure that such hindrances or conflicts are resolved promptly. Where a hindrance or conflict is identified between a reliability standard or an organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional reliability organization, nothing in this section shall require a change in the regional transmission organization's obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that an organization standard needs to be changed, it shall order the electric reliability organization to develop and submit a modified organization standard under subsection (e)(3)(C).

"(4) An affiliated regional reliability entity and a regional transmission organization operating in the same geographic area shall cooperate to avoid

conflicts between implementation and enforcement of organization standards by the affiliated regional reliability entity and implementation and enforcement by the regional transmission organization of tariffs, rate schedules, and agreements accepted, approved or ordered by the Commission. In areas without an affiliated regional reliability entity, the electric reliability organization shall act as the affiliated regional reliability entity for purposes of this paragraph.

"(5) Until 6 months after approval of applicable subsection (h)(3) procedures, any reliability standard, guidance, or practice contained in Commission-accepted tariffs, rate schedules, or agreements in effect of any Commission-authorized independent system operator or regional transmission organization shall continue to apply unless the Commission accepts an amendment thereto by the applicable operator or organization, or upon complaint finds them to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest. At the conclusion of such transition period, any such reliability standard, guidance, practice, or amendment thereto that the Commission determines is inconsistent with organization standards shall no longer apply.".

(2) ENFORCEMENT. – Sections 316 and 316A of the Federal Power Act are each amended by striking "or 214" each place it appears and inserting "214, or 215".

(b) APPLICATION OF ANTITRUST LAWS. – Notwithstanding any other provision of law,

each of the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

(1) Activities undertaken by the Electric Reliability Organization under section 215 of the Federal Power Act or affiliated regional reliability entity operating under an agreement in effect under section 215(h) of such Act.

(2) Activities of a member of the Electric Reliability Organization or affiliated regional reliability entity in pursuit of organization objectives under section 215 of the Federal Power Act undertaken in good faith under the rules of the organization.

Primary jurisdiction, and immunities and other affirmative defenses, shall be available to the extent otherwise applicable.

SUBTITLE B – PURPA MANDATORY PURCHASE AND SALE REQUIREMENTS

SEC. 803. PURPA MANDATORY PURCHASE AND SALE REQUIREMENTS. -- Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended by adding the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.--

"(1) IN GENERAL.--After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from, or sell electric energy under this section.

"(2) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.--Nothing in this

subsection affects the rights or remedies of any party with respect to the purchase or sale of electric energy or capacity from or to a facility under this section under any contract or obligation to purchase or to sell electric energy or capacity on the date of enactment of this subsection, including--

"(A) the right to recover costs of purchasing such electric energy or capacity; and

"(B) in States without competition for retail electric supply, the obligation of a utility to provide, at just and reasonable rates for consumption by a qualifying small power production facility or a qualifying cogeneration facility, backup, standby, and maintenance power.

"(3) RECOVERY OF COSTS.--

"(A) REGULATION.--To ensure recovery, by an electric utility that purchases electricity or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under this section before the date of enactment of this subsection, of all costs associated with the purchases, the Commission shall issue and enforce such regulations as are required to ensure that no electric utility shall be required directly or indirectly to absorb the costs associated with such purchases.

"(B) ENFORCEMENT.--A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act.".

SUBTITLE C – REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND ENACTMENT OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 2001

SEC. 810. SHORT TITLE. --- This Subtitle may be cited as the “Public Utility Holding Company Act of 2001".

SEC. 811. FINDINGS AND PURPOSES.

(a) FINDINGS.--The Congress finds that--

(1) the Public Utility Holding Company Act of 1935 was intended to facilitate the work of Federal and State regulators by placing certain constraints on the activities of holding company systems;

(2) developments since 1935, including changes in other regulation and in the electric and gas industries, have called into question the continued relevance of the model of regulation established by that Act;

(3) there is a continuing need for State regulation in order to ensure the rate protection of utility customers; and

(4) limited Federal regulation is necessary to supplement the work of State commissions for the continued rate protection of electric and gas utility customers.

(b) PURPOSES.--The purposes of this Title are--

(1) to eliminate unnecessary regulation, yet continue to provide for consumer protection by

facilitating existing rate regulatory authority through improved Federal and State commission access to books and records of all companies in a holding company system, to the extent that such information is relevant to rates paid by utility customers, while affording companies the flexibility required to compete in the energy markets; and

(2) to address protection of electric and gas utility customers by providing for Federal and State access to books and records of all companies in a holding company system that are relevant to utility rates.

SEC. 812. DEFINITIONS. --- For the purposes of this Subtitle--

(1) the term "affiliate" of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

(2) the term "associate company" of a company means any company in the same holding company system with such company;

(3) the term "Commission" means the Federal Energy Regulatory Commission;

(4) the term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing;

(5) the term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale;

(6) the terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company

Act of 1935, as those sections existed on the day before the effective date of this Act;

(7) the term “gas utility company” means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power;

(8) the term “holding company” means--

(A) any company that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Title upon holding companies;

(9) the term”’holding company system” means a holding company, together with its subsidiary companies;

(10) the term “jurisdictional rates” means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at

wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

(11) the term “natural gas company” means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale;

(12) the term “person” means an individual or company;

(13) the term “public utility” means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce;

(14) the term “public utility company” means an electric utility company or a gas utility company;

(15) the term “State commission” means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies;

(16) the term “subsidiary company” of a holding company means--

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence,

directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Title upon subsidiary companies of holding companies; and

(17) the term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 813. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) is repealed, effective one year after the date of enactment of this Subtitle.

SEC. 814. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.--Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(b) AFFILIATE COMPANIES.--Each affiliate of a holding company or of any subsidiary

company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.--The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.--No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 815. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.--Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that--

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission deems are relevant to costs incurred by such public utility

company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.--Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act.

(c) CONFIDENTIALITY OF INFORMATION.--The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.--Nothing in this section shall preempt applicable State law concerning the provision of books, records, or any other information, or in any way limit the rights of any State to obtain books, records, or any other information under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.--Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 816. EXEMPTION AUTHORITY.

(a) RULEMAKING.--Not later than 90 days after the effective date of this Subtitle, the Commission shall promulgate a final rule to exempt from the requirements of section 815 any person that is a holding company, solely with respect to one or more--

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.--If, upon application or upon its own motion, the Commission finds that the books, records, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company, the Commission shall exempt such person or transaction from the requirements of section 815.

SEC. 817. AFFILIATE TRANSACTIONS. -- Nothing in this Subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 818. APPLICABILITY. -- No provision of this Subtitle shall apply to, or be deemed to include--

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2),

or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

SEC. 819. EFFECT ON OTHER REGULATIONS. --- Nothing in this Subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 820. ENFORCEMENT. --- The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825d--825p) to enforce the provisions of this Subtitle.

SEC. 821. SAVINGS PROVISIONS.

(a) IN GENERAL.--Nothing in this Subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this Subtitle.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.--Nothing in this Subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 822. IMPLEMENTATION. --- Not later than 6 months after the date of enactment of this Subtitle, the Commission shall--

(1) promulgate such regulations as may be necessary or appropriate to implement this Title (other than section 815); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this Subtitle and the amendments made by this Subtitle.

SEC. 823. TRANSFER OF RESOURCES. --- All books and records that relate primarily to the functions transferred to the Commission under this Subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 824. AUTHORIZATION OF APPROPRIATIONS. --- There are authorized to be appropriated such funds as may be necessary to carry out this Subtitle.

SEC. 825. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

SUBTITLE D – EMISSION FREE CONTROL MEASURES UNDER STATE IMPLEMENTATION PLANS

SEC. 830. EMISSION-FREE CONTROL MEASURES UNDER A STATE IMPLEMENTATION PLAN. --- Actions taken by a State to support the continued operation of existing emission-free electricity sources, or the construction or operation of new emission-free electricity sources, shall be considered control measures necessary or appropriate to meet applicable requirements under section 110(a) of the Clean Air Act (42 U.S.C. 7410(a)) and shall be included in a State Implementation Plan.

TITLE IX—TAX INCENTIVES FOR ENERGY PRODUCTION AND CONSERVATION

SEC. 900. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Energy Security Tax Policy Act of 2001''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Subtitle A—Enhancement of Domestic Oil and Gas Production

PART I—TAX CREDITS

SEC. 901. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) PURPOSE.—The purpose of this section is to prevent the abandonment of marginal oil and gas wells responsible for half of the domestic production of oil and gas in the United States.

(b) CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

"SEC. 45E. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year

preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall

be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), except that '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(d) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which the taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless

the taxpayer elects not to claim the credit under section 29 with respect to the well.''

(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following new paragraph:

''(14) the marginal oil and gas well production credit determined under section 45E(a).''

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45E(a).''

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the marginal oil and gas well production credit'' after ''employment credit''.

(e) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following new paragraph:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit (as defined in section 38(c)(3))—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (B) thereof.''

(f) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following item:

''45E. Credit for producing oil and gas from marginal wells.''

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2000.

SEC. 902. ENHANCED OIL RECOVERY CREDIT EXTENDED TO CERTAIN NONTERTIARY RECOVERY METHODS.

(a) PURPOSE.—The purpose of this section is to extend the productive lives of existing domestic oil and gas wells in order to recover the 75 percent of the oil and gas that is not recoverable using primary oil and gas recovery techniques.

(b) QUALIFIED PROJECTS.—Clause (i) of section 43(c)(2)(A) (defining qualified enhanced oil recovery project) is amended to read as follows:

"(i) which involves the application (in accordance with sound engineering principles) of—

"(I) one or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered, or

"(II) one or more qualified nontertiary recovery methods which are required to recover oil with traditionally immobile characteristics or from formations which have proven to be

uneconomical or noncommercial under conventional recovery methods,''

(c) QUALIFIED NONTERTIARY RECOVERY METHODS.—Section 43(c)(2) is amended by adding at the end the following new subparagraphs:

''(C) QUALIFIED NONTERTIARY RECOVERY METHOD.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified nontertiary recovery method' means any recovery method described in clause (ii), (iii), or (iv), or any combination thereof.

''(ii) ENHANCED GRAVITY DRAINAGE (EGD) METHODS.—The methods described in this clause are as follows:

''(I) HORIZONTAL DRILLING.—The drilling of horizontal, rather than vertical, wells to penetrate any hydrocarbon-bearing formation which has an average in situ calculated permeability to fluid flow of less than or equal to 12 or less millidarcies and which has been demonstrated by use of a vertical wellbore to be uneco-

nomical unless drilled with lateral horizontal lengths in excess of 1,000 feet.

"(II) GRAVITY DRAINAGE.—The production of oil by gravity flow from drainholes which are drilled from a shaft or tunnel dug within or below the oil-bearing zone.

"(iii) MARGINALLY ECONOMIC RESERVOIR REPRESSURIZATION (MERR) METHODS.—The methods described in this clause are as follows, except that this clause shall only apply to the first 1,000,000 barrels produced in any project:

"(I) CYCLIC GAS INJECTION.—The increase or maintenance of pressure by injection of hydrocarbon gas into the reservoir from which it was originally produced.

"(II) FLOODING.—The injection of water into an oil reservoir to displace oil from the reservoir rock and into the bore of a producing well.

"(iv) OTHER METHODS.—Any method used to recover oil having an average laboratory measured air permeability less

than or equal to 100 millidarcies when averaged over the productive interval being completed, or an in situ calculated permeability to fluid flow less than or equal to 12 millidarcies or oil defined by the Department of Energy as being immobile.

''(D) AUTHORITY TO ADD OTHER NONTERTIARY RECOVERY METHODS.—The Secretary shall provide procedures under which—

''(i) the Secretary may treat methods not described in clause (ii), (iii), or (iv) of subparagraph (C) as qualified nontertiary recovery methods, and

''(ii) a taxpayer may request the Secretary to treat any method not so described as a qualified nontertiary recovery method.

The Secretary may only specify methods as qualified nontertiary recovery methods under this subparagraph if the Secretary determines that such specification is consistent with the purposes of subparagraph (C) and will result in greater production of oil and natural gas.''

(d) CONFORMING AMENDMENT.—Clause (iii) of section 43(c)(2)(A) is amended to read as follows:

''(iii) with respect to which—

''(I) in the case of a tertiary recovery method, the first injection of liquids, gases, or other matter commences after December 31, 1990, and

''(II) in the case of a qualified nontertiary recovery method, the implementation of the method begins after December 31, 2000.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

SEC. 903. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) EXTENSION OF CREDIT.—Subsection (f) of section 29 (relating to credit for producing fuel from a nonconventional source) is amended—

(1) in paragraph (1)(A), by inserting before ''or'' the following: ''or from a well drilled after the date of the enactment of the Energy Security Tax Policy Act of 2001, and before January 1, 2011,'',

(2) in paragraph (1)(B), by inserting before ''and'' at the end the following: ''or placed in service after the date of the enactment of the Energy Secu-

rity Tax Policy Act of 2001, and before January 1, 2011,'', and

(3) in paragraph (2), by striking ''2003'' and inserting ''2013''.

(b) REDUCTION IN AMOUNT OF CREDIT STARTING IN 2007.—Subsection (a) of section 29 is amended to read as follows:

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

''(A) the applicable amount, multiplied by

''(B) the barrel-of-oil equivalent of qualified fuels—

''(i) sold by the taxpayer to an unrelated person during the taxable year, and

''(ii) the production of which is attributable to the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is the amount determined in accordance with the following table:

''In the case of taxable years beginning in calendar year:	**The applicable amount is:**
2001 to 2008	$3.00
2009	$2.60
2010	$2.00
2011	$1.40
2012	$0.80
2013 and thereafter	$0.00.''

(c) QUALIFIED FUELS TO INCLUDE HEAVY OIL.—Subsection (c) of section 29 (defining qualified fuels) is amended—

(1) in paragraph (1), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) heavy oil, as defined in section 613A(c)(6), except that '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof.'', and

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

''(4) SPECIAL RULES FOR HEAVY OIL.—

''(A) TERMINATION.—Heavy oil shall be considered to be a qualified fuel only if it is produced from a well drilled, or in a facility placed in service, after the date of the enactment of the Energy Security Tax Policy Act of 2001, and before January 1, 2011.

''(B) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of heavy oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to

any sale to the extent that the heavy oil is not consumed in the immediate vicinity of the well-head.''

(d) CONFORMING AMENDMENT.—Section 29(g) (relating to extension for certain facilities) is amended to read as follows:

''(g) EXTENSION FOR CERTAIN FACILITIES.—In the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1), such facility shall, for purposes of subsection (f)(1)(B), be treated as being placed in service before January 1, 1993, if such facility is placed in service before July 1, 1998, pursuant to a binding written contract in effect before January 1, 1997.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

PART II—PERCENTAGE DEPLETION

SEC. 911. 10-YEAR CARRYBACK FOR PERCENTAGE DEPLETION FOR OIL AND GAS PROPERTY.

(a) IN GENERAL.—Subsection (d)(1) of section 613A (relating to limitations on percentage depletion in case of oil and gas wells) is amended to read as follows:

''(1) LIMITATION BASED ON TAXABLE INCOME.—

''(A) IN GENERAL.—The deduction for the taxable year attributable to the application of subsection (c) shall not exceed so much of the taxpayer's taxable income for the year as the taxpayer elects, computed without regard to—

''(i) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),

''(ii) any net operating loss carryback to the taxable year under section 172,

''(iii) any capital loss carryback to the taxable year under section 1212, and

''(iv) in the case of a trust, any distributions to its beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any

percentage depletion allowance to be allocated to the principal of the trust.

"(B) CARRYBACKS AND CARRYFORWARDS.—

"(i) IN GENERAL.—If any amount is disallowed as a deduction for the taxable year (in this subparagraph referred to as the 'unused depletion year') by reason of application of subparagraph (A), the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for—

"(I) each of the 10 taxable years preceding the unused depletion year, and

"(II) the taxable year following the unused depletion year,

subject to the application of subparagraph (A) to such taxable year.

"(ii) ELECTION TO WAIVE CARRYBACK.—Any taxpayer may elect to waive any carryback under clause (i) to any of the taxable years to which the carryback may otherwise be carried. A taxpayer making an election under this clause

with respect to any taxable year may revoke such election in any succeeding taxable year in such manner as the Secretary may prescribe.

''(C) ALLOCATION OF DISALLOWED AMOUNTS.—For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction on the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties under subsection (c).''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000, and to any taxable year beginning on or before such date to the extent necessary to apply section 613A(d)(1) of the Internal Revenue Code of 1986 (as amended by subsection (a)).

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the

application of the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claimed therefor is filed before the close of such period.

SEC. 912. NET INCOME LIMITATION ON PERCENTAGE DEPLETION REPEALED FOR OIL AND GAS PROPERTIES.

(a) IN GENERAL.—Section 613(a) (relating to percentage depletion) is amended by striking the second sentence and inserting: ''Except in the case of oil and gas properties, such allowance shall not exceed 50 percent of the taxpayer's taxable income from the property (computed without allowances for depletion).''

(b) CONFORMING AMENDMENTS.—

(1) Section 613A(c)(7) (relating to special rules) is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) Section 613A(c)(6) (relating to oil and natural gas produced from marginal properties) is amended by striking subparagraph (H).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 913. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or related person engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and the related person for the taxable year exceed 50,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

PART III—EXPENSING

SEC. 916. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES AND DELAY RENTAL PAYMENTS.

(a) PURPOSE.—The purpose of this section is to recognize that geological and geophysical expenditures and delay rentals are ordinary and necessary business expenses that should be deducted in the year the expense is incurred.

(b) ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

(1) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end the following new subsection:

''(j) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''

(2) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after ''263(i),''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to expenses paid or incurred after the date of the enactment of this Act.

(B) TRANSITION RULE.—In the case of any expenses described in section 263(j) of the Internal Revenue Code of 1986, as added by this subsection, which were paid or incurred on or before the date of the enactment of this Act, the taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the suspended portion of such expenses over the 36-month period beginning with the month in which the date of the enactment of this Act occurs. For purposes of this subparagraph, the suspended portion of any expense is that portion of such expense which, as of the first day of the 36-month period, has not been included in the cost of a property or otherwise deducted.

(c) ELECTION TO EXPENSE DELAY RENTAL PAYMENTS.—

(1) IN GENERAL.—Section 263 (relating to capital expenditures), as amended by subsection (b)(1),

is amended by adding at the end the following new subsection:

''(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring the drilling of an oil or gas well under an oil or gas lease.''

(2) CONFORMING AMENDMENT.—Section 263A(c)(3), as amended by subsection (b)(2), is amended by inserting ''263(k),'' after ''263(j),''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to payments made or incurred after the date of the enactment of this Act.

(B) TRANSITION RULE.—In the case of any expenses described in section 263(k) of the Internal Revenue Code of 1986, as added by this subsection, which were paid or incurred on or before the date of the enactment of this Act, the taxpayer may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to amortize the suspended portion of such expenses over the 36-month period beginning with the month in which the date of the enactment of this Act occurs. For purposes of this subparagraph, the suspended portion of any expense is that portion of such expense which, as of the first day of the 36-month period, has not been included in the cost of a property or otherwise deducted.

PART IV—DEPRECIATION

SEC. 921. OIL AND GAS PIPELINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any oil and gas pipeline, and''.

(b) OIL AND GAS PIPELINE.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(15) OIL AND GAS PIPELINE.—The term 'oil and gas pipeline' means the pipe, storage facilities, equipment, distribution infrastructure, and appurtenances used to deliver oil, natural gas, crude oil, or crude oil products.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(2) GAS GATHERING LINES.—In the case of gas gathering lines, such amendments shall, at the election of the taxpayer, also apply to property placed in service before such date. For purposes of the preceding sentence, a gas gathering line includes the pipe, storage facilities, equipment, and appurtenances used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches a gas processing plant, an interconnection with a transmission pipeline, or a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

(3) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If any oil and gas pipeline is public utility property (as defined in section 46(f)(5) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the amendments made by this section shall only apply to such property if, with respect to such property, the taxpayer uses a normalization method of accounting.

SEC. 922. CLASS LIFE FOR PETROLEUM STORAGE FACILITIES.

(a) 7-YEAR PROPERTY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3), as amended by this Act, is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by adding after clause (ii) the following:

''(iii) any section 1245 property described in section 1245(a)(3)(E) other than property to which section 179(b)(5) applies, and''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting after

the item relating to subparagraph (C)(i) in the table contained therein the following new item:

"(C)(iii) ..... 10".

(b) FULL EXPENSING OF HEATING OIL, NATURAL GAS, AND PROPANE STORAGE FACILITY.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) FULL EXPENSING OF HEATING OIL, NATURAL GAS, AND PROPANE STORAGE FACILITY.—Paragraphs (1) and (2) shall not apply to section 179 property which is any storage facility (not including a building or its structural components) used in connection with the distribution of heating oil, natural gas, or liquefied petroleum gas."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of enactment of this Act. A taxpayer may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date.

SEC. 923. CLASS LIFE FOR PETROLEUM REFINERIES.

(a) 7-YEAR PROPERTY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by strik-

ing ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by adding at the end the following new clause:

''(iv) any petroleum refining assets, and''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting after the item relating to subparagraph (C)(iii) in the table contained therein the following new item:

''(C)(iv)	10''.

(b) ASSETS USED IN PETROLEUM REFINING.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(16) ASSETS USED IN PETROLEUM REFINING.—The term 'petroleum refining assets' means assets used for the distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and other petroleum products.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of enactment of this Act.

PART V—OFFSHORE OIL AND GAS VESSELS AND STRUCTURES

SEC. 931. ACCELERATED DEPRECIATION.

(a) 7-YEAR PROPERTY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property), as amended by this Act, is amended by striking ''and'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by adding at the end the following new clause:

''(v) a vessel of at least 10,000 gross tons, or any type of structure of at least 10,000 tons, that is owned by a drilling company and used to explore for, drill for, or produce offshore oil and gas, if that vessel or structure was constructed or reconstructed in the United States, and''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting after the item relating to subparagraph (C)(iv) in the table contained therein the following new item:

''(C)(v)	10''.

(3) DRILLING COMPANY DEFINED.—Section 168(i) is amended by adding at the end the following new paragraph:

''(17) DRILLING COMPANY.—The term 'drilling company' means a person engaged in the business of exploration, development, or production of oil and gas.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to vessels and structures placed in service after December 31, 2000, and constructed or reconstructed under a contract executed before January 1, 2007.

SEC. 932. TAX CREDIT.

(a) AMENDMENTS.—

(1) CREDIT FOR CERTAIN VESSELS AND STRUCTURES.—Section 48(a)(3)(A) (relating to the energy tax credit) is amended—

(A) by striking ''or'' at the end of clause (i);

(B) by adding ''or'' at the end of clause (ii); and

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

''(iii) a vessel of at least 10,000 gross tons, or any type of structure of at least 10,000 tons, that is owned by a drilling company and used to explore for, drill for, or produce oil and gas, if that vessel or structure was constructed or reconstructed in the United States,''.

(2) DRILLING COMPANY DEFINED.—Section 48(a)(3) is amended by adding at the end the fol-

lowing new sentence: ''The term 'drilling company' means a person engaged in the business of exploration, development, or production of oil and gas.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to vessels and structures placed in service after December 31, 2000, and constructed or reconstructed under a contract executed before January 1, 2007.

SEC. 933. CAPITAL CONSTRUCTION FUNDS FOR UNITED STATES-BUILT DRILLING VESSELS.

(a) AMENDMENTS TO MERCHANT MARINE ACT, 1936.—

(1) CHANGES IN VESSELS TO WHICH CAPITAL CONSTRUCTION FUNDS APPLY.—

(A) The second sentence of section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)), is amended by striking ''for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States'' and inserting ″for the operation in the fisheries of the United States, or in the United States foreign, Great Lakes, or noncontiguous domestic trade, or for operation as an oil and gas drilling vessel

in the United States foreign or domestic commerce,''.

(B) Section 607(k)(1) of that Act (46 U.S.C. App. 1177(k)(1)) is amended by inserting '', including an oil and gas drilling vessel'' after ''means any vessel''.

(C) Subparagraph (C) of section 607(k)(2) of that Act (46 U.S.C. App. 1177(k)(2)) is amended to read as follows:

''(C) which the person maintaining the fund agrees with the Secretary will be operated in the fisheries of the United States, in the United States foreign, Great Lakes, or non-contiguous domestic trade, or, in the case of an oil and gas drilling vessel, in the foreign or domestic commerce of the United States.''

(D) Section 607(k) of that Act (46 U.S.C. App. 1177(k)) is amended by adding at the end the following new paragraph:

''(10) The term 'oil and gas drilling vessel' means a vessel constructed or reconstructed that is at least 10,000 gross tons and is used to explore for, drill for, or produce oil and gas.''

(2) TREATMENT OF CERTAIN LEASE PAYMENTS.—

(A) Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1171(f)(1)), is amended—

(i) by striking ''or'' at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting '', or''; and

(iii) by inserting after subparagraph (C) the following new subparagraph:

''(D) the payment of amounts which reduce the principal amount (as determined under regulations promulgated by the Secretary) of a qualified lease of a qualified vessel or container which is part of the complement of a qualified vessel.''

(B) Section 607(g)(4) of that Act (46 U.S.C. App. 1171(g)(4)) is amended by inserting ''or to reduce the principal amount of any qualified lease'' after ''indebtedness''.

(C) Section 607(k) of that Act (46 U.S.C. App. 1171(k)), as previously amended in this Act, is further amended by adding at the end the following new paragraph:

''(11) The term 'qualified lease' means any lease with a term of at least 5 years.''

(3) TREATMENT OF CAPITAL GAINS AND LOSSES.—

(A) Section 607(e)(3) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(e)(3)), is amended to read as follows:

''(3) The capital gain account shall consist of—

''(A) amounts representing long-term capital gains (as defined in section 1222 of such Code) on assets referred to in subsection (b)(1)(C), reduced by,

''(B) amounts representing long-term capital losses (as defined in such section 1222) on assets held in the fund.''

(B) Section 607(e)(4)(B) of that Act (46 U.S.C. App. 1177(e)(4)(B)) is amended to read as follows:

''(B)(i) amounts representing short-term capital gains (as defined in section 1222 of such Code) on assets referred to in subsection (b)(1)(C), reduced by,

''(ii) amounts representing short-term capital losses (as defined in such section 1222) on assets held in the fund,''.

(C) Section 607(h)(3)(B) of that Act (46 U.S.C. App. 1177(h)(3)(B)) is amended by striking ''gain'' and all that follows and inserting ″long-term capital gain (as defined in section 1222 of such Code), and''.

(D) The last sentence of section 607(h)(6)(A) of that Act (46 U.S.C. App. 1177(h)(6)(A)) is amended by striking ''20 percent (34 percent in the case of a corporation)'' and inserting ''the rate applicable to net capital gain under section 1(h) or 1201(a) of such Code, as the case may be''.

(4) COMPUTATION OF INTEREST WITH RESPECT TO NONQUALIFIED WITHDRAWALS.—

(A) Section 607(h)(3)(C) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(h)(3)(C)), is amended—

(i) by amending clause (i) to read as follows:

''(i) no addition to the tax shall be payable under section 6651 of such Code,''; and

(ii) in clause (ii), by striking ''paid at the applicable rate (as defined in para-

graph (4))'' and inserting ''paid in accordance with section 6601 of such Code''.

(B) Section 607(h) of that Act (46 U.S.C. App. 1177(h)) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(C) Section 607(h)(5)(A) of that Act (46 U.S.C. App. 1177(h)(5)(A)), as so redesignated by paragraph (2) of this subsection, is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(5) OTHER CHANGES.—Section 607 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177) is amended by striking ''Internal Revenue Code of 1954'' each place it appears and inserting ''Internal Revenue Code of 1986''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) TREATMENT OF CERTAIN LEASE PAYMENTS.—

(A) Section 7518(e)(1) (relating to purposes of qualified withdrawals) is amended—

(i) by striking ''or'' at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(iii) by inserting after subparagraph (C) the following new subparagraph:

"(D) the payment of amounts which reduce the principal amount (as determined under regulations) of a qualified lease of a qualified vessel or container which is part of the complement of a qualified vessel."

(B) Section 7518(f)(4) is amended by inserting "or to reduce the principal amount of any qualified lease" after "indebtedness".

(2) TREATMENT OF CAPITAL GAINS AND LOSSES.—

(A) Section 7518(d)(3) is amended to read as follows:

"(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(A) amounts representing long-term capital gain (as defined in section 1222) on assets referred to in subsection (a)(1)(C), reduced by,

"(B) amounts representing long-term capital loss (as defined in section 1222) on assets held in the fund."

(B) Section 7518(d)(4)(B) is amended to read as follows:

''(B)(i) amounts representing short-term capital gain (as defined in section 1222) on assets referred to in subsection (a)(1)(C), reduced by,

''(ii) amounts representing short-term capital loss (as defined in section 1222) on assets held in the fund,''.

(C) Section 7518(g)(3)(B) is amended by striking ''gain'' and all that follows and inserting ''long-term capital gain (as defined in section 1222), and''.

(D) The last sentence of section 7518(g)(6)(A) is amended by striking ''20 percent (34 percent in the case of a corporation)'' and inserting ''the rate applicable to net capital gain under section 1(h) or 1201(a), as the case may be''.

(3) COMPUTATION OF INTEREST WITH RESPECT TO NONQUALIFIED WITHDRAWALS.—

(A) Section 7518(g)(3)(C) is amended—

(i) by striking clause (i) and inserting the following new clause:

"(i) no addition to the tax shall be payable under section 6651,"; and

(ii) in clause (ii), by striking "paid at the applicable rate (as defined in paragraph (4))" and inserting "paid in accordance with section 6601".

(B) Section 7518(g) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(C) Section 7518(g)(5)(A), as redesignated by paragraph (2) of this subsection, is amended by striking "paragraph (5)" and inserting "paragraph (4)".

(4) APPLICABILITY OF ALTERNATIVE MINIMUM TAX.—Section 56(c) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(5) OTHER CHANGES.—

(1) Section 7518(i) is amended by striking "enactment of this section" and inserting "enactment of the Energy Security Tax Policy Act of 2001".

(2) Section 543(a)(1)(B) is amended to read as follows:

"(B) interest on amounts set aside in a capital construction fund under section 607 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177), or in a construction reserve fund under section 511 of such Act (46 App. U.S.C. 1161),".

(c) REGULATIONS.—

(1) 46 CFR PART 390.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall promulgate final regulations implementing the amendments made by subsection (a)(1).

(2) JOINT REGULATIONS.—The amendments made by paragraphs (2) through (4) of subsection (a) shall be implemented under revised joint regulations promulgated by the Secretary of Transportation and the Secretary of the Treasury.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply as of the date of the enactment of this Act.

(2) CHANGES IN COMPUTATION OF INTEREST.—The amendments made by subsections (a)(4) and (b)(3) shall apply to withdrawals made after

December 31, 2000, including for purposes of computing interest on such a withdrawal for periods on or before such date.

(3) QUALIFIED LEASES.—The amendments made by subsections (a)(2) and (b)(1) shall apply to leases in effect on, or entered into after, December 31, 2000.

Subtitle B—Provisions Relating to Coal

PART I—CREDIT FOR EMISSION REDUCTIONS AND EFFICIENCY IMPROVEMENTS IN EXISTING COAL-BASED ELECTRICITY GENERATION FACILITIES

SEC. 941. CREDIT FOR INVESTMENT IN QUALIFYING CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the qualifying clean coal technology unit credit.''

(b) AMOUNT OF QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of sub-

chapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

"SEC. 48A. QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying system of continuous emission control for such taxable year.

''(b) QUALIFYING SYSTEM OF CONTINUOUS EMISSION CONTROL.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying system of continuous emission control' means a system of the taxpayer which—

''(A) serves, is added to, or retrofits an existing coal-based electricity generation unit, the construction, installation, or retrofitting of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such construction, installation, or retrofitting),

"(B) removes or reduces 1 or more of the pollutants regulated under title I of the Clean Air Act (42 U.S.C. 7401 et seq.),

"(C) is depreciable under section 167,

"(D) has a useful life of not less than 4 years, and

"(E) is located in the United States.

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(c) EXISTING COAL-BASED ELECTRICITY GENERATION UNIT.—For purposes of subsection (a), the term 'existing coal-based electricity generating unit' means, with respect to any taxable year, a steam generator-turbine unit that uses coal to produce 75 percent or more of its output as electricity and was in operation before the effective date of this section.

''(d) LIMIT ON QUALIFYING CLEAN COAL TECHNOLOGY UNIT CREDIT.—For purposes of subsection (a), the credit shall be applicable to not more than the first $100,000,000 of qualifying investment in a qualifying system of continuous emission control at any 1 existing coal-based electricity generating unit.

''(e) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying system of continuous emission control placed in service by the taxpayer during such taxable year.

''(f) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (e) without regard to this subsection) shall be increased by an amount equal to

the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying system of continuous emission control which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year

to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING SYSTEM OF CONTINUOUS EMISSION CONTROL TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefore are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(g) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(h) TERMINATION.—This section shall not apply with respect to any qualified investment made more than 10 years after the effective date of this section.''

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

''(6) SPECIAL RULES RELATING TO QUALIFYING SYSTEM OF CONTINUOUS EMISSION CONTROL.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

"(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying system of continuous emission control (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying system of continuous emission control disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying system of continuous emission control property shall be treated as a year of remaining depreciation.

"(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying system of continuous emission control under section 48A, except that the amount of the increase in tax under subparagraph (A)

of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying system of continuous emission control.''

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following:

''(10) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending before the date of enactment of section 48A.''

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) the portion of the basis of any qualifying system of continuous emission

control attributable to any qualified investment (as defined by section 48A(e)).''

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting '', (2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying clean coal technology unit credit under section 48A.''

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following:

''48A. Qualifying clean coal technology unit credit.''

(f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE REVIEW, ETC.—

(1) EXEMPTION FROM NEW SOURCE REVIEW.—The installation of a qualifying system of continuous emission control (as defined in section 48A(b)(1) of the Internal Revenue Code of 1986, as added by subsection (b)), shall be exempt from the new source review provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) EXEMPTION FROM EMISSION CONTROL REQUIREMENTS.—The installation of a qualifying system of continuous emission control (as so defined)

on an existing coal-based electricity generating unit, which meets or exceeds, for the applicable source category and pollutant being controlled by such qualified system, the standard of performance for new stationary sources, shall exempt the existing unit from any new or increased emission control requirements for the pollutant being controlled by such qualified system under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) for a period of 10 years after the date such qualified system is originally placed in service.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

SEC. 942. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45F. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

"(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

"(1) the applicable amount of clean coal technology production credit, multiplied by

"(2) the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit during the 10-year period beginning on the date the unit was returned to service after retrofit, repowering, or replacement.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

"(2) INFLATION ADJUSTMENT FACTOR.—For calendar years after 2001, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a unit of the taxpayer which—

"(A) is an existing coal-based electricity generating steam generator-turbine unit,

"(B) has a nameplate capacity rating of not more than 300,000 kilowatts, and

"(C) has been retrofitted, repowered, or replaced with a clean coal technology within 10 years of the effective date of this section.

"(2) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means technology which—

"(A) uses coal to produce 50 percent or more of its thermal output as electricity, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

"(B) has a design heat rate not less than 500 Btu/kWh below that of the existing unit before it is retrofit, repowered, or replaced with the qualifying clean coal technology,

"(C) has a maximum design heat rate of not more than 9,000 Btu/kWh when the design coal has a heat content of more than 8,000 Btu per pound, and

"(D) has a maximum design heat rate of not more than 10,500 Btu/kWh when the design coal has a heat content of 8,000 Btu per pound or less.

"(3) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45 shall apply.

"(4) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2000.

"(5) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

''(d) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the qualifying clean coal technology unit credit under section 48A is allowed unless the taxpayer elects to waive the application of such credit to such property.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting '', plus'', and by adding at the end the following:

''(15) the qualifying clean coal technology production credit determined under section 45F(a).''

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 45F CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45F may be carried back to a taxable year ending before the date of enactment of section 45F.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45F. Credit for production from a qualifying clean coal technology unit.''

(e) MODIFICATIONS AND INSTALLATIONS NOT SUBJECT TO NEW SOURCE REVIEW, ETC.—

(1) EXEMPTION FROM NEW SOURCE REVIEW.—Modifications made to an existing coal-based generation unit because of, or as part of a qualifying clean coal technology unit (as defined in section 45F(c)(1) of the Internal Revenue Code of 1986, as added by subsection (a)), shall be exempt from the new source review provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) EXEMPTION FROM EMISSION CONTROL REQUIREMENTS.—The installation of a qualifying clean coal technology (as so defined) on an existing coal-based electricity generating unit, which meets or exceeds, for the applicable source category, the standard of performance for new stationary sources under section 111 of the Clean Air Act (42 U.S.C. 7411), shall exempt the existing unit from any new or increased emission control requirements under title I of such Act (42 U.S.C. 7401 et seq.) for a period of 10 years after the date the qualifying clean coal technology is originally placed in service.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of enactment of this Act.

PART II—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 946. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the qualifying advanced clean coal technology facility credit.''

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following:

''SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology facility credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying advanced clean coal technology facility for such taxable year.

"(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology facility' means a facility of the taxpayer—

"(A)(i)(I) which replaces a conventional technology facility of the taxpayer and the original use of which commences with the taxpayer, or

"(II) which is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

"(ii) which is acquired through purchase (as defined by section 179(d)(2)),

"(B) which is depreciable under section 167,

"(C) which has a useful life of not less than 4 years,

"(D) which is located in the United States, and

"(E) which uses qualifying advanced clean coal technology.

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility that—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years,

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualifying advanced clean coal technology' means, with respect to clean coal technology—

''(i) multiple applications, with a combined capacity of not more than 5,000

megawatts, of advanced pulverized coal or atmospheric fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011, and

''(III) with a design net heat rate of not more than 9,500 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(ii) multiple applications, with a combined capacity of not more than 1,000 megawatts, of pressurized fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011, and

''(III) with a design net heat rate of not more than 8,400 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu's per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(iii) multiple applications, with a combined capacity of not more than 2,000 megawatts, of integrated gasification combined cycle technology, with or without fuel or chemical co-production—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011,

''(III) with a design net heat rate of not more than 8,550 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a

heat content of 8,000 Btu per pound or less, and

''(IV) with a net thermal efficiency on any fuel or chemical co-production of not less than 39 percent (higher heating value), and

''(iv) multiple applications, with a combined capacity of not more than 2,000 megawatts of technology for the production of electricity—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011, and

''(III) with a carbon emission rate that is not more than 85 percent of conventional technology.

''(B) EXCEPTIONS.—Such term shall not include clean coal technology projects receiving or scheduled to receive funding under the Clean Coal Technology Program of the Department of Energy.

''(C) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means advanced technology which uses coal to produce 75 per-

cent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle with or without fuel or chemical co-production, and any other technology for the production of electricity that exceeds the performance of conventional technology.

''(D) CONVENTIONAL TECHNOLOGY.—The term 'conventional technology' means—

''(i) coal-fired combustion technology with a design net heat rate of not less than 9,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.54 pounds of carbon per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound,

''(ii) coal-fired combustion technology with a design net heat rate of not less than 10,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.60 pound of carbon per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, or

"(iii) natural gas-fired combustion technology with a design net heat rate of not less than 7,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.24 pound of carbon per kilowatt hour.

"(E) DESIGN NET HEAT RATE.—The design net heat rate shall be based on the design annual heat input to and the design annual net electrical output from the qualifying advanced clean coal technology (determined without regard to such technology's co-generation of steam).

"(F) SELECTION CRITERIA.—Selection criteria for clean coal technology facilities—

"(i) shall be established by the Secretary of Energy as part of a competitive solicitation,

"(ii) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, and lowest cost to the government, and

"(iii) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(c) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology facility placed in service by the taxpayer during such taxable year.

''(d) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology facility which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

"(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

"(e) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(f) TERMINATION.—This section shall not apply with respect to any qualified investment made more than 10 years after the effective date of this section.''

(c) RECAPTURE.—Section 50(a) (relating to other special rules), as amended by this Act, is amended by adding at the end the following:

''(7) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology facility (as defined by section 48B(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the

preceding sentence, the year of disposition of the qualifying advanced clean coal technology facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology facility.''

(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following:

''(12) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal

technology facility credit determined under section 48B may be carried back to a taxable year ending before the date of the enactment of section 48B.''

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following:

''(v) the portion of the basis of any qualifying advanced clean coal technology facility attributable to any qualified investment (as defined by section 48B(c)).''

(2) Section 50(a)(4), as amended by this Act, is amended by striking ''and (6)'' and inserting ''(6), and (7)''.

(3) Section 50(c)(6), as added by this Act, is amended by inserting ''or any advanced clean coal technology facility credit under section 48B'' after ''section 48A''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Qualifying advanced clean coal technology facility credit.''

(f) INSTALLATIONS NOT SUBJECT TO NEW SOURCE REVIEW, ETC.—

(1) EXEMPTION FROM NEW SOURCE REVIEW.—The installation of a qualifying advanced clean coal technology facility (as defined in section 48B(b)(1) of the Internal Revenue Code of 1986, as added by subsection (b)), shall be exempt from the new source review provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) EXEMPTION FROM EMISSION CONTROL REQUIREMENTS.—The installation of a qualifying advanced clean coal technology facility (as so defined) which meets or exceeds, for the applicable source category, the standard of performance for new stationary sources established under section 111 of the Clean Air Act (42 U.S.C. 7411), shall exempt that facility from any new or increased emission control requirements under title I of such Act (42 U.S.C. 7401 et seq.) for a period of 10 years after the date the qualifying advanced clean coal technology facility is originally placed in service.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the

day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 947. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following:

"SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service.

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal tech-

nology production credit with respect to production from a qualifying advanced clean coal technology facility shall be determined as follows:

''(1) Where the design coal has a heat content of more than 8,000 Btu per pound:

''(A) In the case of a facility originally placed in service before 2008, if—

''The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	$.0050	$.0030
More than 8,400 but not more than 8,550	$.0010	$.0010
More than 8,550 but not more than 8,750	$.0005	$.0005.

''(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

''The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0090	$.0075
More than 7,770 but not more than 8,125	$.0070	$.0050
More than 8,125 but not more than 8,350	$.0060	$.0040.

''(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

''The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0120	$.0090
More than 7,380 but not more than 7,720	$.0095	$.0070.

''(2) Where the design coal has a heat content of not more than 8,000 Btu per pound:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0050	$.0030
More than 8,500 but not more than 8,650	$.0010	$.0010
More than 8,650 but not more than 8,750	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	$.0090	$.0075
More than 8,000 but not more than 8,250	$.0070	$.0050
More than 8,250 but not more than 8,400	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	$.0120	$.0090
More than 7,800 but not more than 7,950	$.0095	$.0070.

"(3) Where the clean coal technology facility is producing fuel or chemicals:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0050	$.0030
Less than 40.6 but not less than 40 percent	$.0010	$.0010
Less than 40 but not less than 39 percent	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0090	$.0075
Less than 43.9 but not less than 42 percent	$.0070	$.0050
Less than 42 but not less than 40.9 percent	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0120	$.0090
Less than 44.2 but not less than 43.6 percent	$.0095	$.0070.

"(c) INFLATION ADJUSTMENT FACTOR.—For calendar years after 2001, each amount in paragraphs (1), (2), and (3) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount has increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 48B shall have the meaning given such term in section 48B.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45 shall apply.

''(3) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2000.

''(4) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the qualifying advanced clean coal technology production credit determined under section 45G(a).''

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following:

"(13) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45G may be carried back to a taxable year ending before the date of enactment of section 45G."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following:

"Sec. 45G. Credit for production from qualifying advanced clean coal technology."

(e) INSTALLATIONS NOT SUBJECT TO NEW SOURCE REVIEW, ETC..—

(1) EXEMPTION FROM NEW SOURCE REVIEW.—The installation of a qualifying advanced clean coal technology facility which has qualified for a qualifying advanced clean coal technology production credit determined under section 45G of the Internal Revenue Code of 1986, as added by subsection (a), shall be exempt from the new source review provisions of the Clean Air Act (42 U.S.C. 7401 et seq.).

(2) EXEMPTION FROM EMISSION CONTROL REQUIREMENTS.—The installation of a qualifying advanced clean coal technology facility which has qualified for a qualifying advanced clean coal technology production credit determined under such section 45G and which meets or exceeds, for the applicable source category, the standard of performance for new stationary sources established under section 111 of the Clean Air Act (42 U.S.C. 7411), shall exempt that facility from any new or increased emission control requirements under title I of such Act (42 U.S.C. 7401 et seq.) for a period of 10 years after the date the qualifying advanced clean coal technology facility is originally placed in service.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

Subtitle C—Provisions Relating to Natural Gas

SEC. 951. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Section 148(b) (defining higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) INVESTMENT PROPERTY NOT TO INCLUDE CERTAIN PREPAYMENTS TO ENSURE COMMODITY SUPPLY.—The term 'investment property' shall not include a prepayment entered into for the purpose of obtaining a supply of a commodity reasonably expected to be used in a business of one or more utilities each of which is owned and operated by a State or local government, any political subdivision or instrumentality thereof, or any governmental unit acting for or on behalf of such a utility.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 952. PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following:

''(C) arises from a transaction described in section 148(b)(4).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle D—Provisions Relating to Electric Power

SEC. 956. DEPRECIATION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.

(a) DEPRECIATION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (v), by redesignating clause (vi) as clause (vii), and by inserting after clause (v) the following new clause:

''(vi) any property used in the generation or transmission of electricity, and''.

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(v) the following new item:

''(C)(vi) ..... 10''.

(b) DEFINITION OF PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.—Subsection (i) of section 168, as amended by this Act, is

amended by adding at the end the following new paragraph:

''(18) PROPERTY USED IN THE GENERATION OR TRANSMISSION OF ELECTRICITY.—

''(A) GENERATION.—The term 'property used in the generation of electricity' means property used in nuclear power production of electricity for sale, property used in hydraulic power production of electricity for sale, property used in steam power production of electricity for sale, and property used in combustion turbine production of electricity for sale.

''(B) TRANSMISSION.—The term 'property used in the transmission of electricity' means property used in the transmission of electricity for sale.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 957. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) RULES APPLICABLE TO ELECTRIC OUTPUT FACILITIES.—Subpart A of part IV of subchapter B of chapter 1 (relating to tax exemption requirements for State

and local bonds) is amended by inserting after section 141 the following new section:

"SEC. 141A. ELECTRIC OUTPUT FACILITIES.

"(a) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

"(1) IN GENERAL.—A governmental unit may make an irrevocable election under this paragraph to terminate certain tax-exempt financing for electric output facilities. If the governmental unit makes such election, then—

"(A) except as provided in paragraph (2), on or after the date of such election the governmental unit may not issue with respect to an electric output facility any bond the interest on which is exempt from tax under section 103, and

"(B) notwithstanding paragraph (1) or (2) of section 141(a) or paragraph (4) or (5) of section 141(b), no bond which was issued by such unit with respect to an electric output facility before the date of enactment of this subsection (or which is described in paragraph (2)(B), (D), (E) or (F)) the interest on which

was exempt from tax on such date, shall be treated as a private activity bond.

''(2) EXCEPTIONS.—An election under paragraph (1) does not apply to any of the following bonds:

''(A) Any qualified bond (as defined in section 141(e)).

''(B) Any eligible refunding bond (as defined in subsection (d)(6)).

''(C) Any bond issued to finance a qualifying transmission facility or a qualifying distribution facility.

''(D) Any bond issued to finance equipment or facilities necessary to meet Federal or State environmental requirements applicable to an existing generation facility.

''(E) Any bond issued to finance repair of any existing generation facility. Repairs of facilities may not increase the generation capacity of the facility by more than 3 percent above the greater of its nameplate or rated capacity as of the date of the enactment of this section.

''(F) Any bond issued to acquire or construct (i) a qualified facility, as defined in section 45(c)(3), if such facility is placed in service

during a period in which a qualified facility may be placed in service under such section, or (ii) any energy property, as defined in section 48(a)(3).

''(3) FORM AND EFFECT OF ELECTION.—

''(A) IN GENERAL.—An election under paragraph (1) shall be made in such a manner as the Secretary prescribes and shall be binding on any successor in interest to, or any related party with respect to, the electing governmental unit. For purposes of this paragraph, a governmental unit shall be treated as related to another governmental unit if it is a member of the same controlled group.

''(B) TREATMENT OF ELECTING GOVERNMENTAL UNIT.—A governmental unit which makes an election under paragraph (1) shall be treated for purposes of section 141 as a person which is not a governmental unit and which is engaged in a trade or business, with respect to its purchase of electricity generated by an electric output facility placed in service after such election, if such purchase is under a contract executed after such election.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) EXISTING GENERATION FACILITY.—The term 'existing generation facility' means an electric generation facility in service on the date of the enactment of this subsection or the construction of which commenced before June 1, 2000.

"(B) QUALIFYING DISTRIBUTION FACILITY.—The term 'qualifying distribution facility' means a distribution facility over which open access distribution services described in subsection (b)(2)(C) are provided.

"(C) QUALIFYING TRANSMISSION FACILITY.—The term 'qualifying transmission facility' means a local transmission facility (as defined in subsection (c)(3)(A)) over which open access transmission services described in subparagraph (A), (B), or (E) of subsection (b)(2) are provided.

"(b) PERMITTED OPEN ACCESS ACTIVITIES AND SALES TRANSACTIONS NOT A PRIVATE BUSINESS USE FOR BONDS WHICH REMAIN SUBJECT TO PRIVATE USE RULES.—

"(1) GENERAL RULE.—For purposes of this section and section 141, the term 'private business use' shall not include a permitted open access activity or a permitted sales transaction.

"(2) PERMITTED OPEN ACCESS ACTIVITIES.—For purposes of this section, the term 'permitted open access activity' means any of the following transactions or activities with respect to an electric output facility owned by a governmental unit:

"(A) Providing nondiscriminatory open access transmission service and ancillary services—

"(i) pursuant to an open access transmission tariff filed with and approved by FERC, but, in the case of a voluntarily filed tariff, only if the governmental unit voluntarily files a report described in paragraph (c) or (h) of section 35.34 of title 18 of the Code of Federal Regulations or successor provision (relating to whether or not the issuer will join a regional transmission organization) not later than the later of the applicable date prescribed in such paragraphs or 60 days after the date of the enactment of this section,

"(ii) under an independent system operator agreement, regional transmission organization agreement, or regional transmission group agreement approved by FERC, or

"(iii) in the case of an ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B)), pursuant to a tariff approved by the Public Utility Commission of Texas.

"(B) Participation in—

"(i) an independent system operator agreement,

"(ii) a regional transmission organization agreement, or

"(iii) a regional transmission group,

which has been approved by FERC, or by the Public Utility Commission of Texas in the case of an ERCOT utility (as so defined). Such participation may include transfer of control of transmission facilities to an organization described in clause (i), (ii), or (iii).

"(C) Delivery on a nondiscriminatory open access basis of electric energy sold to end-users

served by distribution facilities owned by such governmental unit.

''(D) Delivery on a nondiscriminatory open access basis of electric energy generated by generation facilities connected to distribution facilities owned by such governmental unit.

''(E) Other transactions providing nondiscriminatory open access transmission or distribution services under Federal, State, or local open access, retail competition, or similar programs, to the extent provided in regulations prescribed by the Secretary.

''(3) PERMITTED SALES TRANSACTION.—For purposes of this subsection, the term 'permitted sales transaction' means any of the following sales of electric energy from existing generation facilities (as defined in subsection (a)(4)(A)):

''(A) The sale of electricity to an on-system purchaser, if the seller provides open access distribution service under paragraph (2)(C) and, in the case of a seller which owns or operates transmission facilities, if such seller provides open access transmission under subparagraph (A), (B), or (E) of paragraph (2).

''(B) The sale of electricity to a wholesale native load purchaser or in a wholesale stranded cost mitigation sale—

''(i) if the seller provides open access transmission service described in subparagraph (A), (B), or (E) of paragraph (2), or

''(ii) if the seller owns or operates no transmission facilities and transmission providers to the seller's wholesale native load purchasers provide open access transmission service described in subparagraph (A), (B), or (E) of paragraph (2).

''(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person whose electric facilities or equipment are directly connected with transmission or distribution facilities which are owned by a governmental unit, and such person—

''(i) purchases electric energy from such governmental unit at retail and either was within such unit's distribution area in the base year or is a person as to whom

the governmental unit has a service obligation, or

''(ii) is a wholesale native load purchaser from such governmental unit.

''(B) WHOLESALE NATIVE LOAD PURCHASER.—The term 'wholesale native load purchaser' means a wholesale purchaser as to whom the governmental unit had—

''(i) a service obligation at wholesale in the base year, or

''(ii) an obligation in the base year under a requirements contract, or under a firm sales contract which has been in effect for (or has an initial term of) at least 10 years,

but only to the extent that in either case such purchaser resells the electricity at retail to persons within the purchaser's distribution area.

''(C) WHOLESALE STRANDED COST MITIGATION SALE.—The term 'wholesale stranded cost mitigation sale' means 1 or more wholesale sales made in accordance with the following requirements:

''(i) A governmental unit's allowable sales under this subparagraph during the

recovery period may not exceed the sum of its annual load losses for each year of the recovery period.

''(ii) The governmental unit's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) sales in the base year to wholesale native load purchasers which do not constitute a private business use, exceed

''(II) sales during that year of the recovery period to wholesale native load purchasers which do not constitute a private business use.

''(iii) If actual sales under this subparagraph during the recovery period are less than allowable sales under clause (i), the amount not sold (but not more than 10 percent of the aggregate allowable sales under clause (i)) may be carried over and sold as wholesale stranded cost mitigation sales in the calendar year following the recovery period.

"(D) RECOVERY PERIOD.—The recovery period is the 7-year period beginning with the start-up year.

"(E) START-UP YEAR.—The start-up year is whichever of the following calendar years the governmental unit elects:

"(i) The year the governmental unit first offers open transmission access.

"(ii) The first year in which at least 10 percent of the governmental unit's wholesale customers' aggregate retail native load is open to retail competition.

"(iii) The calendar year which includes the date of the enactment of this section, if later than the year described in clause (i) or (ii).

"(F) PERMITTED SALES TRANSACTIONS UNDER EXISTING CONTRACTS.—A sale to a wholesale native load purchaser (other than a person to whom the governmental unit had a service obligation) under a contract which resulted in private business use in the base year shall be treated as a permitted sales transaction only to the extent that sales under the contract exceed the lesser of—

"(i) in any year, the private business use which resulted during the base year, or

"(ii) the maximum amount of private business use which could occur (absent the enactment of this section) without causing the bonds to be private activity bonds.

This subparagraph shall only apply to the extent that the sale is allocable to bonds issued before the date of the enactment of this section (or bonds issued to refund such bonds).

"(G) JOINT ACTION AGENCIES.—A joint action agency, or a member of (or a wholesale native load purchaser from) a joint action agency, which is entitled to make a sale described in subparagraph (A) or (B) in a year, may transfer the entitlement to make that sale to the member (or purchaser), or the joint action agency, respectively.

"(c) CERTAIN BONDS FOR TRANSMISSION AND DISTRIBUTION FACILITIES NOT TAX EXEMPT.—

"(1) GENERAL RULE.—For purposes of this title, no bond the interest on which is exempt from taxation under section 103 may be issued on or after the date of the enactment of this subsection if any of the proceeds of such issue are used to finance—

"(A) any transmission facility which is not a local transmission facility, or

"(B) a start-up utility distribution facility.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any qualified bond (as defined in section 141(e)),

"(B) any eligible refunding bond (as defined in subsection (d)(6)), or

"(C) any bond issued to finance—

"(i) any repair of a transmission facility in service on the date of the enactment of this section, so long as the repair does not increase the voltage level over its level in the base year or increase the thermal load limit of the transmission facility by more than 3 percent over such limit in the base year,

"(ii) any qualifying upgrade of a transmission facility in service on the date of the enactment of this section, or

"(iii) a transmission facility necessary to comply with an obligation under a shared or reciprocal transmission agree-

ment in effect on the date of the enactment of this section.

"(3) LOCAL TRANSMISSION FACILITY DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LOCAL TRANSMISSION FACILITY.—The term 'local transmission facility' means a transmission facility which is located within the governmental unit's distribution area or which is, or will be, necessary to supply electricity to serve retail native load or wholesale native load of 1 or more governmental units. For purposes of this subparagraph, the distribution area of a public power authority which was created in 1931 by a State statute and which, as of January 1, 1999, owned at least one-third of the transmission circuit miles rated at 230kV or greater in the State, shall be determined under regulations of the Secretary.

"(B) RETAIL NATIVE LOAD.—The term 'retail native load' is the electric load of end-users served by distribution facilities owned by a governmental unit.

"(C) WHOLESALE NATIVE LOAD.—The term 'wholesale native load' is—

''(i) the retail native load of a governmental unit's wholesale native load purchasers, and

''(ii) the electric load of purchasers (not described in clause (i)) under wholesale requirements contracts which—

''(I) do not constitute private business use under the rules in effect absent this subsection, and

''(II) were in effect in the base year.

''(D) NECESSARY TO SERVE LOAD.—For purposes of determining whether a transmission or distribution facility is, or will be, necessary to supply electricity to retail native load or wholesale native load—

''(i) electric reliability standards or requirements of national or regional reliability organizations, regional transmission organizations, and the Electric Reliability Council of Texas shall be taken into account, and

''(ii) transmission, siting, and construction decisions of regional transmission organizations or independent system opera-

tors and State and Federal agencies shall be presumptive evidence regarding whether transmission facilities are necessary to serve native load.

''(E) QUALIFYING UPGRADE.—The term 'qualifying upgrade' means an improvement or addition to transmission facilities in service on the date of the enactment of this section which is ordered or approved by a regional transmission organization, by an independent system operator, or by a State regulatory or siting agency.

''(4) START-UP UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this subsection, the term 'start-up utility distribution facility' means any distribution facility to provide electric service to the public that is placed in service—

''(A) by a governmental unit which did not operate an electric utility on the date of the enactment of this section, and

''(B) before the date on which such governmental unit operates in a qualified service area (as such term is defined in section 141(d)(3)(B)).

A governmental unit is deemed to have operated an electric utility on the date of the enactment of this section if it operates electric output facilities which were operated by another governmental unit to provide electric service to the public on such date.

''(d) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

''(1) BASE YEAR.—The term 'base year' means the calendar year which includes the date of the enactment of this section or, at the election of the governmental unit, either of the 2 immediately preceding calendar years.

''(2) DISTRIBUTION AREA.—The term 'distribution area' means the area in which a governmental unit owns distribution facilities.

''(3) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

''(4) DISTRIBUTION FACILITY.—The term 'distribution facility' means an electric output facility that is not a generation or transmission facility.

''(5) TRANSMISSION FACILITY.—The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at

an electric voltage of 69kV or greater, except that the owner of the facility may elect to treat any output facility that is a transmission facility for purposes of the Federal Power Act as a transmission facility for purposes of this section.

''(6) ELIGIBLE REFUNDING BOND.—The term 'eligible refunding bond' means any State or local bond issued after an election described in subsection (a) that directly or indirectly refunds any tax-exempt bond (other than a qualified bond) issued before such election, if the weighted average maturity of the issue of which the refunding bond is a part does not exceed the remaining weighted average maturity of the bonds issued before the election. In applying such term for purposes of subsection (c)(2)(B), the date of election shall be deemed to be the date of the enactment of this section.

''(7) FERC.—The term 'FERC' means the Federal Energy Regulatory Commission.

''(8) GOVERNMENT-OWNED FACILITY.—An electric output facility shall be treated as owned by a governmental unit if it is an electric output facility that either is—

''(A) owned or leased by such governmental unit, or

''(B) a transmission facility in which the governmental unit acquired before the base year long-term firm capacity for the purposes of serving customers to which the unit had at that time either—

''(i) a service obligation, or

''(ii) an obligation under a requirements contract.

''(9) REPAIR.—The term 'repair' shall include replacement of components of an electric output facility, but shall not include replacement of the facility.

''(10) SERVICE OBLIGATION.—The term 'service obligation' means an obligation under State or Federal law (exclusive of an obligation arising solely from a contract entered into with a person) to provide electric distribution services or electric sales service, as provided in such law.

''(e) SAVINGS CLAUSE.—Subsection (b) shall not affect the applicability of section 141 to (or the Secretary's authority to prescribe, amend, or rescind regulations respecting) any transaction which is not a permitted open access transaction or permitted sales transaction.''

(b) REPEAL OF EXCEPTION FOR CERTAIN NONGOVERNMENTAL ELECTRIC OUTPUT FACILITIES.—Sec-

tion 141(d)(5) is amended by inserting ''(except in the case of an electric output facility which is a distribution facility),'' after ''this subsection''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1 is amended by inserting after the item relating to section 141 the following new item:

''Sec. 141A. Electric output facilities.''

(d) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that a governmental unit may elect to apply paragraphs (1) and (2) of section 141A(b) of the Internal Revenue Code of 1986, as added by subsection (a), with respect to permitted open access activities entered into on or after April 14, 1996.

(2) CERTAIN EXISTING AGREEMENTS.—The amendment made by subsection (b) (relating to repeal of the exception for certain nongovernmental output facilities) does not apply to any acquisition of facilities made pursuant to an agreement that was entered into before the date of the enactment of this Act.

(3) APPLICABILITY.—References in this Act to sections of the Internal Revenue Code of 1986, shall

be deemed to include references to comparable sections of the Internal Revenue Code of 1954.

SEC. 958. INDEPENDENT TRANSMISSION COMPANIES.

(a) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction and the proceeds received from such transaction are invested in exempt utility property, such transaction shall be treated as an involuntary conversion to which this section applies.

''(2) EXTENSION OF REPLACEMENT PERIOD.—In the case of any involuntary conversion described in paragraph (1), subsection (a)(2)(B) shall be applied by substituting '4 years' for '2 years' in clause (i) thereof.

"(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition of property used in the trade or business of electric transmission, or an ownership interest in a person whose primary trade or business consists of providing electric transmission services, to another person that is an independent transmission company.

"(4) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 823b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the replacement period, or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(5) EXEMPT UTILITY PROPERTY.—For purposes of this subsection, the term 'exempt utility property' means—

''(A) property used in the trade or business of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas, or

''(B) stock in a person whose primary trade or business consists of generating, transmitting, distributing, or selling electricity or

producing, transmitting, distributing, or selling natural gas.

''(6) SPECIAL RULES FOR CONSOLIDATED GROUPS.—

''(A) INVESTMENT BY QUALIFYING GROUP MEMBERS.—

''(i) IN GENERAL.—This subsection shall apply to a qualifying electric transmission transaction engaged in by a taxpayer if the proceeds are invested in exempt utility property by a qualifying group member.

''(ii) QUALIFYING GROUP MEMBER.—For purposes of this subparagraph, the term 'qualifying group member' means any member of a consolidated group within the meaning of section 1502 and the regulations promulgated thereunder of which the taxpayer is also a member.

''(B) COORDINATION WITH CONSOLIDATED RETURN PROVISIONS.—A sale or other disposition of electric transmission property or an ownership interest in a qualifying electric transmission transaction, where an election is made under this subsection, shall not result in the

recognition of income or gain under the consolidated return provisions of subchapter A of chapter 6. The Secretary shall prescribe such regulations as may be necessary to provide for the treatment of any exempt utility property received in a qualifying electric transmission transaction as successor assets subject to the application of such consolidated return provisions.

''(7) ELECTION.—Any election made by a taxpayer under this subsection shall be made by a statement to that effect in the return for the taxable year in which the qualifying electric transmission transaction takes place in such form and manner as the Secretary shall prescribe, and such election shall be binding for that taxable year and all subsequent taxable years.''

(2) SAVINGS CLAUSE.—Nothing in section 1033(k) of the Internal Revenue Code of 1986, as added by subsection (a), shall affect Federal or State regulatory policy respecting the extent to which any acquisition premium paid in connection with the purchase of an asset in a qualifying electric transmission transaction can be recovered in rates.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions occurring after the date of the enactment of this Act.

(b) DISTRIBUTIONS OF STOCK TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(1) IN GENERAL.—Section 355(e)(4) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) DISTRIBUTIONS OF STOCK TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

"(i) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is a qualifying electric transmission transaction. For purposes of this subparagraph, a 'qualifying electric transmission transaction' means any distribution of stock in a corporation whose primary trade or business consists of providing electric transmission services, where such stock is later acquired (or where the assets of such cor-

poration are later acquired) by another person that is an independent transmission company.

"(ii) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

"(I) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(II) a person who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and whose transmission facilities transferred as a part of such qualifying electric transmission transaction are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization with-

in the period specified in such order, but not later than the close of the replacement period (as defined in section 1033(k)(2)), or

"(III) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person that is approved by that Commission as consistent with Texas State law regarding an independent transmission organization."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions occurring after the date of the enactment of this Act.

SEC. 959. CERTAIN AMOUNTS RECEIVED BY ENERGY, NATURAL GAS, OR STEAM UTILITIES EXCLUDED FROM GROSS INCOME AS CONTRIBUTIONS TO CAPITAL.

(a) IN GENERAL.—Subsection (c) of section 118 (relating to contributions to the capital of a corporation) is amended—

(1) by striking "WATER AND SEWAGE DISPOSAL" in the heading and inserting "CERTAIN",

(2) by striking "water or," in the matter preceding subparagraph (A) of paragraph (1) and in-

serting ''electric energy, natural gas (through a local distribution system or by pipeline), steam, water, or'',

(3) by striking ''water or'' in paragraph (1)(B) and inserting ''electric energy (but not including assets used in the generation of electricity), natural gas, steam, water, or'',

(4) by striking ''water or'' in paragraph (2)(A)(ii) and inserting ''electric energy (but not including assets used in the generation of electricity), natural gas, steam, water, or'',

(5) by inserting ''such term shall include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line, a gas main, a steam line, or a main water or sewer line) and'' after ''except that'' in paragraph (3)(A), and

(6) by striking ''water or'' in paragraph (3)(C) and inserting ''electric energy, natural gas, steam, water, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

Subtitle E—Provisions Relating to Nuclear Energy

SEC. 961. EXPENSING OF COSTS INCURRED FOR TEMPORARY STORAGE OF SPENT NUCLEAR FUEL.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. EXPENSING OF COSTS FOR TEMPORARY STORAGE OF SPENT NUCLEAR FUEL.

''A taxpayer may elect to treat any amount paid or incurred during the taxable year for the temporary storage or isolation of spent nuclear fuel as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.''

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Expensing of costs for temporary storage of spent nuclear fuel.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 962. NUCLEAR DECOMMISSIONING RESERVE FUND.

(a) INCREASE IN AMOUNT PERMITTED TO BE PAID INTO NUCLEAR DECOMMISSIONING RESERVE FUND.—Subsection (b) of section 468A is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

''(1) IN GENERAL.—The amount which a taxpayer may pay into the Fund for any taxable year during the funding period shall not exceed the level funding amount determined pursuant to subsection (d), except—

''(A) where the taxpayer is permitted by Federal or State law or regulation (including authorization by a public service commission) to charge customers a greater amount for nuclear decommissioning costs, in which case the taxpayer may pay into the Fund such greater amount; or

''(B) in connection with the transfer of a nuclear powerplant, where the transferor or transferee (or both) is required pursuant to the terms of the transfer to contribute a greater amount for nuclear decommissioning costs, in which case the transferor or transferee (or both) may pay into the Fund such greater amount.

''(2) CONTRIBUTIONS AFTER FUNDING PERIOD.—Notwithstanding any other provision of this section, a taxpayer may make deductible payments to the Fund in any taxable year between the end of the funding period and the termination of the license issued by the Nuclear Regulatory Commission for the nuclear powerplant to which the Fund relates but only if such payments do not cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The foregoing limitation shall be applied by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.''

(b) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:

''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''

(c) LEVEL FUNDING AMOUNTS.—Subsection (d) of section 468A is amended to read as follows:

''(d) LEVEL FUNDING AMOUNTS.—

''(1) ANNUAL AMOUNTS.—For purposes of this section, the level funding amount for any taxable year shall equal the annual amount required to be contributed to the Fund in each year remaining in the funding period in order for the Fund to accumulate the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The annual amount described in the preceding sentence shall be calculated by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.

''(2) FUNDING PERIOD.—The funding period for a Fund shall end on the last day of the last taxable year of the expected operating life of the nuclear powerplant.

''(3) NUCLEAR DECOMMISSIONING COSTS.—For purposes of this section, the term 'nuclear decommissioning costs' means all costs to be incurred in connection with entombing, decontaminating, dis-

mantling, removing, and disposing of a nuclear powerplant, and includes all associated preparation, security, fuel storage, and radiation monitoring costs. The taxpayer may identify such costs by reference either to a site-specific engineering study or to the financial assurance amount calculated pursuant to section 50.75 of title 10 of the Code of Federal Regulations. The term shall include all such costs which, outside of the decommissioning context, might otherwise be capital expenditures.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after June 8, 1999, in taxable years ending after such date.

Subtitle F—Tax Incentives for Energy Efficiency

SEC. 971. CREDIT FOR CERTAIN DISTRIBUTED POWER AND COMBINED HEAT AND POWER SYSTEM PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Section 48(a)(3) (defining energy property) is amended by inserting before the last sentence the following: ''The term 'energy property' includes distributed power property or combined heat and power system property, but only if the requirements of subparagraphs (B) and (C) are met with respect to the property.''

(b) DEFINITIONS.—Subsection (a) of section 48 (relating to the energy credit) is amended by adding at the end the following new paragraphs:

''(6) DISTRIBUTED POWER PROPERTY.—The term 'distributed power property' means property—

''(A) which is used in the generation of electricity for primary use—

''(i) in nonresidential real or residential rental property used in the taxpayer's trade or business, with a rated total capacity in excess of 1 kilowatt, or

''(ii) in the taxpayer's industrial manufacturing process or plant activity, with a rated total capacity in excess of 500 kilowatts,

''(B) which may also produce usable thermal energy or mechanical power for use in a heating or cooling application, but only if at least 30 percent of the total useful energy produced consists of—

''(i) with respect to assets described in subparagraph (A)(i), electrical power (whether sold or used by the taxpayer), or

''(ii) with respect to assets described in subparagraph (A)(ii), electrical power

(whether sold or used by the taxpayer) and thermal or mechanical energy used in the taxpayer's industrial manufacturing process or plant activity,

"(C) which is not used to transport primary fuel to the generating facility or to distribute energy within or outside of the facility, and

"(D) if it is reasonably expected that not more than 50 percent of the produced electricity will be sold to, or used by, unrelated persons.

"(7) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

"(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy, and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof), and

"(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities).

"(B) SPECIAL RULES.—

"(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph

(A)(iv), the energy efficiency percentage of a system is the fraction—

"(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and

"(II) the denominator of which is the lower heating value of the primary fuel source for the system.

"(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

"(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(iv) PUBLIC UTILITY PROPERTY.—

"(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as

defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the taxpayer may only claim the credit under this subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter in paragraph (3) which follows subparagraph (D) shall not apply to combined heat and power system property.''

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the portion of the energy credit described in section 48(a) (6) or (7) may be carried back to a taxable year ending before the date of the enactment of this paragraph.''

(d) DEPRECIATION.—

(1) Subparagraph (C) of section 168(e)(3), as amended by this Act, is amended by striking ''and'' at the end of clause (vi), by redesignating clause (vii) as clause (viii), and by inserting after clause (vi) the following new clause:

''(vii) any energy property (as defined in paragraph (6) or (7) of section 48(a)) for which a credit is allowed under section 48 and which, but for this clause, would have a recovery period of less than 15 years, and''.

(2) The table contained in subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (C)(vi) the following:

''(C)(vii) ..... 10''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2000, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 972. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal

credits) is amended by inserting after section 25A the following new section:

"SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

"(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component that is certified to meet or exceed the prescriptive criteria for such component established by the 1998 International Energy Conservation Code, if—

''(1) such component is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component commences with the taxpayer, and

''(3) such component reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—The certification described in subsection (d) shall be—

''(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency, based upon energy use or building envelope component performance, for the energy efficient building envelope component,

''(2) provided by the contractor who installed such building envelope component, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Home Energy Ratings Systems Council or the National Association of State Energy Officials, and

''(3) made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

''(f) DEFINITIONS AND SPECIAL RULES.—

''(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an indi-

vidual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(2) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(3) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(4) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on January 1, 2001, and ending on December 31, 2005.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 23 is amended by inserting '', section 25B, and section 1400C'' after ''other than this section''.

(2) Subparagraph (C) of section 25(e)(1) is amended by striking ''section 23'' and inserting ''sections 23, 25B, and 1400C''.

(3) Subsection (d) of section 1400C is amended by inserting ''and section 25B'' after ''other than this section''.

(4) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ''; and'', and by adding at the end the following new paragraph:

''(28) to the extent provided in section 25B(f), in the case of amounts with respect to which a credit has been allowed under section 25B.''

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Energy efficiency improvements to existing homes.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

SEC. 973. BUSINESS CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related cred-

its), as amended by this Act, is amended by inserting after section 45G the following new section:

"SEC. 45H. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualified new energy efficient home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

"(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the new energy efficient home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling appliance.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2000,

''(C) the original use of which is as a principal residence (within the meaning of section 121) which commences with the person who acquires such dwelling from the eligible contractor, and

''(D) which is certified to have a level of annual heating and cooling energy consumption that is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling constructed in accordance with the standards of the 1998 International Energy Conservation Code.

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(7) MANUFACTURED HOME INCLUDED.—The term 'dwelling' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD.—A certification described in subsection (c)(3)(D) shall be determined on the basis of one of the following methods:

''(A) The technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency for the energy efficient building envelope component or energy efficient heating or cooling appliance, based upon energy use or building envelope component performance.

''(B) An energy performance measurement method that utilizes computer software ap-

proved by organizations designated by the Secretary.

''(2) PROVIDER.—Such certification shall be provided by—

''(A) in the case of a method described in paragraph (1)(A), the eligible contractor, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating systems provider who is accredited by, or otherwise authorized to use, approved energy performance measurement methods by the Home Energy Ratings Systems Council or the National Association of State Energy Officials, or

''(B) in the case of a method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—Such certification shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling appliances installed and their respective energy efficiency levels, and in the case of a method

described in subparagraph (B) of paragraph (1), accompanied by written analysis documenting the proper application of a permissible energy performance measurement method to the specific circumstances of such dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for energy performance measurement methods, the Secretary shall prescribe procedures for calculating annual energy costs for heating and cooling and cost savings and for the reporting of the results. Such regulations shall—

''(i) be based on the National Home Energy Rating Technical Guidelines of the National Association of State Energy Officials and the 1998 California Residential ACM manual,

''(ii) provide that any calculation procedures be developed such that the same energy efficiency measures allow a home to qualify for the credit under this section regardless of whether the house uses a gas or oil furnace or boiler or an electric heat pump, and

''(iii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and explanations for the homebuyer of the energy efficient features that were used to comply with the requirements of this section.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the National Association of State Energy Officials.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—Subsection (a) shall apply to dwellings purchased during the period beginning on January 1, 2001, and ending on December 31, 2005.''

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking ''plus'' at the

end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(17) the new energy efficient home credit determined under section 45H."

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a new energy efficient home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45H."

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR NEW ENERGY EFFICIENT HOME CREDIT.—

"(A) IN GENERAL.—In the case of the new energy efficient home credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) subparagraph (A) thereof shall not apply, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the new energy efficient home credit).

"(B) NEW ENERGY EFFICIENT HOME CREDIT.—For purposes of this subsection, the term 'new energy efficient home credit' means the credit allowable under subsection (a) by reason of section 45H."

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), subclause (II) of section 38(c)(3)(A)(ii), and subclause (II) of section 38(c)(4)(A)(ii) are each amended by inserting "or

the new energy efficient home credit'' after ''enhanced oil recovery credit''.

(e) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H may be carried back to any taxable year ending before the date of the enactment of section 45H.''

(f) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding after paragraph (8) the following new paragraph:

''(9) the new energy efficient home credit determined under section 45H.''

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45G the following new item:

''Sec. 45H. New energy efficient home credit.''

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

SEC. 974. TAX CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

"SEC. 30B. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred by the taxpayer during the taxable year for qualified energy efficient appliances.

''(b) LIMITATIONS.—

''(1) DOLLAR AMOUNT.—The amount which may be taken into account under subsection (a) shall not exceed—

''(A) in the case of an energy efficient clothes washer described in subsection (c)(2)(A) or an energy efficient refrigerator described in subsection (c)(3)(B)(i), $50, and

''(B) in the case of an energy efficient clothes washer described in subsection (c)(2)(B)

or an energy efficient refrigerator described in subsection (c)(3)(B)(ii), $100.

''(2) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27 and 30, over

''(B) the tentative minimum tax for the taxable year.

''(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy efficient appliance' means—

''(A) an energy efficient clothes washer, or

''(B) an energy efficient refrigerator.

''(2) ENERGY EFFICIENT CLOTHES WASHER.—The term 'energy efficient clothes washer' means a residential clothes washer, including a residential style coin operated washer, which is manufactured with—

''(A) a 1.26 Modified Energy Factor (referred to in this paragraph as 'MEF') (as determined by the Secretary of Energy), or

"(B) a 1.42 MEF (as determined by the Secretary of Energy) (1.5 MEF for calendar years beginning after 2004).

"(3) ENERGY EFFICIENT REFRIGERATOR.—The term 'energy efficient refrigerator' means an automatic defrost refrigerator-freezer which—

"(A) has an internal volume of at least 16.5 cubic feet, and

"(B) consumes—

"(i) 10 percent less kw/hr/yr than the energy conservation standards promulgated by the Department of Energy for such refrigerator for 2001, or

"(ii) 15 percent less kw/hr/yr than such energy conservation standards.

"(d) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

"(e) TERMINATION.—This section shall not apply—

"(1) with respect to energy efficient refrigerators described in subsection (c)(3)(B)(i) purchased in calendar years beginning after 2004, and

''(2) with respect to all other qualified energy efficient appliances purchased in calendar years beginning after 2006.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting at the end the following new item:

''Sec. 30B. Energy efficient appliance credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 975. CREDIT FOR CERTAIN ENERGY EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

''SEC. 30C. CREDIT FOR HYBRID VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts for each qualified hybrid vehicle placed in service during the taxable year.

''(b) CREDIT AMOUNT.—For purposes of this section, the credit amount for each qualified hybrid vehicle with a rechargeable energy storage system which provides the applicable percentage of the maximum available power shall be the amount specified in the following table:

"Applicable percentage	Credit amount
Greater than or equal to 20 percent but less than 40 percent	$500
Greater than or equal to 40 percent but less than 60 percent	$1,000
Greater than or equal to 60 percent	$2,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HYBRID VEHICLE.—The term 'qualified hybrid vehicle' means an automobile which meets all applicable regulatory requirements and which can draw propulsion energy from both of the following onboard sources of stored energy:

"(A) A consumable fuel.

"(B) A rechargeable energy storage system.

"(2) MAXIMUM AVAILABLE POWER.—The term 'maximum available power' means the maximum value of the sum of the heat engine and electric drive system power or other nonheat energy conversion devices available for a driver's command for maximum acceleration at vehicle speeds under 75 miles per hour.

"(3) AUTOMOBILE.—The term 'automobile' has the meaning given such term by section 4064(b)(1) (without regard to subparagraphs (B) and (C) thereof). A vehicle shall not fail to be treated as an automobile solely by reason of weight if such vehicle is rated at 8,500 pounds gross vehicle weight rating or less.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 30, and 30B of this subpart, over

''(2) the tentative minimum tax for the taxable year.

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under this section with respect to—

''(A) any property for which a credit is allowed under section 30,

''(B) any property referred to in section 50(b), or

''(C) any property taken into account under section 179 or 179A.

''(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) LEASED VEHICLES.—No credit shall be allowed under this section with respect to a leased motor vehicle unless the lease documents clearly disclose to the lessee the specific amount of any credit otherwise allowable to the lessor under this section.

''(f) REGULATIONS.—

''(1) TREASURY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

''(2) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency, in coordination with the Secretary of Transportation and consistent with the laws administered by such agency for automobiles, shall timely prescribe such regulations as may be necessary or appropriate solely for the purpose of specifying the testing and calculation procedures to determine

whether a vehicle meets the qualifications for a credit under this section.

''(g) APPLICATION OF SECTION.—This section shall apply to any qualified hybrid vehicles placed in service after December 31, 2000, and before January 1, 2009.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30C(e)(1).''

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30C. Credit for hybrid vehicles.''

(c) EFFECTIVE DATE.—The amendments made by this title shall apply to vehicles placed in service after December 31, 2000.

Subtitle G—Alternative Fuels

SEC. 981. CREDIT FOR ALTERNATIVE FUEL VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by inserting after section 30C the following:

"SEC. 30D. CREDIT FOR ALTERNATIVE FUEL VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter an amount equal to the applicable percentage of the incremental cost of any qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage with respect to any qualified alternative fuel motor vehicle is—

"(1) 50 percent, plus

"(2) 35 percent, if such vehicle—

"(A) has a gross weight vehicle rating of less than 14,000 pounds, and

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle for sale in California and meets or exceeds the most stringent standard available for certification under the laws of the State of California for that make and

model year vehicle (other than a zero emission standard), or

"(B) has a gross weight vehicle rating of 14,000 or more pounds, and

"(i) has received a certificate of conformity under the Clean Air Act at emissions levels that are not more than 50 percent of the standard applicable to a vehicle of that make and model year, or

"(ii) has received an order certifying the vehicle for sale in California at emissions levels that are not more than 50 percent of the standard applicable under the laws of the State of California to a vehicle of that make and model year.

"(c) INCREMENTAL COST.—For purposes of this section, the incremental cost of any qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(1) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(2) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(3) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(4) $50,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(d) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'qualified alternative fuel motor vehicle' means any motor vehicle—

"(1) which is only capable of operating on an alternative fuel,

"(2) the original use of which commences with the taxpayer, and

"(3) which is acquired by the taxpayer for use or to lease, but not for resale.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, 30A, 30B, and 30C, over

''(2) the tentative minimum tax for the taxable year.

''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' has the meaning given such term by section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)), as in effect on the date of the enactment of this section.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e).

''(4) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter for any incremental cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(5) LEASED VEHICLES.—No credit shall be allowed under subsection (a) with respect to a leased

motor vehicle unless the lease documents clearly disclose to the lessee the specific amount of any credit otherwise allowable to the lessor under subsection (a).

''(6) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(8) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph

(29) and inserting ", and", and by adding at the end the following:

"(30) to the extent provided in section 30D(f)(3)."

(2) Section 53(d)(1)(B)(iii) is amended by inserting ", or not allowed under section 30D solely by reason of the application of section 30D(e)(2)" before the period.

(3) Section 55(c)(2) is amended by inserting "30D(e)," after "30(b)(3)".

(4) Section 6501(m) is amended by inserting "30D(f)(8)," after "30(d)(4),".

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30C the following:

"Sec. 30D. Credit for alternative fuel vehicles."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2000, in taxable years ending after such date.

SEC. 982. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle with a rated top speed not exceeding 50 miles per hour, the lesser of—

''(i) 10 percent of the cost of the vehicle, or

''(ii) $4,250.

''(B) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds and a rated top speed exceeding 50 miles per hour, $4,250.

''(C) In the case of a vehicle capable of a driving range of at least 100 miles on a single

charge of the vehicle's rechargeable batteries and measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, $6,375.

"(D) In the case of a vehicle capable of a payload capacity of at least 1000 pounds, $6,375.

"(E) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $8,500.

"(F) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $21,250.

"(G) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $42,500.", and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(3) Section 55(c)(2) is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(b) QUALIFIED ELECTRIC VEHICLE.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells which generate electrical current from an alternative fuel (as defined in section 30D(f)(1)), or other portable sources of electrical current generated on board the vehicle from an alternative fuel (as so defined),".

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) LEASED VEHICLES.—No credit shall be allowed under subsection (a) with respect to a leased motor vehicle unless the lease documents clearly disclose to the lessee the specific amount of any credit

otherwise allowable to the lessor under subsection (a).''

(d) EXTENSION.—Section 30(e) (relating to termination) is amended by striking ''2004'' and inserting ''2007''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2000, in taxable years ending after such date.

SEC. 983. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following:

''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit of any taxpayer for any taxable year is 25 cents for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' has the meaning given such term by sec-

tion 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)), as in effect on the date of the enactment of this section.

''(2) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(3) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 179A(e)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(4) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel as a fuel to propel any qualified motor vehicle (including any use after importation) before such fuel is sold at retail, then such use shall be treated in the same man-

ner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2007.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following:

''(18) the alternative fuel retail sales credit determined under section 40A(a).''

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following:

''(16) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2001.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after December 31, 2000, in taxable years ending after such date.

SEC. 984. EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A(f) (relating to termination) is amended by striking ''2004'' and inserting ''2007''.

(b) CONFORMING AMENDMENT.—Section 179A(c) (relating to qualified clean-fuel vehicle property defined) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after

December 31, 2000, in taxable years ending after such date.

SEC. 985. ADDITIONAL DEDUCTION FOR COST OF INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 179A(b)(2) (relating to qualified clean-fuel vehicle refueling property) is amended to read as follows:

''(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the sum of—

''(i) with respect to costs not described in clause (ii), the excess (if any) of—

''(I) $100,000, over

''(II) the aggregate amount of such costs taken into account under subsection (a)(1)(B) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years, plus

''(ii) the lesser of—

''(I) the cost of the installation of such property, or

''(II) $30,000.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2000.

Subtitle H—Renewable Energy

SEC. 991. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES AND EXTENSION TO WASTE ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by adding at the end the following:

''(B) biomass,

''(C) municipal solid waste,

''(D) incremental hydropower,

''(E) geothermal,

''(F) landfill gas, and

''(G) steel cogeneration.''

(2) DEFINITIONS.—Section 45(c) is amended by redesignating paragraph (3) as paragraph (8) and by striking paragraph (2) and inserting the following:

''(2) BIOMASS.—The term 'biomass' means—

''(A) any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity, or

''(B) any solid, nonhazardous waste material which is derived from—

''(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

''(ii) waste pallets, crates, and dunnage, and landscape or right-of-way tree trimmings, but not including unsegregated municipal solid waste or paper that is destined for recycling, or

''(iii) agriculture sources, including switchgrass, orchard tree crops, vineyards, grain, legumes, sugar, and other crop by-products or residues.

''(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the same meaning given the term 'solid waste' under section 2(27) of the Solid Waste Utilization Act (42 U.S.C. 6903).

''(4) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generating capacity achieved from increased efficiency or additions of new capacity at existing hydroelectric dams licensed by the Federal Energy Regulatory Commission.

''(5) GEOTHERMAL.—The term 'geothermal' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

''(6) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of any household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as such terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

''(7) STEEL COGENERATION.—The term 'steel cogeneration' means the production of electricity and

steam (or other form of thermal energy) from any or all waste sources in subparagraphs (A), (B), and (C) within an operating facility which produces or integrates the production of coke, direct reduced iron ore, iron, or steel but only if the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

''(A) gases or heat generated from the production of metallurgical coke,

''(B) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

''(C) gases or heat generated from the manufacture of steel.''

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (8) of section 45(c), as redesignated by subsection (a), is amended to read as follows:

''(8) QUALIFIED FACILITY.—

''(A) IN GENERAL.—The term 'qualified facility' means any facility owned or leased by the taxpayer which is originally placed in service—

"(i) in the case of a facility using wind to produce electricity, after December 31, 1993, and before July 1, 2011,

"(ii) in the case of a facility using municipal solid waste, geothermal or landfill gas to produce electricity, after the date of the enactment of this subparagraph and before July 1, 2011,

"(iii) in the case of a facility using biomass to produce electricity, before July 1, 2011, except that a facility shall not be treated as a qualified facility for any month unless, for such month, biomass comprises not less than 75 percent (on a Btu basis) of the average monthly fuel input of the facility for the taxable year which includes such month, and

"(iv) in the case of a facility using steel cogeneration to produce electricity, after December 31, 2000, and before January 1, 2011.

"(B) COMBINED PRODUCTION FACILITIES INCLUDED.—For purposes of this paragraph, the term 'qualified facility' shall include a facility using biomass to produce electricity and

other biobased products such as chemicals and fuels from renewable resources.

''(C) SPECIAL RULES.—In the case of a qualified facility described in subparagraph (A)(ii), (iii), or (iv)—

''(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this paragraph, and

''(ii) subsection (b)(3) shall not apply to any such facility originally placed in service before January 1, 1997.''

(c) SPECIAL RULES FOR LANDFILL GAS.—Section 45(d) is amended by adding at the end the following:

''(8) CREDIT ALLOWABLE FOR SALE OF LANDFILL GAS.—

''(A) IN GENERAL.—In the case of landfill gas which is produced by the taxpayer but not used by the taxpayer to produce electricity, paragraph (2) of subsection (a) shall be applied as if it read as follows:

'' '(2) the kilowatt-hour equivalent of the landfill gas—

'' '(A) produced by the taxpayer at a qualified facility during the 10-year period beginning

on the date the facility was originally placed in service, and

"'(B) sold by the taxpayer to an unrelated person during the taxable year.'

"(B) KILOWATT HOUR EQUIVALENT.—For purposes of applying subparagraph (A), the kilowatt hour equivalent for landfill gas is the amount of such gas which has a Btu content of 10,000.

"(C) SPECIAL RULES.—In the case of landfill gas to which subparagraph (A) applies—

"(i) the reference to electricity in paragraphs (1) and (4) shall be treated as including a reference to such gas,

"(ii) the reference price for such gas shall be determined under paragraph (2)(C) on the basis of kilowatt hour equivalents, and

"(iii) the reference to ownership interests in paragraph (3) shall be treated as including a reference to any economic interest."

(d) COORDINATION WITH OTHER CREDITS.—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following:

''(9) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any production with respect to which the clean coal technology production credit under section 45F or 45G, or the nonconventional fuel production credit under section 29, is allowed unless the taxpayer elects to waive the application of such credit to such production.''

(e) CONFORMING AMENDMENTS.—

(1) The heading for section 45 is amended by inserting ''and waste energy'' after ''renewable''.

(2) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 is amended by inserting ''and waste energy'' after ''renewable''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced after the date of the enactment of this Act.

SEC. 992. CREDIT FOR RESIDENTIAL SOLAR AND WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal

credits), as amended by this Act, is amended by inserting after section 25B the following new section:

"SEC. 25C. RESIDENTIAL SOLAR AND WIND ENERGY PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during the taxable year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during the taxable year, and

"(3) 15 percent of the qualified wind energy property expenditures made by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a)(2) shall not exceed $2,000 for each system of solar energy property.

"(2) TYPE OF PROPERTY.—No expenditure may be taken into account under this section unless such expenditure is made by the taxpayer for property installed on or in connection with a dwelling unit

which is located in the United States and which is used as a residence.

''(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating equipment, such equipment is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(B) in the case of a photovoltaic or wind energy system, such system meets appropriate fire and electric code requirements.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property that uses solar energy to heat water for use in a dwelling unit with respect to which a majority of the energy is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic prop-

erty expenditure' means an expenditure for property that uses solar energy to generate electricity for use in a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit.

''(5) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), or (4) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(6) ENERGY STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such

storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to

the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure described in paragraph (1), (2), or (4) of subsection (c) shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(5) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for residential purposes.

''(6) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(7) REDUCTION OF CREDIT FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The rules of section 29(b)(3) shall apply for purposes of this section.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2011.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ''; and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential solar and wind energy property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

SEC. 993. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(k) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property used for the collection, storage, treatment, utilization, processing, or final disposal of bagasse in the manufacture of ethanol.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.