

**Staff Draft
March 25, 2003**

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

2 (a) SHORT TITLE.—This Act may be cited as _____

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

Sec. 1. Short Title; Table of Contents.

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- Sec. 101. Permanent Authority to Operate the Strategic Petroleum Reserve and Other Energy Programs.
- Sec. 102. Study on Inventory of Petroleum and Natural Gas Storage.
- Sec. 103. Program on Oil and Gas Royalties in Kind.
- Sec. 104. Marginal Property Production Incentives.
- Sec. 105. Comprehensive Inventory of OCS Oil and Natural Gas Resources.
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- Sec. 107. Alaska Offshore Royalty Suspension.
- Sec. 108. Suspension of Operations on Outer Continental Shelf Lease to Reevaluate Technology.
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TITLE I — OIL AND GAS

SEC. 101. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.”;

(2) by striking section 186 (42 U.S.C. 6250(e)); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is

1 amended—

2 (1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
4 appropriated to the Secretary such sums as may be necessary to carry out this part, to
5 remain available until expended.”;

6 (2) by inserting before section 273 (42 U.S.C. 6283) the following:

7 **“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS”;**

8 (3) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration
9 of summer fill and fuel budgeting programs); and

10 (4) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of
11 the Act).

12 (c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and
13 Conservation Act is amended—

14 (1) by amending the items relating to part D of title I to read as follows:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

1 (2) by amending the items relating to part C of title II to read as follows:

2 **“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS**

3 “Sec. 273. Summer fill and fuel budgeting programs.”; and

4 (3) by striking the items relating to part D of title II.

5 (d) NORTHEAST HOME HEATING OIL.—Section 183(b)(1) of the Energy Policy and
6 Conservation Act (42 U.S.C. 6250(b)(1)) is amended by inserting “(considered as a heating
7 season average)” after “mid-October through March” and before “and continues”.

8 **SEC. 102. STUDY ON INVENTORY ON PETROLEUM AND NATURAL GAS STORAGE.**

9 (a) DEFINITION.—For purposes of this section “petroleum” means crude oil, motor
10 gasoline, jet fuel, distillates and propane.

1 (b) STUDY.—The Secretary of Energy shall conduct a study on petroleum and
2 natural gas storage capacity and operational inventory levels, nationwide and by major
3 geographical regions.

4 (c) CONTENTS.—The study shall address—

5 (1) historical normal ranges for petroleum and natural gas inventory levels;

6 (2) historical and projected storage capacity trends;

7 (3) estimated operation inventory levels below which outages, delivery
8 slowdown, rationing, interruptions in service or other indicators of shortage begin
9 to appear;

10 (4) explanations for inventory levels dropping below normal ranges; and

11 (5) the ability of industry to meet U.S. demand for petroleum and natural
12 gas without shortages or price spikes, when inventory levels are below normal
13 ranges.

14 (d) REPORT TO CONGRESS.—Not later than one year from enactment of this Act, the
15 Secretary shall submit a report to Congress on the results of the study including findings
16 and any recommendations for preventing future supply shortages.

17 **SEC. 103. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.**

18 (a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the
19 provisions of this section shall apply to all royalty in kind accepted by the Secretary of the
20 Interior under any Federal oil or gas lease or permit under section 36 of the Mineral
21 Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43
22 U.S.C. 1353), or any other mineral leasing law beginning on the date of the enactment of
23 this Act.

24 (b) TERMS AND CONDITIONS.—All royalty accruing to the United States under any
25 Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or
26 the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the
27 Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a
28 demand, the following provisions apply to such payment:

29 (1) Delivery by, or on behalf of, the lessee of the royalty amount and quality
30 due under the lease satisfies the lessee's royalty obligation for the amount

1 delivered, except that transportation and processing reimbursements paid to, or
2 deductions claimed by, the lessee shall be subject to review and audit.

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

5 (3) The Secretary of the Interior may—

6 (A) sell or otherwise dispose of any royalty production taken in kind
7 (other than oil or gas transferred under section 27(a)(3) of the Outer
8 Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the
9 market price; and

10 (B) transport or process (or both) any royalty production taken in
11 kind.

12 (4) The Secretary of the Interior may, notwithstanding section 3302 of title
13 31, United States Code, retain and use a portion of the revenues from the sale of oil
14 and gas royalties taken in kind that otherwise would be deposited to miscellaneous
15 receipts, without regard to fiscal year limitation, or may use royalty production, to
16 pay the cost of—

17 (A) transporting the royalty production;

18 (B) processing the royalty production;

19 (C) disposing of the royalty production; or

20 (D) any combination of transporting, processing, and disposing of
21 the royalty production.

22 (5) The Secretary of the Interior may use a portion of the revenues from the
23 sale of oil royalties taken in kind, without fiscal year limitation, to pay
24 transportation costs, salaries, and other administrative costs directly related to
25 filling the Strategic Petroleum Reserve.

26 (c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the
27 United States or as provided in the lease, processes the royalty gas or delivers the royalty
28 oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

29 (1) reimburse the lessee for the reasonable costs of transportation (not

1 including gathering) from the lease to the point of delivery or for processing costs;
2 or

3 (2) at the discretion of the Secretary of the Interior, allow the lessee to
4 deduct such transportation or processing costs in reporting and paying royalties in
5 value for other Federal oil and gas leases.

6 (d) BENEFIT TO THE UNITED STATES REQUIRED.— The Secretary of the Interior may
7 receive oil or gas royalties in kind only if the Secretary determines that receiving such
8 royalties provides benefits to the United States greater than or equal to those likely to have
9 been received had royalties been taken in value.

10 (e) REPORT TO CONGRESS.—In Fiscal Year 2005, the Secretary of the Interior shall
11 provide a report to the Congress that covers—

12 (1) actions taken to develop an organization, business processes and
13 automated systems to support a full royalty-in-kind capability to be used in tandem
14 with the royalty-in-value approach to managing Federal oil and gas revenues, and

15 (2) Future royalty-in-kind business operations plans and objectives.

16 (f) DEDUCTION OF EXPENSES.—

17 (1) Before making payments under section 35 of the Mineral Leasing Act
18 (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C.
19 1337(g)) of revenues derived from the sale of royalty production taken in kind from
20 a lease, the Secretary of the Interior shall deduct amounts paid or deducted under
21 subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous
22 receipts.

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

27 (g) CONSULTATION WITH STATES.—The Secretary of the Interior shall consult—

28 (1) with a State before conducting a royalty in-kind program under this title
29 within the State, and may delegate management of any portion of the Federal

1 royalty in-kind program to such State except as otherwise prohibited by Federal
2 law; and

3 (2) annually with any State from which Federal oil or gas royalty is being
4 taken in kind to ensure to the maximum extent practicable that the royalty in-kind
5 program provides revenues to the State greater than or equal to those likely to have
6 been received had royalties been taken in value.

7 (h) PROVISIONS FOR SMALL REFINERIES.—

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

14 (2) In disposing of oil under this subsection, the Secretary of the Interior
15 may, at the discretion of the Secretary, prorate such oil among such refineries in the
16 area in which the oil is produced.

17 (i) DISPOSITION TO FEDERAL AGENCIES.—

18 (1) Any royalty oil or gas taken by the Secretary of the Interior in kind from
19 onshore oil and gas leases may be sold at not less than the market price to any
20 department or agency of the United States.

21 (2) Any royalty oil or gas taken in kind from Federal oil and gas leases on
22 the outer Continental Shelf may be disposed of only under section 27 of the Outer
23 Continental Shelf Lands Act (43 U.S.C. 1353).

24 (j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In
25 disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a
26 preference to any person, including any State or Federal agency, for the purpose of
27 providing additional resources to any Federal low-income energy assistance program.

28 **SEC. 104. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

29 (a) MARGINAL PROPERTY DEFINED.—Until such time as the Secretary of the
30 Interior issues rules under subsection (e) that prescribe a different definition, for purposes

1 of this section, the term “marginal property” means an onshore unit, communitization
2 agreement, or lease not within a unit or communitization agreement that produces on
3 average the combined equivalent of less than 15 barrels of oil per well per day or 90
4 million British thermal units of gas per well per day calculated based on the average over
5 the three most recent production months and including those wells that produce more than
6 half the days in the three most recent production months.

7 (b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the
8 Secretary of the Interior promulgates rules under subsection (e) that prescribe different
9 thresholds or standards—

10 (1) the Secretary shall reduce the royalty rate on oil production from
11 marginal properties as prescribed in subsection (c) when the spot price of West
12 Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than \$15
13 per barrel for 90 consecutive trading days; and

14 (2) the Secretary shall reduce the royalty rate on gas production from
15 marginal properties as prescribed in subsection (c) when the spot price of natural
16 gas delivered at Henry Hub, Louisiana, is, on average, less than \$2.00 per million
17 British thermal units for 90 consecutive trading days.

18 (c) REDUCED ROYALTY RATE.—

19 (1) When a marginal property meets the conditions specified in subsection
20 (b), the royalty rate shall be the lesser of—

21 (A) 5 percent; or

22 (B) the applicable rate under any other statutory or regulatory
23 royalty relief provision that applies to the affected production.

24 (2) The reduced royalty rate under this subsection shall be effective on the
25 first day of the production month following the date on which the applicable price
26 standard prescribed in subsection (b) is met.

27 (d) TERMINATION OF REDUCED ROYALTY RATE.— A royalty rate prescribed in
28 subsection (c)(1) shall terminate on the first date of the production month following the
29 date on which prices are above those specified in (b).

1 (e) RULES PRESCRIBING DIFFERENT RELIEF.—

2 (1) The Secretary of the Interior, after consultation with the Secretary of
3 Energy, may by rule prescribe different parameters, standards, and requirements
4 for, and a different degree or extent of, royalty relief for marginal properties in lieu
5 of those prescribed in subsections (b) through (d).

6 (2) The Secretary of the Interior, after consultation with the Secretary of
7 Energy, and within 1 year after the date of enactment of this Act, shall—

8 (A) by rule prescribe standards and requirements for, and the extent
9 of royalty relief for, marginal properties for oil and gas leases on the outer
10 Continental Shelf; and

11 (B) by rule define what constitutes a marginal property on the outer
12 Continental Shelf for purposes of this section.

13 (3) In promulgating rules under this subsection, the Secretary of the Interior
14 may consider—

15 (A) oil and gas prices and market trends;

16 (B) production costs;

17 (C) abandonment costs;

18 (D) Federal and State tax provisions and their effects on production
19 economics;

20 (E) other royalty relief programs; and

21 (F) other relevant matters.

22 (f) SAVINGS PROVISION.—Nothing in this section shall prevent a lessee from
23 receiving royalty relief or a royalty reduction pursuant to any other law or regulation that
24 provides more relief than the amounts provided by this section.

25 **SEC. 105. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.**

26 (a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and
27 analysis of oil and natural gas resources beneath all of the waters of the United States Outer
28 Continental Shelf (“OCS”). The inventory and analysis shall:

29 (1) use available data on oil and gas resources in areas offshore of Mexico
30 and Canada that will provide information on trends of oil and gas accumulation in

1 areas of the OCS;

2 (2) utilize any available technology, including 3-D seismic technology to
3 obtain accurate resources estimates;

4 (3) analyze how resource estimates in OCS areas have changed over time as
5 geological and geophysical data is gathered; initial exploration has occurred; or full
6 field development occurred, including areas such as the deepwater and subsalt areas
7 in the Gulf of Mexico;

8 (4) estimate the effect that understated oil and gas resource inventories have
9 on domestic energy investments; and

10 (5) identify and explain how legislative, regulatory, and administrative
11 programs or processes restrict or impede the development of identified resources
12 and the extent that they affect domestic supply, such as moratoria, lease terms and
13 conditions, operational stipulations and requirements, approval delays by the
14 federal government and coastal states, and local zoning restrictions for onshore
15 processing facilities and pipeline landings.

16 (b) REPORTS.—The Secretary shall submit a report to the Speaker of the United
17 States House of Representatives and the President of the United States Senate on the
18 inventory of estimates and the analysis of restrictions or impediments, together with any
19 recommendations, within six months of the date of enactment of the section. The report
20 shall be publically available and updated at least every five years.

21 **SEC. 106. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.**

22 (a) IN GENERAL.—For all tracts located in water depths of greater than 400 meters
23 in the Western and Central Planning Area of the Gulf of Mexico, including that portion of
24 the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying
25 west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer
26 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the
27 date of the enactment of this Act shall use the bidding system authorized in section
28 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that
29 the suspension of royalties shall be set at a volume of not less than the following:

1 (1) 5 million barrels of oil equivalent for each lease in water depths of 400
2 to 800 meters.

3 (2) 9 million barrels of oil equivalent for each lease in water depths of 800
4 to 1,600 meters.

5 (3) 12 million barrels of oil equivalent for each lease in water depths greater
6 than 1,600 meters.

7 **SEC. 107. ALASKA OFFSHORE ROYALTY SUSPENSION.**

8 The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq, section 8(a)(3)(B) is
9 amended with the following: add “and in the Planning Areas offshore Alaska” after “West
10 longitude” and before “the Secretary”.

11 **SEC. 108. SUSPENSION OF OPERATIONS ON OUTER CONTINENTAL SHELF LEASE TO**
12 **REEVALUATE TECHNOLOGY.**

13 Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by
14 adding at the end:

15 “(k) SUSPENSION OF OPERATIONS.—The Secretary may grant a request for a
16 suspension of operations under any lease to allow the lessee to reevaluate the lease using
17 new technologies, if the Secretary determines the suspension would prevent the drilling of
18 unnecessary wells and would increase recovery of hydrocarbon resources under the lease.
19 Any suspension shall be limited to the minimum period of time the Secretary determines is
20 necessary to achieve the objectives of this subsection.”.

21 **SEC. 109. ORPHANED, ABANDONED OR IDLED WELLS ON FEDERAL LANDS.**

22 (a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary
23 of Agriculture, shall establish a program within 1 year after the date of enactment of this
24 Act for remediation, reclamation and closure of orphaned, abandoned, or idled oil and gas
25 wells located on lands administered by the land management agencies within the
26 Department of the Interior and Agriculture. The program shall—

27 (1) include a means of ranking orphaned, abandoned, or idled wells site for
28 priority in remediation, reclamation and closure.

29 (2) provide for identification and recovery of the costs of remediation,
30 reclamation and closure from persons or other entities currently providing a bond or

1 other financial assurance required under State or Federal law for an oil or gas well
2 that is orphaned, abandoned or idled.

3 (b) COOPERATION AND CONSULTATIONS.—In carrying out the program, the
4 Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the
5 States within which the Federal lands are located and consult with the Secretary of Energy
6 and the Interstate Oil and Gas Compact commission.

7 (c) REPORT.—Within 2 years after the date of enactment of the section, the
8 Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall prepare a
9 report describing the development and accomplishments of the program established under
10 subsection (a) and transmit copies of the plan to the Speaker of the United States House of
11 Representatives and the President of the United States Senate.

12 (d) DEFINITION.—For purposes of this section, a well is idled if it has been non-
13 operational for 7 years and there is non anticipated beneficial use of the well.

14 (e) AUTHORIZATION.—To carry out this section there is authorized to be
15 appropriated to the Secretary of the Interior \$20,000,000 for each of the fiscal years 2004
16 through 2008.

17 **SEC. 110. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE**
18 **SHALLOW WATERS OF THE GULF OF MEXICO**

19 No later than 90 days after enactment, the Secretary of the Interior shall promulgate
20 final regulations providing royalty incentives for natural gas produced from deep wells, as
21 defined by the Secretary, on oil and gas leases issued under the Outer Continental Shelf
22 Lands Act (43 U.S.C. 1331 et seq.) and issued prior to January 1, 2001, in shallow waters
23 of the Gulf of Mexico, wholly west of 87 degrees, 30 minutes West longitude that are less
24 than 200 meters deep.

25 **SEC. 111. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.**

26 (a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the
27 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the
28 following new subsection:

29 “(p) EASEMENTS OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

30 “(1) The Secretary may grant an easement or right-of-way on the Outer

1 Continental Shelf for activities not otherwise authorized in this Act, the Deepwater
2 Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy
3 Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law when
4 such activities—

5 “(A) support exploration, development, production, transportation,
6 or storage of oil, natural gas, or other minerals;

7 “(B) produce or support production, transportation, or transmission
8 of energy from sources other than oil and gas; or

9 “(C) use facilities currently or previously used for activities
10 authorized under this Act.

11 “(2) The Secretary shall promulgate regulations to implement the provisions
12 of this subsection, including regulations to ensure that energy related activities are
13 conducted in a manner that provides for safety, protection of the environment, and
14 appropriate coordination with other Federal agencies and a fair return to the Federal
15 government for any easement right-of-way granted under this subsection.

16 “(3) This subsection shall not apply to any area on the Outer Continental
17 Shelf designated as a National Marine Sanctuary.”.

18 **SEC. 112. COASTAL IMPACT ASSISTANCE.**

19 Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a.) is amended
20 by striking all and replacing with the following:

21 “(a) DEFINITIONS.—When used in this section:

22 “(1) The term ‘coastal political subdivision’ means a county, parish, or any
23 equivalent subdivision of a Producing Coastal State which subdivision lies within
24 the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act
25 (16 U.S.C. 1453(1)) and within a distance of 200 miles from the geographic center
26 of any leased tract.

27 “(2) The term ‘coastal population’ means the population of all political
28 subdivisions, as determined by the most recent official data of the Census Bureau,
29 contained in whole or in part within the designated coastal boundary of a State as
30 defined in a State’s coastal zone management program under the Coastal Zone

1 Management Act (16 U.S.C. 1451 et seq.).

2 “(3) The term ‘Coastal State’ has the same meaning as provided by
3 subsection 304(4) of the Coastal Zone Management Act (16 U.S.C. 1453(4)).

4 “(4) The term ‘coastline’ has the same meaning as the term ‘coast line’ as
5 defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

6 “(5) The term ‘distance’ means the minimum great circle distance,
7 measured in statute miles.

8 “(6) The term ‘leased tract’ means a tract maintained under section 6 or
9 leased under section 8 for the purpose of drilling for, developing, and producing oil
10 and natural gas resources.

11 “(7) The term ‘Producing Coastal State’ means a Coastal State with a
12 coastal seaward boundary within 200 miles from the geographic center of a leased
13 tract other than a leased tract within any area of the Outer Continental Shelf where a
14 moratorium on new leasing was in effect as of January 1, 2002 unless the lease was
15 issued prior to the establishment of the moratorium and was in production on
16 January 1, 2002.

17 “(8) The term ‘qualified Outer Continental Shelf revenues’ means all
18 amounts received by the United States from each leased tract or portion of a leased
19 tract lying seaward of the zone defined and governed by section 8(g) of this Act, or
20 lying within such zone but to which section 8(g) does not apply, the geographic
21 center of which lies within a distance of 200 miles from any part of the coastline of
22 any producing coastal state, including bonus bids, rents, royalties (including
23 payments for royalties taken in kind and sold), net profit share payments, and
24 related late payment interest. Such term shall only apply to leases issued after
25 January 1, 2003 and revenues from existing leases that occurs after January 1, 2003.
26 Such term does not include any revenues from a leased tract or portion of a leased
27 tract that is included within any area of the Outer Continental Shelf where a
28 moratorium on new leasing was in effect as of January 1, 2002, unless the lease was
29 issued prior to the establishment of the moratorium and was in production on

1 January 1, 2002.

2 “(9) The term ‘Secretary’ means the Secretary of Interior.”

3 “(b) AUTHORIZATION.—For fiscal years 2004 through 2009, an amount equal to not
4 more than 10 percent of qualified Outer Continental Shelf revenues is authorized to be
5 appropriated for the purposes of this section.

6 “(c) IMPACT ASSISTANCE PAYMENTS TO STATES AND POLITICAL
7 SUBDIVISIONS.—The Secretary shall make payments from the amounts available under this
8 section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and
9 to coastal political subdivisions as follows:

10 “(1) An amount equal to not more than 25 percent of the qualified Outer
11 Continental Shelf revenues’ generated off the coastline of each Producing Coastal
12 State and received by the United States shall be paid by the Secretary to the same
13 Producing Coastal State off of which coastline the qualified Outer Continental Shelf
14 revenues were generated, except that where there is more than one Producing
15 Coastal State within 200 miles of a leased tract, the amount of each Producing
16 Coastal State’s payment for such leased tract shall be inversely proportional to the
17 distance between the nearest point on the coastline of such State and the geographic
18 center of each leased tract or portion of the leased tract (to the nearest whole mile)
19 that is within 200 miles of that coastline, as determined by the Secretary.

20 “(2) Thirty-five percent of each Producing Coastal State’s allocable share as
21 determined under paragraph (1) shall be paid directly to the coastal political
22 subdivisions by the Secretary based on the following formula:

23 “(A) Twenty-five percent shall be allocated based on the ratio of
24 such coastal political subdivision's coastal population to the coastal
25 population of all coastal political subdivisions in the Producing Coastal
26 State;

27 “(B) Twenty-five percent shall be allocated based on the ratio of
28 such coastal political subdivision’s coastline miles to the coastline miles of
29 a coastal political subdivision in the Producing Coastal State except that for

1 those coastal political subdivisions in the State of Louisiana or the State of
2 Alaska without a coastline, the coastline for purposes of this element of the
3 formula shall be the average length of the coastline of the remaining coastal
4 subdivisions in the state.

5 “(C) Fifty percent shall be allocated based on the relative distance of
6 such coastal political subdivision from any leased tract used to calculate the
7 Producing Coastal State’s allocation using ratios that are inversely
8 proportional to the distance between the point in the coastal political
9 subdivision closest to the geographic center of each leased tract or portion,
10 as determined by the Secretary; except that in the State of Louisiana the
11 funds for this element of the formula shall be divided equally among all
12 coastal political subdivisions. For purposes of the calculations under this
13 subparagraph, a leased tract or portion of a leased tract shall be excluded if
14 the leased tract or portion is located in a geographic area where a
15 moratorium on new leasing was in effect on January 1, 2002, unless the
16 lease was issued prior to the establishment of the moratorium and was in
17 production on January 1, 2002.

18 “(3) Any amount allocated to a Producing Coastal State or coastal political
19 subdivision but not disbursed because of a failure to have an approved Coastal
20 Impact Assistance Plan under this section shall be allocated equally by the
21 Secretary among all other Producing Coastal States in a manner consistent with this
22 subsection except that the Secretary shall hold in escrow such amount until the final
23 resolution of any appeal regarding the disapproval of a plan submitted under this
24 section. The Secretary may waive the provisions of this paragraph and hold a
25 Producing Coastal State’s allocable share in escrow if the Secretary determines that
26 such State is making a good faith effort to develop and submit, or update, a Coastal
27 Impact Assistance Plan.

28 “(4) For purposes of this subsection, calculations of payments for fiscal
29 years 2004 through 2006 shall be made using qualified Outer Continental Shelf

1 revenues received in fiscal year 2003, and calculations of payments for fiscal years
2 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues
3 received in fiscal year 2006

4 “(d) COASTAL IMPACT ASSISTANCE PLAN.—

5 “(1) The Governor of each Producing Coastal State shall prepare, and
6 submit to the Secretary, a Coastal Impact Assistance Plan. The Governor shall
7 solicit local input and shall provide for public participation in the development of
8 the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts
9 received by Producing Coastal States and coastal political subdivisions may be used
10 only for the purposes specified in the Producing Coastal State’s Coastal Impact
11 Assistance Plan.

12 “(2) The Secretary shall approve a plan under paragraph (1) prior to
13 disbursement of amounts under this section. The Secretary shall approve the plan if
14 the Secretary determines that the plan is consistent with the uses set forth in
15 subsection (f) of this section and if the plan contains each of the following—

16 “(A) the name of the State agency that will have the authority to
17 represent and act for the State in dealing with the Secretary for purposes of
18 this section;

19 “(B) a program for the implementation of the plan which describes
20 how the amounts provided under this section will be used;

21 “(C) a contact for each political subdivision and description of how
22 coastal political subdivisions will use amounts provided under this section,
23 including a certification by the Governor that such uses are consistent with
24 the requirements of this section;

25 “(D) certification by the Governor that ample opportunity has been
26 accorded for public participation in the development and revision of the
27 plan; and

28 “(E) measures for taking into account other relevant Federal
29 resources and programs.

1 “(3) The Secretary shall approve or disapprove each plan or amendment
2 within 90 days of its submission.

3 “(4) Any amendment to the plan shall be prepared in accordance with the
4 requirements of this subsection and shall be submitted to the Secretary for approval
5 or disapproval.

6 “(e) AUTHORIZED USES.—Producing Coastal States and coastal political
7 subdivisions shall use amounts provided under this section, including any such amounts
8 deposited in a State or coastal political subdivision administered trust fund dedicated to
9 uses consistent with this subsection, in compliance with Federal and State law and only for
10 one or more of the following purposes:

11 “(1) projects and activities for the conservation, protection or restoration of
12 coastal areas including wetlands;

13 “(2) mitigating damage to fish, wildlife or natural resources;

14 “(3) planning assistance and administrative costs of complying with the
15 provisions of this section;

16 “(4) implementation of Federally approved marine, coastal, or
17 comprehensive conservation management plans; and

18 “(5) mitigating impacts of Outer Continental Shelf activities through
19 funding onshore infrastructure and public service needs.

20 “(f) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any
21 expenditure made by a Producing Coastal State or coastal political subdivision is not
22 consistent with the uses authorized in subsection (e) of this section, the Secretary shall not
23 disburse any further amounts under this section to that Producing Coastal State or coastal
24 political subdivision until the amounts used for the inconsistent expenditure have been
25 repaid or obligated for authorized uses.

26 **SEC. 113. NATIONAL ENERGY RESOURCE DATABASE**

27 “(a) SHORT TITLE.—This section may be cited as the “National Energy Data
28 Preservation Program Act of 2003”.

29 “(b) PROGRAM.—The Secretary shall carry out a National Energy Data Preservation

1 Program in accordance with this section—

2 (1) to archive geologic, geophysical, and engineering data and samples
3 related to energy resources including oil, gas, coal, and geothermal resources;

4 (2) to provide a national catalog of such archival material; and

5 (3) to provide technical assistance related to the archival material.

6 (c) ENERGY DATA ARCHIVE SYSTEM.—

7 (1) The Secretary shall establish, as a component of the Program, an energy
8 data archive system, which shall provide for the storage, preservation, and
9 archiving of subsurface, and in limited cases surface, geological, geophysical and
10 engineering data and samples. The Secretary, in consultation with the Association
11 of American State Geologists and interested members of the public, shall develop
12 guidelines relating to the energy data archive system, including the types of data
13 and samples to be preserved.

14 (2) The system shall be comprised of State agencies and agencies within the
15 Department of the Interior that maintain geological and geophysical data and
16 samples regarding energy resources and that are designated by the Secretary in
17 accordance with this subsection. The Program shall provide for the storage of data
18 and samples through data repositories operated by such agencies.

19 (3) The Secretary may not designate a State agency as a component of the
20 energy data archive system unless it is the agency that acts as the geological survey
21 in the State.

22 (4) The energy data archive system shall provide for the archiving of
23 relevant subsurface data and samples obtained during energy exploration and
24 production operations on Federal lands—

25 (A) in the most appropriate repository designated under paragraph
26 (2), with preference being given to archiving data in the State in which the
27 data was collected; and

28 (B) consistent with all applicable law and requirements relating to
29 confidentiality and proprietary data.

1 (5)(A) Subject to the availability of appropriations, the Secretary shall
2 provide financial assistance to a State agency that is designated under paragraph (2)
3 for providing facilities to archive energy material.

4 (B) The Secretary, in consultation with the Association of American State
5 Geologists and interested members of the public, shall establish procedures for
6 providing assistance under this paragraph. The procedures shall be designed to
7 ensure that such assistance primarily supports the expansion of data and material
8 archives and the collection and preservation of new data and samples.

9 (d) NATIONAL CATALOG.—

10 (1) As soon as practicable after the date of the enactment of this section, the
11 Secretary shall develop and maintain, as a component of the Program, a national
12 catalog that identifies—

13 (A) energy data and samples available in the energy data archive
14 system established under subsection (c);

15 (B) the repository for particular material in such system; and

16 (C) the means of accessing the material.

17 (2) The Secretary shall make the national catalog accessible to the public on
18 the site of the Survey on the World Wide Web, consistent with all applicable
19 requirements related to confidentiality and proprietary data.

20 (3) The Secretary may carry out the requirements of this subsection by
21 contract or agreement with appropriate persons.

22 (e) TECHNICAL ASSISTANCE.—

23 (1) Subject to the availability of appropriations, as a component of the
24 Program, the Secretary shall provide financial assistance to any State agency
25 designated under subsection (c)(2) to provide technical assistance to enhance
26 understanding, interpretation, and use of materials archived in the energy data
27 archive system established under subsection (c).

28 (2) The Secretary, in consultation with the Association of American State
29 Geologists and interested members of the public, shall develop a process, which

1 shall involve the participation of representatives of relevant Federal and State
2 agencies, for the approval of financial assistance to State agencies under this
3 subsection.

4 (f) COSTS.—

5 (1) The Federal share of the cost of an activity carried out with assistance
6 under subsections (c) or (e) shall be no more than 50 percent of the total cost of that
7 activity.

8 (2) The Secretary—

9 (A) may accept private contributions of property and services for
10 technical assistance and archive activities conducted under this section; and

11 (B) may apply the value of such contributions to the non-Federal
12 share of the costs of such technical assistance and archive activities.

13 (g) REPORTS.—

14 (1) Within year after the date of the enactment of this Act, the Secretary
15 shall submit an initial report to the Committee on Energy and Natural Resources of
16 the Senate and the Committee on Resources of the House of Representatives setting
17 forth a plan for the implementation of the Program.

18 (2) Not later than 90 days after the end of the first fiscal year beginning after
19 the submission of the report under paragraph (1) and after the end of each fiscal
20 year thereafter, the Secretary shall submit a report to the Committee on Resources
21 of the House of Representatives and the Committee on Energy and Natural
22 Resources of the Senate describing the status of the Program and evaluating
23 progress achieved during the preceding fiscal year in developing and carrying out
24 the Program.

25 (3) The Secretary shall consult with the Association of American State
26 Geologists and interested members of the public in preparing the reports required
27 by this subsection.

28 (h) DEFINITIONS.—As used in this section, the term:

29 (1) “Association of American State Geologists” means the organization of

1 the chief executives of the State geological surveys.

2 (2) “Secretary” means the Secretary of the Interior acting through the
3 Director of the United States Geological Survey.

4 (3) “Program” means the National Energy Data Preservation Program
5 carried out under this section.

6 (4) “Survey” means the United States Geological Survey.

7 (i) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the
8 States not use this section as an opportunity to reduce State resources applied to the
9 activities that are the subject of the Program.

10 (j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
11 to the Secretary \$30,000,000 for each of fiscal years 2003 through 2007 for carrying out
12 this section.

13 **Subtitle B—Access to Federal Lands**

14 **SEC. 121. OFFICE OF FEDERAL ENERGY PERMIT COORDINATION**

15 (a) ESTABLISHMENT.— The President shall establish the Office of Federal Energy
16 Permit Coordination within the Executive Office of the President in the same manner and
17 mission as the White House Energy Projects Task Force established by Executive Order
18 13212.

19 (b) STAFFING.—The Office shall be staffed by functional experts from relevant
20 federal agencies and departments on a nonreimbursable basis to carry out the mission of
21 this office.

22 (c) REPORTING.—The Office of Federal Energy Permit Coordination shall provide
23 an annual report to Congress, detailing the activities put in place to coordinate and expedite
24 Federal decisions on energy projects. The report shall including a determination as to
25 whether or not improvements in the federal decision making process has improved,
26 including any empirical data and additional recommendations or systemic changes need to
27 establish a more effective and efficient federal permitting process.

28 **SEC. 122. PILOT PROGRAM TO IMPROVE FEDERAL PERMIT COORDINATION.**

29 (a) CREATION OF PILOT PROJECT.—The Secretary of the Interior shall establish a

1 Federal Permit Streamlining Pilot Project. The Secretary shall enter into a Memorandum of
2 Understanding with the Secretary of Agriculture, Administrator of the Environmental
3 Protection Agency, and the Chief of the Corps of Engineers, as well as with the Governors
4 of Wyoming, Montana, Colorado, and New Mexico to establish the Federal Permit
5 Streamlining Pilot Project within 90 days after enactment of this Act.

6 (b) DESIGNATION OF QUALIFIED STAFF.—Once the pilot program has been
7 established by the Secretary, all signatory parties shall assign an employee on a
8 nonreimbursable basis to each of the field offices identified in section (c), who has
9 expertise in the regulatory issues pertaining to their office, including, as applicable,
10 particular expertise in Endangered Species Act section 7 consultations and the preparation
11 of Biological Opinions; Clean Water Act 404 permits; Clean Air Act regulatory matters;
12 and planning under the National Forest Management Act and the preparation of analyses
13 under the National Environmental Policy Act. Assigned staff shall report to the Bureau of
14 Land Management (BLM) Field Managers in the offices to which they are assigned; and
15 shall be responsible for carrying out all of the statutory mandates of their office or agency
16 and participate as part of the team of employees working on proposed energy projects,
17 planning, and environmental analyses.

18 (c) FIELD OFFICES.—The following BLM Field Offices shall serve as the Federal
19 Permit Streamlining Pilot Project offices:

- 20 (1) Rawlins, Wyoming;
- 21 (2) Buffalo, Wyoming;
- 22 (3) Miles City, Montana;
- 23 (4) Farmington, New Mexico;
- 24 (5) Carlsbad, New Mexico; and
- 25 (6) Glenwood Springs, Colorado.

26 (d) REPORTS.—The Secretary is shall submit a report to the Congress, outlining the
27 results of the Pilot Project to date, including an assessment of the pilot program, including
28 a recommendation to the President and whether this pilot project should be implemented
29 nationwide.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated
2 such sums as may be necessary to implement this section.

3 **SEC. 123. COORDINATION OF FEDERAL AGENCIES TO ESTABLISH PRIORITY ENERGY**
4 **TRANSMISSION RIGHTS-OF-WAY.**

5 (a) DEFINITIONS.—For purposes of this section:

6 (1) The term “energy corridor” means any linear strip of land across Federal
7 lands without definite width, but limited by technological, environmental, and
8 topographical factors, designated for use by utility facilities.

9 (2) The term “Federal authorization” means any authorization required
10 under Federal law in order to site a utility facility, including but not limited to such
11 permits, special use authorizations, certifications, opinions, or other approvals as
12 may be required, whether issued by a Federal or a State agency.

13 (3) The term “Federal lands” means all lands owned by the United States
14 except lands in the National Park System, lands held in trust for an Indian or Indian
15 tribe, and lands on the Outer Continental Shelf.

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

17 (5) The term “utility facility” means any privately, publicly, or
18 cooperatively-owned line, facility, or system for the transportation of oil and
19 natural gas, synthetic liquid or gaseous fuels, any refined product produced
20 therefrom, or for storage and terminal facilities in connection therewith, or for the
21 transmission or distribution of electricity or telecommunications.

22 (b) FEDERAL ENERGY CORRIDORS.—The Secretary of Energy shall designate
23 energy corridors, pursuant to Title V of Federal Land Policy and Management Act
24 (FLPMA), 43 U.S.C. 1761 *et seq.*, in the eleven contiguous Western States as that term is
25 identified in section 103(o) of FLPMA, 43 U.S.C. 1702(o). The Department of Energy
26 shall be the lead agency for coordinating the efforts of all affected Federal agencies to
27 jointly identify potential energy corridors in the other States. The Secretary shall jointly
28 develop with the heads of all affected Federal agencies a schedule for the designation,
29 environmental review and incorporation of all energy corridors into relevant departmental
30 and agency land use and resource management plans or their equivalent.

1 (c) FEDERAL PERMIT COORDINATION.—The Department of Energy shall be the lead
2 agency for coordinating the efforts of all affected Federal agencies to jointly develop an
3 expedited process for Federal authorization of rights-of-way within energy corridors. The
4 Secretary shall—

5 (1) coordinate the environmental review process to ensure that all reviews,
6 analyses, permits, licenses or approvals that must be issued by a Federal agency
7 shall be conducted concurrently and within a determined time frame pursuant to a
8 memorandum of understanding among the relevant Federal agencies;

9 (2) ensure timely completion of environmental reviews, by requiring that a
10 single environmental review document be used as the basis for all decisions
11 pertaining to establishment and modification of energy corridors and rights-of-way
12 for purposes of the National Environmental Policy Act of 1969;

13 (3) expedite applications for rights-of-way to construct or modify facilities
14 within energy corridors.

15 **SEC. 124. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL**
16 **LANDS.**

17 Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by striking
18 “(a) IN GENERAL” and all thereafter and inserting—

19 “(a) IN GENERAL.—The Secretary of the Interior, in consultation with the
20 Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal
21 lands and take measures necessary to update and revise this inventory. The inventory shall
22 identify for all federal lands—

23 “(1) the United States Geological Survey estimates of the oil and gas
24 resources underlying these lands;

25 “(2) the extent and nature of any restrictions or impediments to the
26 exploration, production and transportation of such resources, including—

27 “(A) existing land withdrawals and the underlying purpose for each
28 withdrawal;

29 “(B) restrictions or impediments affecting timeliness of granting
30 leases;

1 “(C) post-lease restrictions or impediments such as conditions of
2 approval, applications for permits to drill, applicable environmental permits;

3 “(D) permits or restrictions associated with transporting the
4 resources; and

5 “(E) identification of the authority for each restriction or impediment
6 together with the impact on additional processing or review time and
7 potential remedies; and

8 “(3) the estimates of oil and gas resources not available for exploration and
9 production by virtue of the restrictions identified above.

10 “(b) REPORTS.— The Secretary shall provide a progress report by October 1, 2006
11 and shall complete the inventory by October 1, 2010.

12 “(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
13 appropriated such sums as may be necessary to implement this section.

14 **Subtitle C—Alaska Natural Gas Pipeline**

15 **SEC. 131. SHORT TITLE.**

16 This subtitle may be cited as the “Alaska Natural Gas Pipeline Act”.

17 **SEC. 132. DEFINITIONS.**

18 In this subtitle, the following definitions apply:

19 (1) The term “Alaska natural gas” means natural gas derived from the area
20 of the State of Alaska lying north of 64 degrees North latitude.

21 (2) The term “Alaska natural gas transportation project” means any natural
22 gas pipeline system that carries Alaska natural gas to the border between Alaska
23 and Canada (including related facilities subject to the jurisdiction of the
24 Commission) that is authorized under either—

25 (A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C.
26 719 et seq.); or

27 (B) section 1044.

28 (3) The term “Alaska natural gas transportation system” means the Alaska
29 natural gas transportation project authorized under the Alaska Natural Gas

1 Transportation Act of 1976 and designated and described in section 2 of the
2 President's decision.

3 (4) The term "Commission" means the Federal Energy Regulatory
4 Commission.

5 (5) The term "President's decision" means the decision and report to
6 Congress on the Alaska natural gas transportation system issued by the President on
7 September 22, 1977, pursuant to section 7 of the Alaska Natural Gas Transportation
8 Act of 1976 (15 U.S.C. 719(e) and approved by Public Law 95-158 (91 Stat.1268).

9 **SEC. 133. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

10 (a) **AUTHORITY OF THE COMMISSION.**—Notwithstanding the provisions of the
11 Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission
12 may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act
13 on an application for the issuance of a certificate of public convenience and necessity
14 authorizing the construction and operation of an Alaska natural gas transportation project
15 other than the Alaska natural gas transportation system.

16 (b) **ISSUANCE OF CERTIFICATE.**—

17 (1) The Commission shall issue a certificate of public convenience and
18 necessity authorizing the construction and operation of an Alaska natural gas
19 transportation project under this section if the applicant has satisfied the
20 requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

21 (2) In considering an application under this section, the Commission shall
22 presume that—

23 (A) a public need exists to construct and operate the proposed
24 Alaska natural gas transportation project; and

25 (B) sufficient downstream capacity will exist to transport the Alaska
26 natural gas moving through such project to markets in the contiguous United
27 States.

28 (c) **EXPEDITED APPROVAL PROCESS.**—The Commission shall issue a final order
29 granting or denying any application for a certificate of public convenience and necessity

1 under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more
2 than 60 days after the issuance of the final environmental impact statement for that project
3 pursuant to section 1045.

4 (d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease,
5 right-of-way, authorization, or other approval required under Federal law for the
6 construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil
7 and gas lease area may be granted for any pipeline that follows a route that traverses—

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

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

11 (e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 136,
12 initial or expansion capacity on any Alaska natural gas transportation project shall be
13 allocated in accordance with procedures to be established by the Commission in
14 regulations governing the conduct of open seasons for such project. Such procedures shall
15 include the criteria for and timing of any open seasons; promote competition in the
16 exploration, development, and production of Alaska natural gas; and, for any open season
17 for capacity beyond the initial capacity, provide the opportunity for the transportation of
18 natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission
19 shall issue such regulations not later than 120 days after the date of enactment of this Act.

20 (f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or
21 expanded pipeline facilities that may be required to transport Alaska natural
22 gas from Canada to markets in the contiguous United States may be made pursuant to the
23 Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility
24 constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions
25 of that Act shall continue to apply.

26 (g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public
27 convenience and necessity issued, modified, or amended by the Commission for an Alaska
28 natural gas transportation project shall demonstrate that it has conducted a study of Alaska
29 in-State needs, including tie-in points along the Alaska natural gas transportation project

1 for in-State access.

2 (h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of
3 Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas
4 transportation project for the State of Alaska or its designee for the transportation of the
5 State’s royalty gas for local consumption needs within the State; except that the rates of
6 existing shippers of subscribed capacity on such project shall not be increased as a result of
7 such access.

8 (i) REGULATIONS.—The Commission may issue regulations to carry out the
9 provisions of this section.

10 **SEC. 134. ENVIRONMENTAL REVIEWS.**

11 (a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience
12 and necessity authorizing the construction and operation of any Alaska natural gas
13 transportation project under section 133 shall be treated as a major Federal action
14 significantly affecting the quality of the human environment within the meaning of section
15 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

16 (b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for
17 purposes of complying with the National Environmental Policy Act of 1969, and
18 shall be responsible for preparing the statement required by section 102(2)(c) of that Act
19 (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under
20 section 133. The Commission shall prepare a single environmental statement under this
21 section, which shall consolidate the environmental reviews of all Federal agencies
22 considering any aspect of the project.

23 (c) OTHER AGENCIES.—All Federal agencies considering aspects of the
24 construction and operation of an Alaska natural gas transportation project under section
25 133 shall cooperate with the Commission, and shall comply with deadlines established by
26 the Commission in the preparation of the statement under this section. The statement
27 prepared under this section shall be used by all such agencies to satisfy their
28 responsibilities under section 102(2)(c) of the National Environmental Policy Act of 1969
29 (42 U.S.C. 4332(2)(c)) with respect to such project.

1 (d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this
2 section not later than 12 months after the Commission determines the application to be
3 complete and shall issue the final statement not later than 6 months after the Commission
4 issues the draft statement, unless the Commission for good cause finds that additional time
5 is needed.

6 **SEC. 135. PIPELINE EXPANSION.**

7 (a) AUTHORITY.—With respect to any Alaska natural gas transportation project,
8 upon the request of one or more persons and after giving notice and an opportunity for a
9 hearing, the Commission may order the expansion of such project if it determines that such
10 expansion is required by the present and future public convenience and necessity.

11 (b) REQUIREMENTS.—Before ordering an expansion, the Commission shall—

12 (1) approve or establish rates for the expansion service that are designed to
13 ensure the recovery, on an incremental or rolled-in basis, of the cost associated with
14 the expansion (including a reasonable rate of return on investment);

15 (2) ensure that the rates as established do not require existing shippers on
16 the Alaska natural gas transportation project to subsidize expansion shippers;

17 (3) find that the proposed shipper will comply with, and the proposed
18 expansion and the expansion of service will be undertaken and implemented based
19 on, terms and conditions consistent with the then-effective tariff of the Alaska
20 natural gas transportation project;

21 (4) find that the proposed facilities will not adversely affect the financial or
22 economic viability of the Alaska natural gas transportation project;

23 (5) find that the proposed facilities will not adversely affect the overall
24 operations of the Alaska natural gas transportation project;

25 (6) find that the proposed facilities will not diminish the contract rights of
26 existing shippers to previously subscribed certificated capacity;

27 (7) ensure that all necessary environmental reviews have been completed;

28 and

29 (8) find that adequate downstream facilities exist or are expected to exist to

1 deliver incremental Alaska natural gas to market.

2 (c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the
3 Commission issued pursuant to this section shall be null and void unless the person or
4 persons requesting the order executes a firm transportation agreement with the Alaska
5 natural gas transportation project within a reasonable period of time as specified in such
6 order.

7 (d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise
8 affect any authorities of the Commission with respect to any natural gas pipeline located
9 outside the State of Alaska.

10 (e) REGULATIONS.—The Commission may issue regulations to carry out the
11 provisions of this section.

12 **SEC. 136. FEDERAL COORDINATOR.**

13 (a) ESTABLISHMENT.—There is established, as an independent office in the
14 executive branch, the Office of the Federal Coordinator for Alaska Natural Gas
15 Transportation Projects.

16 (b) FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator
17 for Alaska Natural Gas Transportation Projects, who shall—

18 (1) be appointed by the President, by and with the advice and consent of the
19 Senate;

20 (2) for a term equal to the period required to design, permit and construction
21 the project plus one year; and

22 (3) be compensated at the rate prescribed for level III of the Executive
23 Schedule (5 U.S.C. 5314).

24 (c) DUTIES.—The Federal Coordinator shall be responsible for—

25 (1) coordinating the expeditious discharge of all activities by Federal
26 agencies with respect to an Alaska natural gas transportation project; and

27 (2) ensuring the compliance of Federal agencies with the provisions of this
28 subtitle.

29 (d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

1 (1) All reviews conducted and actions taken by any Federal officer or
2 agency relating to an Alaska natural gas transportation project authorized under this
3 section shall be expedited, in a manner consistent with completion of the necessary
4 reviews and approvals by the deadlines set forth in this subtitle.

5 (2) No Federal officer or agency shall have the authority to include terms
6 and conditions that are permitted, but not required, by law on any certificate,
7 right-of-way, permit, lease, or other authorization issued to an Alaska natural gas
8 transportation project if the Federal Coordinator determines that the terms and
9 conditions would prevent or impair in any significant respect the expeditious
10 construction and operation of the project.

11 (3) Unless required by law, no Federal officer or agency shall add to,
12 amend, or abrogate any certificate, right-of-way, permit, lease, or other
13 authorization issued to an Alaska natural gas transportation project if the Federal
14 Coordinator determines that such action would prevent or impair in any significant
15 respect the expeditious construction and operation of the project.

16 (4) The authority of the Federal Coordinator under subsections (d)(2) and
17 (3) of this section shall not include the authority to take any action which would
18 adversely affect, or create or impose additional requirements beyond those impose
19 by the Commission or any agency with respect to—

20 (A) the implementation or enforcement of regulation issued by the
21 Commission pursuant to Section 133 (e);

22 (B) the issuance of any certificate, right-of-way, permit, lease or
23 other authorization necessary for the expansion of any Alaska natural gas
24 transportation project ordered by the Commission pursuant to Section 135;
25 and

26 (C) the expeditious construction and operation of any expansion of
27 any Alaska natural gas transportation project ordered by the Commission
28 pursuant to Section 135.

29 (e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint

1 Surveillance and Monitoring Agreement, approved by the President and the Governor of
2 Alaska, with the State of Alaska similar to that in effect during construction of the
3 Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas
4 transportation project. The Federal Government shall have primary surveillance and
5 monitoring responsibility where the Alaska natural gas transportation project crosses
6 Federal lands and private lands, and the State government shall have primary surveillance
7 and monitoring responsibility where the Alaska natural gas transportation project crosses
8 State lands.

9 (f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—Upon
10 appointment of the Federal Coordinator by the President, all of the functions and authority
11 of the Office of Federal Inspector of Construction for the Alaska Natural Gas
12 Transportation System vested in the Secretary of Energy pursuant to section 3012(b) of
13 Public Law 102–486 (15 U.S.C. 719e(b)), including all functions and authority described
14 and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663), Executive
15 Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36,927), and section 5 of the President’s
16 decision, shall be transferred to the Federal Coordinator.

17 **SEC. 137. JUDICIAL REVIEW.**

18 (a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court of the
19 United States on writ of certiorari, the United States Court of Appeals for the District of
20 Columbia Circuit shall have original and exclusive jurisdiction to determine—

21 (1) the validity of any final order or action (including a failure to act) of any
22 Federal agency or officer under this subtitle;

23 (2) the constitutionality of any provision of this subtitle, or any decision
24 made or action taken under this subtitle; or

25 (3) the adequacy of any environmental impact statement prepared under the
26 National Environmental Policy Act of 1969 with respect to any action under this
27 subtitle.

28 (b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be
29 brought not later than 60 days after the date of the decision or action giving rise to the

1 claim.

2 (c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the
3 District of Columbia Circuit shall set any action brought under subsection (a) for expedited
4 consideration, taking into account the national interest as described in section 1042(a).

5 (d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Natural Gas
6 Transportation Act of 1976 (15 U.S.C. 719h) is amended by inserting after paragraph (1)
7 the following:

8 “(2) The United States Court of Appeals for the District of Columbia Circuit shall
9 set any action brought under this section for expedited consideration, taking into account
10 the national interest described in section 2.”.

11 **SEC. 138. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.**

12 (a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska
13 natural gas transportation project for delivery to consumers within the State of Alaska shall
14 be deemed to be a local distribution facility within the meaning of section 1(b) of the
15 Natural Gas Act (15 U.S.C. 717(b)), and therefore not subject to the jurisdiction of the
16 Commission.

17 (b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in section
18 133(d), shall preclude or affect a future gas pipeline that may be constructed to deliver
19 natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or
20 Valdez or any other site in the State of Alaska for consumption within or distribution
21 outside the State of Alaska.

22 (c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall
23 establish rates for the transportation of natural gas on the Alaska natural gas transportation
24 project. In exercising such authority, the Commission, pursuant to section 17(b) of the
25 Natural Gas Act (15 U.S.C. 717p(b)), shall confer with the State of Alaska regarding rates
26 (including rate settlements) applicable to natural gas transported on and delivered from the
27 Alaska natural gas transportation project for use within the State of Alaska.

28 **SEC. 139. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.**

29 (a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or

1 amended certificate of public convenience and necessity authorizing the construction and
2 operation of an Alaska natural gas transportation project has been filed with the
3 Commission not later than 18 months after the date of enactment of this Act, the Secretary
4 of Energy shall conduct a study of alternative approaches to the construction and operation
5 of the project.

6 (b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a
7 Government corporation to construct an Alaska natural gas transportation project, and
8 alternative means of providing Federal financing and ownership (including alternative
9 combinations of Government and private corporate ownership) of the project.

10 (c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult
11 with the Secretary of the Treasury and the Secretary of the Army (acting through the
12 Commanding General of the Corps of Engineers).

13 (d) REPORT.—If the Secretary of Energy is required to conduct a study under
14 subsection (a), the Secretary shall submit a report containing the results of the study, the
15 Secretary's recommendations, and any proposals for legislation to implement the
16 Secretary's recommendations to Congress.

17 **SEC. 140. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.**

18 (a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate,
19 permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska
20 Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g) or any Presidential findings or
21 waivers issued in accordance with that Act.

22 (b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET
23 CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for
24 granting or issuing any certificate, permit, right-of-way, lease, or other authorization under
25 section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719(g) may add
26 to, amend, or abrogate any term or condition included in such certificate, permit,
27 right-of-way, lease, or other authorization to meet current project requirements (including
28 the physical design, facilities, and tariff specifications), so long as such action does not
29 compel a change in the basic nature and general route of the Alaska natural gas

1 transportation system as designated and described in section 2 of the President's decision,
2 or would otherwise prevent or impair in any significant respect the expeditious
3 construction and initial operation of such transportation system.

4 (c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require
5 the sponsor of the Alaska natural gas transportation system to submit such updated
6 environmental data, reports, permits, and impact analyses as the Secretary determines are
7 necessary to develop detailed terms, conditions, and compliance plans required by section
8 5 of the President's decision.

9 **SEC. 141. SENSE OF CONGRESS.**

10 It is the sense of Congress that an Alaska natural gas transportation project will
11 provide significant economic benefits to the United States and Canada. In order to
12 maximize those benefits, Congress urges the sponsors of the pipeline project to make every
13 effort to use steel that is manufactured or produced in North America and to negotiate a
14 project labor agreement to expedite construction of the pipeline.

15 **SEC. 142. PARTICIPATION OF SMALL BUSINESS CONCERNS.**

16 (a) SENSE OF CONGRESS.—It is the sense of Congress that an Alaska natural gas
17 transportation project will provide significant economic benefits to the United States and
18 Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline
19 project to maximize the participation of small business concerns in contracts and
20 subcontracts awarded in carrying out the project.

21 (b) STUDY.—

22 (1) The Comptroller General shall conduct a study on the extent to which
23 small business concerns participate in the construction of oil and gas pipelines in
24 the United States.

25 (2) Not later than 1 year after the date of enactment of this Act, the
26 Comptroller General shall transmit to Congress a report containing the results of the
27 study.

28 (3) The Comptroller General shall update the study at least once every 5
29 years and transmit to Congress a report containing the results of the update.

1 (4) After the date of completion of the construction of an Alaska natural gas
2 transportation project, this subsection shall no longer apply.

3 (c) **SMALL BUSINESS CONCERN DEFINED.**—In this section, the term “small business
4 concern” has the meaning given such term in section 3(a) of the Small Business Act (15
5 U.S.C. 632(a)).

6 **SEC. 143. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM**

7 (a) **ESTABLISHMENT OF PROGRAM.**—The Secretary of Labor (in this section referred
8 to as the “Secretary”) may make grants to the Alaska Department of Labor and
9 Workforce Development to—

10 (1) develop a plan to train, through the workforce investment system
11 established in the State of Alaska under the Workforce Investment Act of 1998 (112
12 Stat. 936 et seq.), adult and dislocated workers, including Alaska Natives, in urban
13 and rural Alaska in the skills required to construct and operate an Alaska gas
14 pipeline system; and

15 (2) implement the plan developed pursuant to paragraph (1).

16 (b) **REQUIREMENTS FOR PLANNING GRANTS.**—The Secretary may make a grant
17 under subsection (a)(1) only if—

18 (1) the Governor of Alaska certifies in writing to the Secretary that there is a
19 reasonable expectation that construction of an Alaska gas pipeline will commence
20 within 3 years after the date of such certification; and

21 (2) the Secretary of the Interior concurs in writing to the Secretary with the
22 certification made under paragraph (1).

23 (c) **REQUIREMENTS FOR IMPLEMENTATION GRANTS.**—The Secretary may make a
24 grant under subsection (a)(2) only if—

25 (1) the Secretary has approved a plan developed pursuant to subsection
26 (a)(1);

27 (2) the Governor of Alaska requests the grant funds and certifies in writing
28 to the Secretary that there is a reasonable expectation that the construction of an
29 Alaska gas pipeline system will commence within 2 years after the date of such

1 certification; and

2 (3) the Secretary of the Interior concurs in writing to the Secretary with the
3 certification made under paragraph (2) after considering—

4 (A) the status of necessary State and Federal permits;

5 (B) the availability of financing for the pipeline project; and

6 (C) other relevant factors and circumstances.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
8 to the Secretary such sums as may be necessary, but not to exceed \$20,000,000, to carry
9 out this section.

10 **TITLE II—COAL**

11 **Subtitle A—Coal Energy Research, Development and** 12 **Demonstration**

13 **SEC. 201. COAL AND RELATED TECHNOLOGIES PROGRAMS.**

14 (a) DEFINITIONS.—For the purposes of this section.—

15 (1) The term “cost and performance goals” means the cost and performance
16 goals established under subsection b of this subsection.

17 (2) The term “Secretary” means the Secretary of Energy.

18 (b) COST AND PERFORMANCE GOALS.—The Secretary shall perform an assessment
19 that identifies cost and performance goals of technologies that would permit the continued
20 cost-competitive use of coal for electricity generation, as chemical feedstocks, and as
21 transportation fuel. In establishing the cost and performance goals, the Secretary shall—

22 (1) consider activities and studies undertaken to date by industry in
23 cooperation with the Department of Energy in support of such assessment;

24 (2) consult with interested entities, including coal producers, industries
25 using coal, organizations to promote coal and advanced coal technologies,
26 environmental organizations and organizations representing workers;

27 (3) issue a set of draft cost and performance goals for public comment, no

1 later than 120 days after the date of enactment of this Act; and

2 (4) submit to Congress the final cost and performance goals, no later than
3 180 days after the date of enactment of this Act, after taking into consideration any
4 public comments received.

5 (c) STUDY.—

6 (1) No later than 1 year after the date of enactment of this Act, and once
7 every 2 years thereafter through 2016, the Secretary, in cooperation with other
8 appropriate federal agencies, shall conduct a study to—

9 (A) identify technologies that, by themselves or in combination with
10 other technologies, may be capable of achieving the cost and performance
11 goals;

12 (B) assess the costs that would be incurred by, and the period of time
13 that would be required for, the development and demonstration of
14 technologies that, by themselves or in combination with other technologies,
15 contribute to the achievement of the cost and performance goals;

16 (C) develop recommendations for technology development
17 programs, which the Department of Energy could carry out in cooperation
18 with industry, to develop and demonstrate technologies that, by themselves
19 or in combination with other technologies, achieve the cost and performance
20 goals, and

21 (D) develop recommendations for additional authorities required to
22 achieve the cost and performance goals, and review and recommend
23 changes, if any, to those cost and performance goals if the Secretary
24 determines that such changes are necessary as a result of ongoing research,
25 development and demonstration of technologies.

26 (2) In carrying out this section, the Secretary shall give due weight to the
27 expert advice of representatives of the entities described in section 201(b)(2).

28 **SEC 202. PRODUCTION AND GENERATION OF COAL-BASED POWER.**

29 (a) IN GENERAL.—The Secretary shall carry out a technology research,

1 development and demonstration program to facilitate production and generation of
2 coal-based power through methods and equipment under this Title; the Federal Nonnuclear
3 Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.); the Energy
4 Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and title XVI of the Energy Policy
5 Act of 1992 (42 U.S.C. 13381 et seq.).

6 (b) CONDITIONS—The program described in subsection (a) shall be designed to
7 achieve the cost and performance goals required by section 201(b).

8 **SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) IN GENERAL.—There are authorized to be appropriated to the Secretary
10 \$200,000,000 for fiscal year 2004, \$210,000,000 for fiscal year 2005, and \$220,500,000
11 for fiscal year 2006, to remain available until expended, for coal and related technologies
12 research and development programs, which shall include—

- 13 (1) innovations for existing plants;
- 14 (2) integrated gasification combined cycle;
- 15 (3) advanced combustion systems;
- 16 (4) turbines for synthesis gas derived from coal;
- 17 (5) carbon capture and sequestration research and development;
- 18 (6) coal-derived transportation fuels and chemicals;
- 19 (7) solid fuels and feedstocks; and
- 20 (8) advanced coal-related research.

21 (b)(1) LIMIT ON USE OF FUNDS.—Prior to the use of funds authorized by this
22 section, the Secretary shall transmit to the Congress a report describing the proposed use of
23 funds and containing a plan that includes—

24 (A) a detailed description of how proposals will be solicited and evaluated,
25 including a list of all activities expected to be undertaken;

26 (B) a detailed list of technical milestones for each coal and related
27 technology that will be pursued; and

28 (C) a description of how the programs authorized in this section will be
29 carried out so as to complement and not duplicate activities authorized under the

1 Clean Coal Power Initiative authorized under subtitle B.

2 (2) Thirty days shall elapse from receipt of the report after which the Secretary may
3 then use the authorization of appropriations provided by this section.

4 **Subtitle B—Clean Coal Power Initiative**

5 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

6 CLEAN COAL POWER INITIATIVE.— There are authorized to be appropriated to the
7 Secretary to carry out the activities authorized by this subtitle \$200,000,000 for each of the
8 fiscal years 2003 through 2011, to remain available until expended.

9 **SEC. 212. PROJECT CRITERIA.**

10 (a) IN GENERAL.—The Secretary shall not provide funding under this title for any
11 project that does not advance efficiency, environmental performance, and cost
12 competitiveness well beyond the level of technologies that are in operation or have been
13 demonstrated as of the date of the enactment of this Act.

14 (b) TECHNICAL CRITERIA FOR GASIFICATION.—In allocating the funds made
15 available under section 211(a), the Secretary shall ensure that funds are used for coal-based
16 gasification technologies, coal based projects that include the separation and capture of
17 carbon dioxide, or coal based projects that include gasification combined cycle,
18 gasification fuel cells, gasification coproduction, or hybrid gasification/combustion. The
19 Secretary shall set technical milestones specifying emissions levels that coal gasification
20 projects must be designed to and reasonably expected to achieve. The milestones shall get
21 more restrictive through the life of the program. The milestones shall be designed to
22 achieve by 2020 coal gasification projects able to—

- 23 (1) remove 99 percent of sulfur dioxide;
- 24 (2) emit no more than .05 lbs of NO_x per million BTU;
- 25 (3) achieve substantial reductions in mercury emissions; and
- 26 (4) achieve a thermal efficiency of —
 - 27 (A) 60 percent for coal of more than 9,000 Btu;
 - 28 (B) 59 percent for coal of 7,000 to 9,000 Btu; and
 - 29 (C) 57 percent for coal of less than 7,000 Btu.

1 (c) TECHNICAL CRITERIA FOR OTHER PROJECTS.— For projects not described in
 2 subsection (b), the Secretary shall set technical milestones specifying emissions levels that
 3 the projects must be designed to and reasonably expected to achieve. The milestones shall
 4 get more restrictive through the life of the program. The milestones shall be designed to
 5 achieve by 2010 projects able to—

- 6 (1) remove 97 percent of sulfur dioxide;
- 7 (2) emit no more than .08 lbs of NO_x per million BTU;
- 8 (3) achieve substantial reductions in mercury emissions; and
- 9 (4) achieve a thermal efficiency of—

10 (A) 45 percent for coal of more than 9,000 Btu;

11 (B) 44 percent for coal of 7,000 to 9,000 Btu; and

12 (C) 42 percent for coal of less than 7,000 Btu.

13 (d) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal
 14 efficiency requirements set forth in paragraphs (b)(4) and (c)(4), the projects shall be
 15 designed to achieve an overall thermal design efficiency improvement compared to the
 16 efficiency of the unit as operated, of not less than—

17 (A) 7 percent for coal of more than 9,000 Btu;

18 (B) 6 percent for coal of 7,000 to 9,000 Btu; or

19 (C) 4 percent for coal of less than 7,000 Btu.

20 (e) CONSULTATION.—Before setting the technical milestones under subsections (b)
 21 and (c), the Secretary shall consult with the Administrator of the Environmental Protection
 22 Agency and interested entities, including coal producers, industries using coal,
 23 organizations to promote coal or advanced coal technologies, environmental organizations,
 24 and organizations representing workers.

25 (f) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under
 26 this title unless the recipient has documented to the satisfaction of the Secretary that—

- 27 (1) the award recipient is financially viable without the receipt of additional
 28 Federal funding;
- 29 (2) the recipient will provide sufficient information to the Secretary for the

1 Secretary to ensure that the award funds are spent efficiently and effectively; and

2 (3) a market exists for the technology being demonstrated or applied, as
3 evidenced by statements of interest in writing from potential purchasers of the
4 technology.

5 (g) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to
6 projects that meet the requirements of this section and are likely to—

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

9 (2) improve the competitiveness of coal among various forms of energy; and

10 (3) demonstrate methods and equipment that are applicable to 25 percent of
11 the electricity generating facilities that use coal as the primary feedstock as of the
12 date of the enactment of this Act.

13 (h) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology
14 project funded by the Secretary shall not exceed 50 percent, to be repaid over a reasonable,
15 agreed upon, period of time.

16 (i) APPLICABILITY.—No technology, or level of emission reduction, shall be treated
17 as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable
18 for purposes of section 169 of that Act, or achievable in practice for purposes of section
19 171 of that Act solely by reason of the use of such technology, or the achievement of such
20 emission reduction, by one or more facilities receiving assistance under this title.

21 **SEC. 213. REPORT.**

22 (a) Not later than 1 year after the date of the enactment of this Act, and once every
23 2 years thereafter through 2011, the Secretary, in consultation with other appropriate
24 Federal agencies, shall transmit to the Speaker of the House of Representatives and to the
25 President of the Senate, a report describing—

26 (1) the technical milestones set forth in section 212 and how those
27 milestones ensure progress toward meeting the requirements of subsections (b) and
28 (c) of section 212; and

29 (2) the status of projects funded under this title.

1 sold in the spot market from the same region during the last month of each applicable
2 continued operation year.

3 “(C) The aggregate number of years during the initial and any extended term of any
4 lease for which advance royalties may be accepted in lieu of the condition of continued
5 operation shall not exceed 20.

6 “(3) The amount of any production royalty paid for any year shall be reduced (but
7 not below zero) by the amount of any advance royalties paid under such lease to the extent
8 that such advance royalties have not been used to reduce production royalties for a prior
9 year.

10 “(4) This subsection shall be applicable to any lease or logical mining unit in
11 existence on the date of the enactment of this Act or issued or approved after such date.

12 “(5) Nothing in this subsection shall be construed to affect the requirement
13 contained in the second sentence of subsection (a) relating to commencement of production
14 at the end of 10 years.”.

15 (b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section
16 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

17 **SEC. 224. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION**
18 **AND RECLAMATION PLAN.**

19 Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking
20 “and not later than three years after a lease is issued,”.

21 **SEC. 225. AMENDMENTS RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO**
22 **BONUS BIDS.**

23 (a) PROHIBITION ON REQUIRING SURETY BONDS.— Section 2(a) of the Mineral
24 Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

25 “(4) The Secretary shall not require a surety bond or any other financial assurance
26 to guarantee payment of deferred bonus bid installments with respect to any coal lease
27 issued based upon a cash bonus bid.

28 “(5) Notwithstanding any other provision of law, if the lessee under a coal lease
29 fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary

1 provides written notice that payment of such installment is past due—

2 “(A) such lease shall automatically terminate;

3 “(B) any deferred bonus payments that have not been paid to the United
4 States with respect to such lease shall no longer be owed to the United States; and

5 “(C) any bonus payments already made to the United States with respect to
6 such lease shall not be returned to the lessee or credited in any future lease sale.”.

7 (b) CONFORMING AMENDMENT.—Section 2(a)(1) of the Mineral Leasing Act (30
8 U.S.C. 201(a)(1)) is amended by striking “Upon default or cancellation of any coal lease
9 for which bonus payments are due, any unpaid remainder of the bid shall be immediately
10 payable to the United States.”.

11 **SEC. 226. INVENTORY REQUIREMENT.**

12 (a) DEFINITIONS.—For purposes of this section—

13 (1) the term “compliant coal” means coal that contains not less than 1.0 and
14 not more than 1.2 pounds of sulfur dioxide per million Btu; and

15 (2) the term “supercompliant coal” means coal that contains less than 1.0
16 pounds of sulfur dioxide per million Btu.

17 (b) REVIEW OF ASSESSMENTS.—The Secretary of the Interior, in consultation with
18 the Secretary of Agriculture and the Secretary of Energy, shall review coal assessments and
19 other available data to identify—

20 (1) public lands with coal resources;

21 (2) the extent and nature of any restrictions or impediments to the
22 development of coal resources on public lands identified under paragraph (1); and

23 (3) with respect to areas of such lands for which sufficient data exists,
24 resources of compliant coal and supercompliant coal.

25 (c) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary shall
26 complete the inventory under subsection (a) not later than 2 years after the date of the
27 enactment of this Act, and update the inventory as the availability of data and
28 developments in technology warrant.

29 (d) REPORT.—The Secretary shall submit to the Speaker of the House of

1 Representatives and the President of the Senate and make publicly available, by not later
2 than 2 years after the enactment of this Act, a report containing the inventory under this
3 section and each update of such inventory.

4 **SEC. 227. APPLICATION OF AMENDMENTS.**

5 The amendments made by this Act apply with respect to any coal lease issued
6 before, on, or after the date of the enactment of this Act.

7 **Subtitle D—Powder River Basin Shared Mineral Estates**

8 **SEC. 231. SHORT TITLE.**

9 This Act may be cited as the “Powder River Basin Resource Development Act”.

10 **SEC. 232. DEFINITIONS.**

11 In this Act:

12 (1) The term “coalbed methane” has the meaning given that term in section
13 1339(p)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13368(p)(2)).

14 (2) The term “common area” means an area in the Basin in which all or a
15 portion of a Federal coal lease (including any area of State or private coal within a
16 logical mining unit with the Federal coal lease) overlaps all or a portion of an oil
17 and gas lease or right to develop.

18 (3) The terms “Federal coal lease” and “Federal oil and gas lease” mean a
19 lease in the Basin issued pursuant to the Mineral Leasing Act (30 U.S.C. 181 et
20 seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

21 (4) The term “Federal coal lessee” means the holder of a Federal coal lease.

22 (5) The term “non-Federal oil and gas lease or right to develop” means a
23 lease for or right to develop oil and gas in the Basin provided by a State or private
24 owner of the resources.

25 (6) The term “oil and gas developer” means the holder of an oil and gas
26 lease or right to develop.

27 (7) The term “oil and gas lease or right to develop” means a Federal oil and
28 gas lease in the Basin or non-Federal oil and gas lease or right to develop in the
29 Basin.

1 (8) The term “owners of any interest in the oil and gas lease or right to
2 develop” means persons who own the working interest, lease interest, operating
3 interest, mineral interest, royalty interest, or any other interest in the oil and gas
4 lease or right to develop, and any other persons who might receive compensation
5 for unavoidable fixed expenses under an order concerning the oil and gas lease or
6 right to develop issued pursuant to section 239(d).

7 (9) The term “Powder River Basin” or “Basin” means the area in the State
8 of Wyoming designated as the “Dispute Resolution Area” on maps entitled
9 “Powder River Basin, Dispute Resolution Area”, dated September 10, 2001, and on
10 file in the Wyoming State Office of the Bureau of Land Management.

11 (10) The term “Secretary” means the Secretary of the Interior.

12 **SEC. 233. PARTIES ENCOURAGED TO ENTER INTO WRITTEN AGREEMENT.**

13 In any common area, the Federal coal lessee and oil and gas developer, subject to
14 applicable Federal and State laws, regulations, and lease terms, are encouraged to enter into
15 a written agreement that details operations and assigns or assesses costs or compensation
16 for the concurrent or sequential development of those resources.

17 **SEC. 234. NEGOTIATIONS CONCERNING DEVELOPMENT PRIORITY FOR CERTAIN**
18 **OPERATIONS IN THE BASIN.**

19 (a) OBLIGATION TO PROVIDE WRITTEN NOTICE OF CONFLICT.—Whenever a Federal
20 coal lessee or an oil and gas developer determines that its Federal coal lease (or a logical
21 mining unit including the Federal coal lease) or its oil and gas lease or right to develop is
22 located in a common area, and, pursuant to a mining plan approved by, or submitted for the
23 approval of, the Secretary, mining operations or facilities in support of mining for coal on
24 the Federal coal lease or the logical mining unit will be located within the common area,
25 the Federal coal lessee or the oil and gas developer shall deliver written notice of the
26 determination to the other party and the Secretary no later than 240 days before the date on
27 which the mining operations or construction of the mine support facilities is projected by
28 the approved or proposed mining plan to commence in the common area.

29 (b) OBLIGATION TO NEGOTIATE.—Promptly after providing the notice referred to in

1 subsection (a), the party that provided the notice shall seek to negotiate a written agreement
2 with the other party that resolves any conflict between the development of gas or oil and
3 development of coal in the common area.

4 **SEC. 235. PETITION FOR RELIEF.**

5 (a) SUBMISSION OF PETITION.—If notice is submitted timely pursuant to section
6 234(a) and the Federal coal lessee and the oil and gas developer seek to engage in
7 negotiations, but fail to reach agreement, pursuant to section 234(b), the Federal coal lessee
8 or the oil and gas developer may file a petition for relief in the United States district court
9 for the district of Wyoming and serve the other party on any date which is not less than 180
10 days before the date on which the mining operations or construction of the mine support
11 facilities is projected by the approved or proposed mining plan to commence in the
12 common area. The Secretary, by regulation, shall establish the requirements for the
13 information to be submitted with the petition.

14 (b) JOINDER OF PARTIES.—All owners of any interest in the oil and gas lease or
15 right to develop and in the Federal coal lease or logical mining unit, including the
16 Secretary, identified by the petitioner, the Secretary, or themselves shall be joined in the
17 proceedings established pursuant to this Act. Failure to timely join a party shall not extend
18 deadlines imposed by this Act, but the court shall take all necessary steps to insure that no
19 party is prejudiced by late joinder.

20 (c) PARTIES' RESPONSE TO PETITION.—The non-Federal respondent or respondents
21 may provide to the Secretary a response to the petition within 30 days after the date of
22 filing of the petition for relief pursuant to subsection (a). The Secretary may require the
23 petitioner and the non-Federal respondent or respondents to submit such documents or
24 provide such testimony, or both, as the Secretary deems appropriate within 60 days of such
25 date of filing.

26 **SEC. 236. SECRETARY'S RESPONSE TO PETITION.**

27 (a) IN GENERAL.—Within 90 days after the date of filing of the petition for relief
28 pursuant to section 235(a), the Secretary shall take the actions required by this section.

29 (b) INITIAL DETERMINATIONS.—The Secretary shall determine, with petitioner

1 having the burden of proof—

2 (1) whether a common area exists; and

3 (2) whether the approved or proposed mining plan provides for mining
4 operations to occur, or mine support facilities to be constructed, in any portion of
5 the common area.

6 (c) LEASE SUSPENSION.—If the Secretary makes affirmative determinations
7 pursuant to paragraphs (1) and (2) of subsection (b), the Secretary shall suspend all or any
8 portion of any Federal oil and gas lease, including the application of such a lease to any
9 geographical area or zone or reservoir, to accommodate development of the coal resource
10 in the common area during the period beginning on a date no later than the commencement
11 date referred to in section 235(a) and ending on the effective date of an order issued
12 pursuant to section 239(d).

13 (d) SECRETARIAL REPORT.— The Secretary shall—

14 (1) not delegate the making of determinations pursuant to this section;

15 (2) report the determinations made pursuant to this section and any
16 suspension made pursuant to subsection (c), including the administrative record
17 therefor, to the court in which the petition for relief is filed pursuant to section
18 235(a); and

19 (3) provide the petitioner and respondents with copies of the report and
20 record.

21 **SEC. 237. COURT'S INITIAL RESPONSE TO PETITION.**

22 (a) RECEIPT OF SECRETARIAL REPORT.—The court in which the petition is filed
23 pursuant to section 235(a) shall have exclusive jurisdiction to receive and review the report
24 of the Secretary required by section 236(d), and the determinations made and any action
25 taken by the Secretary pursuant to section 236.

26 (b) PARTIES' OBJECTIONS TO REPORT.—

27 (1) The petitioner and respondents shall have 30 days after the date on
28 which the report of the Secretary is filed with the court pursuant to section 236(d)
29 in which to file with the court any objection to any determination of the Secretary

1 required by section 236.

2 (2) If any objection is filed pursuant to paragraph (1), the court shall, within
3 60 days after receipt of the report of the Secretary pursuant to section 236(d), make
4 the determination that is the subject of the objection on the basis of the
5 administrative record filed with the report and in accordance with the applicable
6 requirements of section 236.

7 (3) If no objection is filed pursuant to paragraph (1), the determinations of
8 the Secretary required by section 236 shall be final and approved by the court in the
9 order issued pursuant to subsection (c) or subsection (d).

10 (c) COURT ORDER.—Within 90 days after the date of receipt of the report of the
11 Secretary pursuant to section 236(d), the court, except as provided in subsection (d), shall
12 issue an order, to expire on the effective date of an order issued pursuant to section 239(d),
13 that—

14 (1) suspends all or any part of any non-Federal oil and gas lease or right to
15 develop, including the application of such a lease or right to any geographical area
16 or reservoir, in the common area in accordance with the determination of the
17 Secretary pursuant to section 236 or in accordance with the determination of the
18 court pursuant to subsection (b)(2) of this section; and

19 (2) if required by a determination of the court pursuant to subsection (b)(2),
20 terminates a Federal oil and gas lease suspension imposed by the Secretary pursuant
21 to section 236, or imposes a suspension of a Federal oil and gas lease, or both, in
22 accordance with the determination; and

23 (3) fixes the date upon which the Federal coal lessee may commence mining
24 operations or construction of mine support facilities in the common area, which
25 may be no later than the commencement date referred to in section 235(a).

26 (d) TERMINATION OF PROCEEDING.—If the Secretary makes a negative
27 determination pursuant to section 236(b), or if the court makes a negative determination
28 pursuant to an objection under subsection (b)(2) of this section to affirmative
29 determinations of the Secretary under section 236(b), the court shall issue an order

1 terminating the proceeding under this Act.

2 **SEC. 238. EXPERTS' APPOINTMENT AND REPORT; COURT REVIEW AND HEARING.**

3 (a) APPOINTMENT PROCEDURE.—Within 30 days after the date of issuance of an
4 order pursuant to section 237(c), to assist the court in making the determinations pursuant
5 to section 239—

6 (1) the Federal coal lessee and the oil and gas developer shall each appoint a
7 person who is an expert in appraising the value of, and right to develop, gas or oil;
8 and

9 (2)(A) persons appointed under paragraph (1) shall agree upon and appoint a
10 third person with such expertise; or

11 (B) if no agreement is reached on a third person by the end of such period,
12 the court shall appoint such person.

13 (b) COMPENSATION.—The Federal coal lessee and the oil and gas developer shall
14 each be responsible for payment of one-half of the compensation for and costs of the
15 experts in the performance of their duties under this Act.

16 (c) INFORMATION AND DATA.—

17 (1) The Federal coal lessee, the oil and gas developer, and the Secretary—

18 (A) shall each submit to the experts, within 30 days after the date of
19 completion of their appointment pursuant to subsection (a), all information
20 and data in the possession of such party that is pertinent to the
21 determinations to be made pursuant to section 239; and

22 (B) shall each submit to the experts thereafter any additional
23 pertinent information and data in the possession of such party that the
24 experts request, in writing, from such party.

25 (2) Except as provided in paragraph (3), the court shall ensure that any
26 information and data submitted to the experts pursuant to paragraph (1) shall have
27 the protection against disclosure that is applicable to them by law and the Federal
28 rules of civil procedure and evidence.

29 (3) All information and data submitted to the experts pursuant to paragraph

1 (1) shall be available for review by all parties unless otherwise ordered by the court.

2 (d) SUBMISSION OF BRIEFS AND HEARING.—

3 (1) Within 45 days after the date of completion of appointment of the
4 experts pursuant to subsection (a), all parties may submit to the court briefs
5 concerning the determinations to be made pursuant to section 239.

6 (2) Within 60 days after the date of completion of appointment of the
7 experts pursuant to subsection (a), the experts may, or if requested by the petitioner
8 or a respondent shall, receive testimony from all parties concerning the
9 determinations to be made pursuant to section 239.

10 (e) EXPERTS' REPORT.—Within 120 days after the date of completion of
11 appointment of the experts pursuant to subsection (a), the experts shall submit to the court
12 a written report providing in detail their recommendations on the determinations to be
13 made pursuant to section 239.

14 (f) REVIEW OF EXPERTS' REPORT.—The court shall make the determinations
15 required by section 239 after reviewing the report of the experts submitted pursuant to
16 subsection (e) and after holding a hearing in which the parties to the proceeding shall have
17 the opportunity to examine the experts and provide to the court evidence or arguments to
18 support or contravene the recommendations of the report.

19 **SEC. 239. COURT'S FINAL RESPONSE TO PETITION: VALUATION CONCERNING**
20 **ECONOMICALLY RECOVERABLE OIL OR GAS RESOURCES LOST OR DELAYED,**
21 **SUSPENSION OR TERMINATION, AND PAYMENT ORDER.**

22 (a) IN GENERAL.—Within 210 days after the date of issuance of an order pursuant
23 to section 237(c), the court shall take the actions required by this section.

24 (b) SUSPENSION OR TERMINATION DETERMINATION.—

25 (1) The court shall determine that, as a result of the order or any action of
26 the Secretary, all or any part of the oil and gas lease or right to develop, or the
27 application of such lease or right to any geographical area or zone or reservoir,
28 should be—

29 (A) suspended during any remaining period in which mining

1 operations or support facilities exist in the common area; or

2 (B) terminated.

3 (2) Any determination to suspend pursuant to paragraph (1) shall, wherever
4 possible or appropriate, limit the suspension or phase the suspension to permit the
5 optimum development of the oil or gas prior to the time at which the mining
6 operations would reach the location within the common area that is subject to the
7 suspension or particular phase of the suspension.

8 (3) Any determination to terminate pursuant to paragraph (1) shall be made
9 only if the court finds that—

10 (A) the economically recoverable oil and gas resources subject to
11 compensation pursuant to subsection (c) would be entirely lost or rendered
12 impracticable to produce as a consequence of the mining operations in the
13 common area; and

14 (B) such resources constitute all of the economically recoverable
15 resources subject to the oil and gas lease or right to develop.

16 (c) COMPENSATION DETERMINATION.—

17 (1) If the court makes a determination to suspend pursuant to subsection (b),
18 the court shall determine the following:

19 (A) The amount of any net income that will not be realized due to
20 delay in development of economically recoverable resources of oil or gas,
21 other than coalbed methane, from the common area, whether or not such
22 development has commenced.

23 (B) The amount of any net income that will not be realized, whether
24 or not development of coalbed methane has commenced, due to—

25 (i) delay in development of economically recoverable
26 resources of coalbed methane in the common area;

27 (ii) the loss of any economically recoverable resources of
28 coalbed methane from the coal to be extracted by the mining
29 operations in the common area; and

1 (iii) the loss of any economically recoverable resources of
2 coalbed methane underlying any area that is subject to the oil and
3 gas lease and right to develop associated with the common area and
4 that extends outward from each exposed coal face of the mining
5 operations for a distance from which drainage of such resources is
6 established to the satisfaction of the court.

7 (C) Any of the following damages that will be incurred by the
8 owners of any interest in the oil and gas lease or right to develop as a
9 consequence of the suspension:

10 (i) Any unavoidable fixed expenses of shutting in production
11 from, maintenance of, and testing of an existing well.

12 (ii) Any unavoidable fixed expenses necessary to achieve
13 postsuspension recovery of all or certain economically recoverable
14 resources of oil or gas in the common area (including expenses of
15 relaying pipeline and all other expenses reasonably related to
16 reestablishing any existing oil or gas production), except that if the
17 court determines that such unavoidable fixed expenses will exceed
18 the net income to be derived from the resources, the court shall
19 determine the amount of such net income and lost royalties on oil or
20 gas not produced.

21 (iii) Expenses associated with stranded costs of drilling
22 equipment and facilities.

23 (iv) Any lost royalties on oil or gas not produced by the oil
24 and gas developer.

25 (v) Any lost income associated with temporarily shutting in
26 production from wells outside of the common area as needed for
27 reconnection to a gathering system or pipeline to market.

28 (2) The determinations made pursuant to paragraph (1) shall not
29 include any decrease in net income or damages resulting from loss of any oil

1 or gas resources that occurred before the date of the determinations and is
2 caused by mining within or outside of the common area on the Federal coal
3 lease or logical mining unit that is the subject of the common area
4 determination made pursuant to section 236(b)(1) or section 237(b)(2).

5 (3) If the court makes a determination to terminate pursuant to
6 subsection (b), the court shall determine the amount of any net income that
7 will not be realized and any damages due to the loss of, or impracticability
8 to produce, the economically recoverable resources of oil or gas subject to
9 the oil and gas lease or right to develop in the same manner as provided in
10 paragraph (1).

11 (4) In determining the amount of net income that will not be realized
12 pursuant to paragraph (1) or paragraph (3) and the sum of money to be
13 awarded pursuant to subsection (d), the court shall ensure to the best of its
14 ability that the Federal coal lessee is not required to pay for the same gas or
15 oil lost, delayed in development, or rendered impracticable to develop to
16 more than one oil and gas developer or the owners of any interest in more
17 than one oil and gas lease or right to develop.

18 (d) COURT ORDER.—The court shall issue an order that—

19 (1) suspends all or any part of, suspends in phases parts of, or terminates the
20 oil and gas lease or right to develop, including any applicable payment or production
21 obligations, in accordance with the determination made pursuant to subsection (b);
22 and

23 (2) awards to the oil and gas developer and all other owners of any interest
24 in the oil and gas lease or right to develop, as their interests may appear, a sum of
25 money from the Federal coal lessee equal to the net income amount and damages
26 determined pursuant subsection (c).

27 **SEC. 240. DISBURSEMENT OF PAYMENTS TO OIL AND GAS DEVELOPERS.**

28 (a) PAYMENT ALTERNATIVES.—At the election of the oil and gas developer, the
29 sum of money awarded by the court pursuant to section 239(d)(2) shall be—

1 (1) paid in full within 60 days after the date of issuance of the order
2 pursuant to section 239(d); or

3 (2) divided into the number of tons of recoverable coal in the common area
4 and paid in per ton increments as the coal is mined, in accordance with subsections
5 (b) and (c).

6 (b) PAYMENT SCHEDULE.—The Federal coal lessee shall make the payments
7 required by subsection (a)(2) on a quarterly basis in advance based on the Federal coal
8 lessee's estimate of the number of tons of coal to be mined in the common area during the
9 following quarter, and shall add or subtract an amount to or from the advance payment for
10 the next quarter to reflect the coal mined from the common area that is actually sold or
11 transferred.

12 (c) FINAL PAYMENT.—If the mining necessary to make full payment of the sum of
13 money awarded by the court in accordance with subsection (a)(2) does not occur within the
14 5-year period beginning on the date of issuance of the court order pursuant to section
15 239(d), the unpaid balance shall be paid within 60 days after the expiration of such period.

16 **SEC. 241. TERMINATION OF OIL AND GAS LEASE SUSPENSION.**

17 (a) NOTIFICATION OF COURT.—If the court issues an order to suspend all or any part
18 of the oil and gas lease or right to develop pursuant to section 239(d)—

19 (1) the Federal coal lessee shall notify the court and the oil and gas
20 developer when the portion of the common area subject to the order issued pursuant
21 to section 239(d) is no longer required for mining operations or support facilities;
22 and

23 (2) within 120 days after the date of receipt by the court of the notification
24 pursuant to paragraph (1), or within 60 days prior to the date on which the period
25 established by the court in the order issued pursuant to section 239(d) concludes,
26 the oil and gas developer may petition the court for an order that terminates the
27 suspension and fixes the date and terms on which the oil and gas developer may
28 resume operations within the portion of the common area subject to the order issued
29 pursuant to section 239(d).

1 (b) COURT ORDER TO TERMINATE SUSPENSION OF LEASE OR RIGHT TO
2 DEVELOP.—The court shall issue the order sought under subsection (a)(2) within 30 days
3 after the date of receipt of the petition pursuant to subsection (a)(2).

4 (c) TERMINATION OF LEASE OR RIGHT O DEVELOP—

5 (1) If the oil and gas developer determines that, as a consequence of the
6 order of the court issued pursuant to section 237(c) and an order to suspend all or
7 any part of the oil and gas lease or right to develop pursuant to section 239(d), the
8 conditions described in section 239(b)(3) exist, the oil and gas developer may
9 petition the court to terminate the oil and gas lease or right to develop.

10 (2) The petition referred to in paragraph (1) may be filed any time after
11 issuance of the order of the court pursuant to section 239(d), but not later than 120
12 days after the date of receipt by the court of the notification pursuant to subsection
13 (a)(1).

14 (3) Upon receipt of a petition pursuant to paragraph (1), the court shall make
15 a determination whether to issue an order to terminate the oil and gas lease or right
16 to develop and award an additional amount from the Federal coal lessee to the oil
17 and gas developer and all other owners of any interest in the oil and gas lease or
18 right to develop, as their interests may appear, in accordance with the procedures
19 and deadlines established in section 235(a) and sections 238 through 240.

20 **SEC. 242. SUPPLEMENTAL PETITION FOR RELIEF.**

21 (a) PETITION SUBMITTAL.—

22 (1) If, at any time after the issuance of an order pursuant to section 239(d),
23 the mining plan that is the basis of the order is altered in a manner that may warrant
24 suspension of an additional part or all of, or termination of, the oil and gas lease or
25 right to develop, or an increase in the sum of money that was awarded under the
26 order, or both, either the Federal coal lessee or the oil and gas developer may, if
27 necessary after compliance with the requirements of section 234, file a
28 supplemental petition for relief with the court to amend the order.

29 (2) The requirements of section 235(a) and sections 236 through 240 shall

1 apply to the supplemental petition submitted pursuant to paragraph (1).

2 (b) COURT ORDER.—

3 (1) Upon completion of the process required by subsection (a)(2), the court
4 shall make a determination whether to—

5 (A) suspend an additional part or all of, or terminate, the oil and gas
6 lease or right to develop as described in section 239; and

7 (B) award an additional sum of money calculated in accordance with
8 section 239.

9 (2) The court shall issue any order resulting from the determinations made
10 pursuant to paragraph (1) within 90 days after the date of filing of the supplemental
11 petition for relief.

12 **SEC. 243. APPEAL OF COURT ORDERS.**

13 (a) NON-APPEALABLE ORDERS.—Any order issued pursuant to section 237(c),
14 section 237(d), section 239(d)(1), or section 242(b)(1)(A)] is final and may not be
15 appealed.

16 (b) APPEALABLE ORDERS.—Any order issued pursuant to section 239(d)(2), section
17 241(b), section 241(c)(3), or section 242(b)(1)(B) may be appealed, but the appeal, and any
18 disposition thereof, may not affect any order referred to in subsection (a).

19 **SEC. 244. SUSPENSION TERMS.**

20 (a) FEDERAL LEASE SUSPENSION TERMS.—If all or any part of any Federal oil and
21 gas lease is suspended in whole or in part by the Secretary or the court under this Act—

22 (1) the lessee shall not be required to pay any rental for the lease for the
23 period of the suspension; and

24 (2)(A) if the lease is in the primary term, the term of the lease shall be
25 extended by the length of the period of the suspension plus one year; or

26 (B) the lease shall not terminate due to lack of production for the period of
27 the suspension plus one year.

28 (b) NON-FEDERAL LEASE SUSPENSION TERMS.—If any non-Federal oil and gas
29 lease or right to develop is suspended in whole or in part by the court under this Act, the

1 court shall establish terms for the suspension comparable to the terms set forth in
2 subsection (a).

3 **SEC. 245. LIABILITY LIMITATION.**

4 Except as provided in a written agreement reached pursuant to section 234(b), or
5 reached on or after September 1, 1999, and before the date of enactment of this Act and
6 approved by the Bureau of Land Management, or as provided by an order of the court
7 pursuant to this Act, neither the Federal coal lessee subject to the agreement or order nor
8 the United States shall be liable to the oil and gas developer of, or any owner of an interest
9 in, any oil and gas lease or right to develop subject to the agreement or order for any
10 decrease in or depletion of, or any impairment of the ability to recover, any gas or oil
11 subject to the oil and gas lease or right to develop that may result from the development of
12 any coal on the Federal coal leasehold or within a logical mining unit that includes the
13 Federal coal lease.

14 **SEC. 246. CREDIT AGAINST ROYALTIES.**

15 (a) IN GENERAL.—If a Federal coal lessee is required by a written agreement
16 reached pursuant to section 234(b), or reached on or after September 1, 1999, and before
17 the date of the enactment of this Act and approved by the Bureau of Land Management, or
18 by a court order issued pursuant to section 239(d), section 241(c)(3), or section
19 242(b)(2)(B), to pay an amount for loss of economically recoverable Federal coalbed
20 methane resources due to mining operations or for suspension of all or part of, or
21 termination of, a Federal oil and gas lease for coalbed methane located within the lands
22 designated as ‘Dispute Resolution Area’ on the maps referred to in section 232(9), any
23 amount so paid after the date of enactment of this Act shall be credited against any
24 royalties on production otherwise due from the Federal coal lessee or any affiliate thereof
25 under section 7(a) of the Mineral Leasing Act (30 U.S.C. 207(a)) for any lease of Federal
26 coal issued under that Act, or under the Mineral Leasing Act for Acquired Lands (30
27 U.S.C. 351 et seq.) for any lease of Federal coal that is subject to that Act.

28 (b) TREATMENT OF ROYALTIES TO THE STATE.—The Secretary shall pay to the State
29 of Wyoming 50 percent of the amount of any credit against royalties provided under

1 subsection (a)—

2 (1) in the same manner as if the credit against royalties had been paid in
3 money as royalties and distributed under section 35(a) of the Mineral Leasing Act
4 (30 U.S.C. 193(a)); and

5 (2) from amounts received as royalties, rentals, or bonuses derived from
6 leases issued under this Act that otherwise would be deposited as miscellaneous
7 receipts under section 35(a) of the Mineral Leasing Act (30 U.S.C. 193(a)).

8 **SEC. 247. DENIAL OF USE AS PRECEDENT.**

9 Nothing in this Act shall be applicable to any lease under the Mineral Leasing Act
10 or the Mineral Leasing Act for Acquired Lands for any mineral, or shall be applicable to,
11 or supersede any statutory or common law otherwise applicable in, any proceeding in any
12 Federal or State court involving development of any mineral outside of any common area
13 and within or outside of the Powder River Basin.

14 **SEC. 248. REGULATIONS.**

15 The Secretary shall promulgate any regulations necessary to implement this Act by
16 not later than 120 days after the date of enactment of this Act.

17 **TITLE III — INDIAN ENERGY**

18 **SEC. 301. SHORT TITLE.**

19 This title may be cited as the “Native American Energy Development and Self-
20 Determination Act of 2003”.

21 **SEC. 302. INDIAN ENERGY.**

22 (a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et
23 seq.) is amended to read as follows:

24 **“TITLE XXVI—INDIAN ENERGY**

25 **“SEC. 2601. DEFINITIONS.**

26 “In this title:

27 “(1) The term ‘Commission’ means the Indian Energy Resource
28 Commission established by section 2605.

29 “(2) The term ‘Director’ means the Director of the Office of Indian Energy

1 Policy and Programs.

2 “(3) The term ‘Indian’ means an individual member of an Indian tribe who
3 owns land or an interest in land, the title to which land—

4 “(A) is held in trust by the United States; or

5 “(B) is subject to a restriction against alienation imposed by the
6 United States.

7 “(4) The term ‘Indian land’ means—

8 “(A) any land located within the boundaries of an Indian reservation,
9 pueblo, or rancharia;

10 “(B) any land not located within the boundaries of an Indian
11 reservation, pueblo, or rancharia, the title to which is held—

12 “(i) in trust by the United States for the benefit of an Indian
13 tribe;

14 “(ii) by an Indian tribe, subject to restriction by the United
15 States against alienation; or

16 “(iii) by a dependent Indian community; and

17 “(C) land conveyed to a Native Corporation under the Alaska Native
18 Claims Settlement Act (43 U.S.C. 1601 et seq.).

19 “(5) The term ‘Indian tribe’ has the meaning given the term in section 4 of
20 the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

21 “(6) The term ‘Indian reservation’ includes—

22 “(A) an Indian reservation in existence as of the date of enactment of
23 this paragraph;

24 “(B) a public domain Indian allotment;

25 “(C) a former reservation in the State of Oklahoma;

26 “(D) a parcel of land owned by a Native Corporation under the
27 Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

28 “(E) a dependent Indian community located within the borders of the
29 United States, regardless of whether the community is located—

- 1 “(i) on original or acquired territory of the community; or
2 “(ii) within or outside the boundaries of any particular State.

3 “(7) The term ‘Native Corporation’ has the meaning given the term in
4 section 3 of the Alaska Native Claims Settlement Act
5 (43 U..C. 1602).

6 “(8) The term ‘Program’ means the Indian energy resource development
7 program established under section 2603(a).

8 “(9) The term ‘Secretary’ means the Secretary of Energy.

9 “(10) The term ‘tribal consortium’ means an organization that—

10 “(A) consists of at least 2 Indian tribes and at least 2 other entities;

11 and

12 “(B) is organized for the purpose of developing energy resources.

13 “(11) The term ‘vertical integration’ means a project or activity that
14 promotes the location and operation of facilities on Indian land to process, refine,
15 generate electricity from or otherwise use energy resources developed on Indian
16 land, including transportation or transmission.

17 **“SEC. 2602. INDIAN ENERGY RESOURCE DEVELOPMENT ASSISTANCE.**

18 “(a) GRANTS AND LOANS.—To assist Indian tribes and tribal consortia in the
19 management and development of energy resources, the Secretary may —

20 “(1) provide grants to assist in developing or obtaining the managerial and
21 technical capacity needed to develop energy resources located on Indian land;

22 “(2) provide grants to assist in carrying out projects to promote the vertical
23 integration of energy resources located on Indian land, and to process, use, or
24 develop those energy resources; and

25 “(3) provide low-interest loans to Indian tribes and tribal consortia to
26 promote energy resource development and vertical integration of energy resources
27 located on Indian land.

28 “(b) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide to Indian
29 tribes and tribal consortia, on an annual basis, grants for use in the development and

1 maintenance of an inventory of energy resources, preparation of feasibility and engineering
2 studies, training of employees, and developing, administering, implementing, and
3 enforcing tribal laws (including regulations) governing the development and management
4 of energy resources on Indian land. The Secretary of the Interior, the Attorney General of
5 the United States and the heads of other federal agencies and departments shall provide on
6 a reimbursable or to the extent otherwise authorized on a non-reimbursable basis such
7 technical or other assistance as may be requested by an Indian Tribe in implementing the
8 provisions of this title and in obtaining the necessary expertise to develop, operate, and
9 maintain vertical integration of energy resources either directly, through joint ventures or
10 other commercial enterprises, or by lease or contract.

11 **“SEC. 2603. LEASES INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.**

12 “(a) IN GENERAL.—Notwithstanding any other provision of law and subject to the
13 provisions of this title, an Indian or Indian tribe may —

14 “(1) enter into a lease for the purpose of energy development, including
15 exploration, extraction, processing, or other development of energy resources;

16 “(2) grant a right-of-way for a pipeline or electric transmission or
17 distribution line; and

18 “(3) renew or extend a lease or right-of way.

19 “(b) VALIDITY.—No lease or right-of-way under this section shall be valid unless
20 the lease or right-of-way is authorized in accordance with tribal regulations adopted
21 pursuant to section 2604. A lease or right-of-way granted under approved tribal regulations
22 shall not require the specific approval of the Secretary under section 2103 of the Revised
23 Statutes (25 U.S.C. 81).

24 **“SEC. 2604. TRIBAL REGULATIONS.**

25 “(a) SUBMISSION AND APPROVAL OR DISAPPROVAL OF TRIBAL REGULATIONS.—An
26 Indian tribe may submit to the Secretary for approval tribal regulations governing leases
27 and rights-of-way under this section. Not later than 120 days after the date on which the
28 Secretary receives tribal regulations, the Secretary shall approve or disapprove the
29 regulations unless a later date is agreed to by the tribe and the Secretary. If the Secretary

1 disapproves tribal regulations the Secretary notify the Indian tribe in writing of the basis
2 for the disapproval, identify what changes or other actions are required to address the
3 concerns of the Secretary; and provide the Indian tribe with an opportunity to revise and
4 resubmit the regulations.

5 “(b) REQUIREMENTS.—Prior to approving any regulations, the Secretary shall be
6 satisfied that the Indian tribe has, or will obtain, the ability to administer and enforce the
7 provisions of this title and that the regulations contain provisions to—

8 “(1) ensure the acquisition of necessary information from the applicant for
9 the lease or right-of-way;

10 “(2) limit the term of the lease or conveyance of the right-of-way to thirty
11 years or less;

12 “(3) include procedures for enforcement of the provisions of any lease or
13 right-of-way as well as for termination, suspension, relinquishment, amendments
14 and renewals;

15 “(4) address consideration, including in the case of tribal regulations or a
16 lease or right-of-way that permit payment to be made directly to the Indian tribe,
17 documentation of those payments sufficient to enable the Secretary to discharge the
18 trust responsibility of the United States as appropriate under applicable law;

19 “(5) establish requirements for environmental review in accordance with
20 subsection (c) and ensure compliance with all applicable environmental laws;

21 “(6) identify final approval authority;

22 “(7) provide for public notification of final approvals, including providing
23 the Secretary with a copy of the lease or right-of-way document (including all
24 amendments to and renewals of the document); and

25 “(8) establish a process for consultation with any affected States concerning
26 potential off-reservation impacts associated with the lease or right-of-way.

27 “(c) ENVIRONMENTAL REVIEW PROCESS.—Tribal regulations shall establish, and
28 include provisions to ensure compliance with, an environmental review process that
29 identifies and evaluates significant environmental effects as well as mitigation alternatives

1 and provides a process for public information and opportunity to comment on any proposed
2 lease or right-of-way before tribal approval of the lease or right-of-way (or any amendment
3 to or renewal of a lease or right-of-way);

4 “(d) PUBLIC COMMENT.—The Secretary may provide notice and opportunity for
5 public comment on tribal regulations prior to approval or disapproval.

6 “(e) NO UNITED STATES LIABILITY.—The United States shall not be liable for any
7 loss or injury sustained by any party (including an Indian tribe or any member of an Indian
8 tribe) to a lease or right-of-way executed in accordance with tribal regulations approved
9 under this subsection.

10 “(f) PROCEDURES FOR REVIEW OF COMPLIANCE WITH REGULATIONS.—Any person
11 may petition the Secretary for review of compliance by an Indian tribe with approved
12 regulations. The Secretary shall issue regulations setting forth procedures for submission
13 of petitions, review and comment by the Indian tribe and other interested parties,
14 determination by the Secretary, and appeals from the determination. The regulations shall
15 require that any petition be filed in a timely manner and only after tribal remedies are
16 exhausted. The Secretary shall make a determination on a petition within 60 days of the
17 date when the petition is filed. If the Secretary determines that an Indian tribe is not in
18 compliance with tribal regulations, the Secretary shall notify the Indian tribe in writing of
19 the nature of the violation and the actions that the Indian tribe would need to take to
20 comply with the regulations. In the event that the Indian tribe does not take such action,
21 the Secretary may rescind or suspend a lease or right-of-way or revoke the approval of the
22 tribal regulations.

23 “(g) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of
24 any provision of—

25 “(1) the Act of May 11, 1938 (commonly known as the “Indian Mineral
26 Leasing Act of 1938”) (25 U.S.C. 396a et seq.);

27 “(2) the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.);

28 “(3) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.
29 1201 et seq.); or

1 “(4) any Federal environmental law.

2 **“SEC. 2605. INDIAN ENERGY RESOURCE COMMISSION.**

3 “(a) ESTABLISHMENT.—There is established a commission to be known as the
4 ‘Indian Energy Resource Commission’.

5 “(b) MEMBERS.—The Commission shall consist of 17 Members appointed by the
6 Secretary of the Interior who will designate one as Chair—

7 “(1) 8 members based on recommendations submitted by Indian tribes with
8 energy resources, at least 4 of whom shall be elected tribal leaders;

9 “(2) 3 members based on recommendations submitted by the Governors of
10 States with Indian land with energy resources:

11 “(3) 2 members from the private sector with expertise in tribal and State
12 taxation of energy resources;

13 “(4) 2 members with expertise in oil and gas royalty management
14 administration, including auditing and accounting; and

15 “(5) 2 members from the private sector with expertise in energy
16 development.

17 “(c) COMPENSATION.—A member of the Commission who is not an officer or
18 employee of the Federal Government shall be compensated at a rate equal to the daily
19 equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule
20 under section 5315 of title 5, United States Code, for each day (including travel time)
21 during which the member is engaged in the performance of the duties of the Commission.
22 A member of the Commission who is an officer or employee of the Federal Government
23 shall serve without compensation in addition to the compensation received for the services
24 of the member as an officer or employee of the Federal Government.

25 “(d) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel
26 expenses, including per diem in lieu of subsistence, at rates authorized for an employee of
27 an agency under subchapter I of chapter 57 of title 5, United States Code, while away from
28 the home or regular place of business of the member in the performance of the duties of the
29 Commission.

1 “(e) STAFF AND ADMINISTRATIVE EXPENSES.—The Secretary of Interior and the
2 Secretary of Energy shall enter into a memorandum of understanding to provide for all
3 staff, office, and administrative requirements of the Commission.

4 “(f) DUTIES OF COMMISSION.—The Commission shall—

5 “(1) develop proposals to address dual taxation by Indian tribes and States
6 of the extraction of energy minerals on Indian land;

7 “(2) make recommendations to improve the management, administration,
8 accounting, and auditing of royalties associated with the production of energy
9 minerals on Indian land;

10 “(3) develop alternatives for the collection and distribution of royalties
11 associated with the production of energy minerals on Indian land;

12 “(4) develop proposals for incentives to foster the development of energy
13 resources on Indian land;

14 “(5) identify barriers or obstacles to the development of energy resources on
15 Indian land, and make recommendations designed to foster the development of
16 energy resources on Indian land, in order to promote economic development;

17 “(6) develop proposals for the promotion of vertical integration of energy
18 resources on Indian land; and

19 “(7) develop proposals on taxation incentives to foster the development of
20 energy resources on Indian land, including consideration of investment tax credits
21 and enterprise zone credits.

22 “(g) REPORT.—Not later than 2 years after funds are made available for the
23 Commission, the Commission shall submit to the President of the United States, the
24 Speaker of the United States House of Representatives, and the President of the United
25 States Senate, a report that describes the proposals, recommendations, and alternatives
26 adopted by the Commission. Before submitting the report, the Chair of the Commission
27 shall provide to each interested Indian tribe and each State with Indian land with energy
28 resources, a draft of the report for review and comment.

29 “(h) TERMINATION.—The Commission shall terminate 30 days after the date when

1 the report is submitted.

2 **“SEC. 2606. ENERGY EFFICIENCY AND STRUCTURES ON INDIAN LAND.**

3 “(a) TECHNICAL ASSISTANCE.—The Secretary of Housing and Urban Development,
4 in cooperation with Indian tribes or tribally-designated housing entities of Indian tribes,
5 shall provide technical assistance to initiate and expand the use of energy-saving
6 technologies in new home construction and housing rehabilitation on Indian land to
7 nonprofit and community organizations.

8 “(b) REVIEW.—The Secretary of Housing and Urban Development and the
9 Secretary of the Interior, in consultation with Indian tribes or tribally-designated housing
10 entities of Indian tribes, shall review regulations promulgated by the Secretary of Housing
11 and Urban Development and the Secretary of the Interior to identify measures to promote
12 greater use of energy efficient technologies in housing for which Federal assistance is
13 provided under the Native American Housing Assistance and Self-Determination Act of
14 1996 (25 U.S.C. 4101 et seq.) and develop energy efficiency and conservation measures for
15 use in connection with housing located on Indian land.

16 **“SEC. 2607. INDIAN MINERAL DEVELOPMENT REVIEW BY SECRETARY OF THE**
17 **INTERIOR.**

18 “The Secretary of the Interior, in consultation with the Secretary of Energy, shall
19 review all activities being conducted under the Indian Mineral Development Act of 1982
20 (25 U.S.C. 2101 et seq.) and not later than January 1, 2005 shall submit to the House of
21 Representatives of the United States and the United States Senate a report that includes the
22 results of the review and any recommendations to ensure that Indian tribes have the
23 opportunity to develop Indian energy resources, including an analysis of barriers to the
24 development of energy resources on Indian land (including legal, fiscal, market, and other
25 barriers) and any recommendations to remove those barriers.

26 **“SEC. 2608. CONSULTATION WITH INDIAN TRIBES.**

27 “In carrying out this title, the Secretary and the Secretary of Interior shall, as
28 appropriate and to the maximum extent practicable, involve and consult with Indian tribes
29 in a manner consistent with the Federal trust and the government-to-government

1 relationships between Indian tribes and the Federal Government.”.

2
3 **“SEC. 2609. TECHNICAL AMENDMENT.**

4 “Section 202(2) of the Native American Housing and Self-Determination Act of
5 1996 (25 U.S.C. 4132(2)) is amended by inserting “improvement to achieve greater energy
6 efficiency,” after “planning.”.

7 **TITLE IV— NUCLEAR MATTERS**

8 **Subtitle A—Price-Anderson Act Amendments**

9 **SEC. 401. SHORT TITLE**

10 This subtitle may be cited as the “Price-Anderson Amendments Act of 2003”.

11 **SEC. 402. EXTENSION OF INDEMNIFICATION AUTHORITY.**

12 (a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION

13 LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is
14 amended—

15 (1) in the subsection heading, by striking “LICENSES” and inserting
16 “LICENSEES”;

17 (2) by striking “licenses issued between August 30, 1954, and December 31,
18 2003” and inserting “licenses issued after August 30, 1954”; and

19 (3) by striking “With respect to any production or utilization facility for
20 which a construction permit is issued between August 30, 1954, and December 31,
21 2003, the requirements of this subsection shall apply to any license issued for such
22 facility subsequent to December 31, 2003.”

23 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section
24 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by
25 striking “, until December 31, 2004,”.

26 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section
27 170k.of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

28 (1) by striking “licenses issued between August 30,1954, and August 1,

1 2002” and replacing it with “licenses issued after August 30, 1954”; and

2 (2) by striking “With respect to any production or utilization facility for
3 which a construction permit is issued between August 30, 1954, and August 1,
4 2002, the requirements of this subsection shall apply to any license issued for such
5 facility subsequent to August 1, 2002.”

6 **SEC. 403. MAXIMUM ASSESSMENT.**

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

8 (1) in the second proviso of the third sentence of subsection b.(1)—

9 (A) by striking “\$63,000,000” and inserting “\$94,000,000”; and

10 (B) by striking “\$10,000,000 in any 1 year” and inserting
11 “\$15,000,000 in any 1 year (subject to adjustment for inflation under
12 subsection t.)”; and

13 (2) in subsection t.(1)—

14 (A) by inserting “total and annual” after “amount of the maximum”;

15 (B) by striking “the date of the enactment of the Price-Anderson
16 Amendments Act of 1988” and inserting “July 1, 2003”; and

17 (C) by striking “such date of enactment” and inserting “July 1,
18 2003”.

19 **SEC. 404. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

20 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.
21 of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph
22 (2) and inserting the following:

23 “(2) In an agreement of indemnification entered into under paragraph (1),
24 the Secretary—

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

29 “(B) shall indemnify the persons indemnified against such liability

1 above the amount of the financial protection required, in the amount of
2 \$10,000,000,000 (subject to adjustment for inflation under subsection t.), in
3 the aggregate, for all persons indemnified in connection with the contract
4 and for each nuclear incident, including such legal costs of the contractor as
5 are approved by the Secretary.”.

6 (b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954
7 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the
8 following—

9 “(3) All agreements of indemnification under which the Department of
10 Energy (or its predecessor agencies) may be required to indemnify any person
11 under this section shall be deemed to be amended, on the date of enactment of the
12 Price-Anderson Amendments Act of 2003, to reflect the amount of indemnity for
13 public liability and any applicable financial protection required of the contractor
14 under this subsection.”.

15 (c) LIABILITY LIMIT.—Section 170e.(1)(B) of the Atomic Energy Act of 1954 (42
16 U.S.C. 2210(e)(1)(B)) is amended by:

17 (1) striking “the maximum amount of financial protection required under
18 subsection b. or”; and

19 (2) striking “paragraph (3) of subsection d., whichever amount is more” and
20 inserting “paragraph (2) of subsection d.”.

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

22 (a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of
23 1954 (42 U.S.C. 2210(d)(5)) is amended by striking “\$100,000,000” and inserting
24 “\$500,000,000”.

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

27 **SEC. 406. REPORTS.**

28 Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended
29 by striking “August 1, 1998” and inserting “August 1, 2013”.

1 **SEC. 407. INFLATION ADJUSTMENT.**

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

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

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

5 “(2) The Secretary shall adjust the amount of indemnification provided under an
6 agreement of indemnification under subsection d. not less than once during each 5-year
7 period following July 1, 2003, in accordance with the aggregate percentage change in the
8 Consumer Price Index since—

9 “(A) that date, in the case of the first adjustment under this paragraph; or

10 “(B) the previous adjustment under this paragraph.”.

11 **SEC. 408. TREATMENT OF MODULAR REACTORS.**

12 Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended
13 by adding at the end the following:

14 “(5)(A) For purposes of this section only, the Commission shall consider a
15 combination of facilities described in subparagraph (B) to be a single facility having a
16 rated capacity of 100,000 electrical kilowatts or more.

17 “(B) A combination of facilities referred to in subparagraph (A) is 2 or more
18 facilities located at a single site, each of which has a rated capacity of 100,000 electrical
19 kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated
20 capacity of not more than 1,300,000 electrical kilowatts.”.

21 **SEC. 409. APPLICABILITY.**

22 The amendments made by sections 403, 404, and 405 do not apply to a nuclear
23 incident that occurs before the date of the enactment of this Act.

24 **SEC. 410. CIVIL PENALTIES.**

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

27 (b) **LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.**—Subsection d. of section
28 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as
29 follows:

1 “d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor,
2 subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may
3 not exceed the total amount of fees paid within any one-year period (as determined by the
4 Secretary) under the contract under which the violation occurs.

5 “(2) For purposes of this section, the term “not-for-profit” means that no part of the
6 net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to
7 the benefit of any natural person or for-profit artificial person.”.

8 (c) EFFECTIVE DATE.—The amendments made by this section shall not apply to
9 any violation of the Atomic Energy Act of 1954 occurring under a contract entered into
10 before the date of enactment of this section.

11 **Subtitle B—Deployment of New Nuclear Plants**

12 **SEC. 421. SHORT TITLE.**

13 This subtitle may be cited as the “Nuclear Energy Finance Act of 2003.”

14 **SEC. 422. DEFINITIONS.**

15 For purposes of this subtitle:

16 (a) The term “eligible project costs” means all costs incurred by a project developer
17 that are reasonably related to the development and construction of a project under this
18 subtitle, including costs resulting from regulatory or licensing delays.

19 (b) The term “financial assistance” means a line of credit, loan guarantee, purchase
20 agreement, secured loan, or any combination of the foregoing.

21 (c) The term “line of credit” means an agreement by the Secretary to provide a
22 direct loan to a project developer at a future date upon the occurrence of certain events
23 designated in the agreement.

24 (d) The term “loan guarantee” means any guarantee or other pledge by the
25 Secretary to pay all or part of the principal and interest on a loan or other debt obligation
26 issued by a project developer and funded by a lender.

27 (e) The term “project” means any commercial nuclear power facility using uranium
28 or mixed oxide fuel as a source of heat for the production of electricity from a single
29 reactor, or multiple modular reactors with total electricity generation capacity at or below

1 1,300,000 kilowatts.

2 (f) The term “project developer” means an individual, corporation, partnership,
3 joint venture, trust, or other entity that is primarily liable for payment of a project’s eligible
4 costs.

5 (g) The term “purchase agreement” means a contract to purchase the electric energy
6 produced by a project under this subtitle.

7 (h) The term “Secretary” means the Secretary of Energy.

8 (i) The term “secured loan” means a direct loan or other debt obligation funded by
9 the Secretary with repayment secured by the value of a project developed under this
10 subtitle.

11 **SEC. 423. RESPONSIBILITIES OF THE SECRETARY.**

12 (a) FINANCIAL ASSISTANCE.—The Secretary may, in accordance with this subtitle,
13 make available to project developers for eligible project costs such financial assistance as
14 the Secretary determines is necessary to supplement private-sector financing for new
15 nuclear power plants if he determines that such plants are needed to contribute to energy
16 security, fuel and technology diversity, or clean air attainment goals. The Secretary shall
17 prescribe such terms and conditions for financial assistance as the Secretary deems
18 necessary or appropriate to protect the interests of the United States.

19 (b) REQUIREMENTS.—Approval criteria for financial assistance shall include:

- 20 (1) the creditworthiness of the project;
21 (2) the extent to which financial assistance would encourage public-private
22 partnerships and attract private-sector investment;
23 (3) the likelihood that financial assistance would hasten commencement of
24 the project; and,
25 (4) any other criteria the Secretary deems necessary or appropriate.

26 (c) LIMITATION.—The total financial assistance per project provided by this
27 subtitle shall not exceed fifty percent of eligible project costs.

28 (d) CONFIDENTIALITY.—The Secretary shall protect the confidentiality of any
29 information that is certified by a project developer to be commercially sensitive.

1 (e) FULL FAITH AND CREDIT.—All financial assistance provided by the Secretary
2 under this subtitle shall be general obligations of the United States backed by its full faith
3 and credit.

4 **SEC. 424. REGULATIONS**

5 Not later than 12 months from the date of enactment of this Act, the Secretary shall
6 issue regulations to implement this subtitle.

7 **Subtitle C—Advanced Reactor Hydrogen**
8 **Co-Generation Project**

9 **SEC. 431. PROJECT ESTABLISHMENT.**

10 The Secretary is directed to establish an Advanced Reactor Hydrogen Co-
11 Generation Project.

12 **SEC. 432. PROJECT DEFINITION.**

13 The project shall conduct the research, development, design, construction, and
14 operation of a hydrogen production co-generation system that, relative to the current
15 commercial reactors, enhances safety features, reduces waste production, enhances thermal
16 efficiencies, increases proliferation resistance, and has the potential for improved
17 economics and physical security in reactor siting.

18 **SEC. 433. PROJECT MANAGEMENT.**

19 (a) The project shall be managed within the Department by the Office of Nuclear
20 Energy Science and Technology.

21 (b) The lead laboratory for the program, providing the site for the reactor
22 construction, shall be the Idaho National Engineering and Environmental Laboratory
23 (“INEEL”).

24 (c) The Secretary shall establish a national steering committee with membership
25 from the national laboratories, universities, and industry to provide advice to the Secretary
26 and the Director of the Office of Nuclear Energy, Science and Technology on technical and
27 program management aspects of the project.

28 (d) Project activities shall be conducted at INEEL, other national laboratories,

1 universities, domestic industry, and international partners.

2 **SEC. 434. PROJECT REQUIREMENTS**

3 (a) The project shall include planning, research and development, design, and
4 construction of an advanced, next-generation, nuclear energy system for the co-generation
5 of electricity and hydrogen.

6 (1) The project shall utilize, where appropriate, extensive reactor test
7 capabilities resident at INEEL.

8 (2) The project shall be designed to explore technical, environmental, and
9 economic feasibility of alternative approaches for reactor-based hydrogen
10 production.

11 (3) The industrial lead for the project must be a United States-based
12 company.

13 (b) The Secretary shall seek international cooperation, participation, and financial
14 contribution in this program.

15 (1) The project may contract for assistance from specialists or facilities from
16 member countries of the Generation IV International Forum, the Russian
17 Federation, or other international partners where such specialists or facilities
18 provide access to cost-effective and relevant skills or test capabilities.

19 (2) International activities shall be coordinated with the Generation IV
20 International Forum.

21 (3) The Secretary may combine this project with the Generation IV Nuclear
22 Energy Systems Program.

23 (c) The overall project, which may involve demonstration of selected project
24 objectives in a partner nation, must demonstrate both electricity and hydrogen production
25 and may provide flexibility, where technically and economically feasible in the design and
26 construction, to enable tests of alternative reactor core and cooling configurations.

27 (d) The Secretary shall establish cost-shared partnerships with domestic industry or
28 international participants for the research, development, design, construction and operation
29 of the demonstration facility, and preference in determining the final project structure shall

1 be given to an overall project which retains United States leadership while maximizing cost
2 sharing opportunities and minimizing federal funding responsibilities.

3 (e) The Secretary shall select technologies and develop the project to provide initial
4 testing of either hydrogen production or electricity generation by 2010 or provide a report
5 to Congress why this date is not feasible.

6 (f) The Secretary is authorized to conduct the Advanced Reactor Hydrogen Co-
7 Generation Project without the constraints of DOE Order 413.3 as deemed necessary to
8 meet the specified operational date.

9 (g) The Secretary may fund up to two teams for up to one year to develop detailed
10 proposals for competitive evaluation and selection of a single proposal and concept for
11 further progress. The Secretary shall define the format of the competitive evaluation of
12 proposals.

13 (h) Research facilities in industry, national laboratories, or universities either within
14 the United States or with cooperating international partners may be used to develop the
15 enabling technologies for the demonstration facility. Utilization of domestic
16 university-based testbeds shall be encouraged to provide educational opportunities for
17 student development.

18 (i) The Secretary shall seek active participation of the Nuclear Regulatory
19 Commission throughout the project to develop risk-based criteria for any future
20 commercial development of a similar reactor architecture.

21 (j) A comprehensive project plan shall be developed no later than April 30, 2004.
22 The project plan shall be updated annually with each annual budget submission.

23 **SEC. 435. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) RESEARCH, DEVELOPMENT AND DESIGN PROGRAMS.— The following sums are
25 authorized to be appropriated to the Secretary for all activities under this subtitle except for
26 reactor construction:

27 (1) For fiscal year 2004, \$35,000,000;

28 (2) For each of fiscal years 2005-2008, \$150,000,000; and

29 (3) For fiscal years beyond 2008, such funds as are needed are authorized to

1 be appropriated.

2 (b) REACTOR CONSTRUCTION.—The following sum is authorized to be appropriated
3 to the Secretary for all project-related construction activities, to be available until
4 expended, \$500,000,000.

5 **Subtitle D—Miscellaneous Matters**

6 **SEC. 441. EMISSION-FREE CONTROL MEASURES UNDER A STATE IMPLEMENTATION** 7 **PLAN.**

8 (a) DEFINITIONS.—In this subtitle—

9 (1) The term “criteria air pollutant” means a pollutant listed under section
10 108(a) of the Clean Air Act (42 U.S.C. 7408(a)).

11 (2) The term “emission-free electricity source” means—

12 (A) a facility that generates electricity without emitting criteria
13 pollutants as a result of onsite operations of the facility; and

14 (B) a facility that generates electricity using nuclear fuel that meets
15 all applicable standards for radiological emissions under section 112 of the
16 Clean Air Act (42 U.S.C. 7412).

17 (3) The term “hazardous pollutant” has the meaning given the term in
18 section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

19 (4) The term “improvement in availability” means an increase in the amount
20 of electricity produced by an emission-free electricity source that provides, or has
21 the potential to provide, a commensurate reduction in output from emitting sources.

22 (5) The term “increased emission-free capacity project” means a project to
23 construct an emission-free electricity source or increase the rated capacity of an
24 existing emission-free electricity source.

25 (b) TREATMENT OF CERTAIN STATE ACTIONS AS CONTROL MEASURES.—An action
26 taken by a State to support the continued operation of an emission-free electricity source or
27 to support an improvement in availability or an increased emission-free capacity project
28 shall be considered to be a control measure for the purposes of section 110(a) of the Clean
29 Air Act (42 U.S.C. 7410(a)).

1 (c) ECONOMIC INCENTIVE PROGRAMS.—Emissions of criteria air pollutants or
2 hazardous pollutants prevented or avoided by an improvement in availability or the
3 operation of increased emission-free capacity shall be eligible for, and may not be excluded
4 from, incentive programs used as control measures, including programs authorizing
5 emission trades, revolving loan funds, tax benefits, and special financing programs.

6 **SEC. 442. URANIUM SALES AND TRANSFERS.**

7 Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h-10) is amended by
8 striking subsections (d) and (e) and inserting the following:

9 “(d)(1)(A) The aggregate annual deliveries of uranium in any form (including
10 natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and
11 depleted uranium) sold or transferred for commercial nuclear power end uses by the United
12 States Government shall not exceed 3,000,000 pounds U₃O₈ equivalent per year through
13 calendar year 2009. Such aggregate annual deliveries shall not exceed 5,000,000 pounds
14 U₃O₈ equivalent per year in calendar years 2010 and 2011. Such aggregate annual
15 deliveries shall not exceed 7,000,000 pounds U₃O₈ equivalent in calendar year 2012. Such
16 aggregate annual deliveries shall not exceed 10,000,000 pounds U₃O₈ equivalent per year
17 in calendar year 2013 and each year thereafter. Any sales or transfers by the United States
18 Government to commercial end users shall be limited to long-term contracts of no less than
19 3 years duration.

20 “(B) The recovery and extraction of the uranium component from contaminated
21 uranium bearing materials from United States Government sites by commercial entities
22 shall be the preferred method of making uranium available under this subsection. The
23 uranium component contained in such contaminated materials shall be counted against the
24 annual maximum deliveries set forth in this section, provided that uranium is sold to end
25 users.

26 “(C) Sales or transfers of uranium by the United States Government for the
27 following purposes are exempt from the provisions of this subsection—

28 “(i) sales or transfers provided for under existing law for use by the
29 Tennessee Valley Authority in relation to the Department of Energy's high-enriched

1 uranium or tritium programs;

2 “(ii) sales or transfers to the Department of Energy research reactor sales
3 program;

4 “(iii) the transfer of up to 3,293 metric tons of uranium to the United States
5 Enrichment Corporation to replace uranium that the Secretary transferred, prior to
6 privatization of the United States Enrichment Corporation in July 1998, to the
7 Corporation on or about June 30, 1993, April 20, 1998, and May 18, 1998, and that
8 does not meet commercial specifications;

9 “(iv) the sale or transfer of any natural uranium for emergency purposes in
10 the event of a disruption in supply to end users in the United States;

11 “(v) the sale or transfer of any natural uranium in fulfillment of the United
12 States Government’s obligations to provide security of supply with respect to
13 implementation of the Russian HEU Agreement; and

14 “(vi) the sale or transfer of any enriched uranium for use in an advanced
15 commercial nuclear power plant in the United States with nonstandard fuel
16 requirements.

17 “(D) The Secretary may transfer or sell enriched uranium to any person for national
18 security purposes, as determined by the Secretary.

19 “(2) Except as provided in subsections (b) and (c), and in paragraph (1)(B) and (C)
20 of this subsection, no sale or transfer of uranium in any form shall be made by the United
21 States Government unless—

22 “(A) the President determines that the material is not necessary for national
23 security needs;

24 “(B) the price paid to the Secretary will not be less than the fair market
25 value of the material, as determined at the time that such material is contracted for
26 sale;

27 “(C) prior to any sale or transfer, the Secretary solicits the written views of
28 the Department of State and the National Security Council with regard to whether
29 such sale or transfer would have any adverse effect on national security interests of

1 the United States, including interests related to the implementation of the Russian
2 HEU Agreement; and

3 “(D) neither the Department of State nor the National Security Council
4 objects to such sale or transfer.

5 The Secretary shall endeavor to determine whether a sale or transfer is permitted under this
6 paragraph within 30 days. The Secretary’s determinations pursuant to this paragraph shall
7 be made available to interested members of the public prior to authorizing any such sale or
8 transfer.

9 “(3) Within 1 year after the date of enactment of this subsection and annually
10 thereafter the Secretary shall undertake an assessment for the purpose of reviewing
11 available excess Government uranium inventories, and determining, consistent with the
12 procedures and limitations established in this subsection, the level of inventory to be sold
13 or transferred to end users.

14 “(4) Within 5 years after the date of enactment of this subsection and biennially
15 thereafter the Secretary shall report to the Congress on the implementation of this
16 subsection. The report shall include a discussion of all sales or transfers made by the
17 United States Government, the impact of such sales or transfers on the domestic uranium
18 industry, the spot market uranium price, and the national security interests of the United
19 States, and any steps taken to remediate any adverse impacts of such sales or transfers.

20 “(5) For purposes of this subsection, the term ‘United States Government’ does not
21 include the Tennessee Valley Authority.”

22 **TITLE V—RENEWABLE ENERGY**

23 **Subtitle A—General Provisions**

24 **SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.**

25 (a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment
26 of this title, and each year thereafter, the Secretary of Energy shall review the available
27 assessments of renewable energy resources within the United States, including solar, wind,
28 biomass, ocean, geothermal, and hydroelectric energy resources, and undertake new

1 assessments as necessary, taking into account changes in market conditions, available
2 technologies, and other relevant factors.

3 (b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of
4 this title, and each year thereafter, the Secretary shall publish a report based on the
5 assessment under subsection (a). The report shall contain—

6 (1) a detailed inventory describing the available amount and characteristics
7 of the renewable energy resources; and

8 (2) such other information as the Secretary believes would be useful in
9 developing such renewable energy resources, including descriptions of surrounding
10 terrain, population and load centers, nearby energy infrastructure, location of
11 energy and water resources, and available estimates of the costs needed to develop
12 each resource, together with an identification of any barriers to providing adequate
13 transmission for remote sources of renewable energy resources to current and
14 emerging markets, recommendations for removing or addressing such barriers, and
15 ways to provide access to the grid that do not unfairly disadvantage renewable or
16 other energy producers.

17 (c) AUTHORIZATION OF APPROPRIATIONS.— For the purposes of this section, there
18 are authorized to be appropriated to the Secretary of Energy \$20,000,000 for each of fiscal
19 years 2004 through 2008.

20 **SEC. 502. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

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

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

29 (2) in subsection (b) —

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

9 (B) by inserting “landfill gas,” after “wind, biomass.”;

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

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

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

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

19 (7) in subsection (g) —

20 (A) by striking “1993, 1994, and 1995” and inserting “2003 through
21 2023”; and

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

25 **SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.**

26 (a) REPORT.—Within 24 months after the date of enactment of this Act, the
27 Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall develop
28 and report to the Congress recommendations on opportunities to develop renewable energy
29 on public lands under the jurisdiction of the Secretary of the Interior and National Forest

1 System lands under the jurisdiction of the Secretary of Agriculture. The report shall
2 include—

3 (1) 5-year plans developed by the Secretary of the Interior and the Secretary
4 of Agriculture, respectively, for encouraging the development of renewable energy
5 consistent with applicable law and management plans; and

6 (2) an analysis of—

7 (A) the use of rights-of-way, leases, or other methods to develop
8 wind and solar energy on such lands;

9 (B) the anticipated benefits of grants, loans, tax credits, or other
10 provisions to promote wind and solar energy development on such lands;
11 and

12 (C) any issues that the Secretary of the Interior or the Secretary of
13 Agriculture have encountered in managing renewable energy projects on
14 such lands, or believe are likely to arise in relation to the development of
15 renewable energy on such lands;

16 (3) a list, developed in consultation with the Secretary of Energy and the
17 Secretary of Defense, of lands under the jurisdiction of the Department of Energy
18 or Defense that would be suitable for development for renewable energy, and any
19 recommended statutory and regulatory mechanisms for such development; and

20 (4) any recommendations pertaining to the issues addressed in the report.

21 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

22 (1) Not later than 90 days after the date of the enactment of this section, the
23 Secretary of the Interior shall contract with the National Academy of Sciences to—

24 (A) study the potential for the development of wind, solar, and ocean
25 energy on the Outer Continental Shelf;

26 (B) assess existing Federal authorities for the development of such
27 resources; and

28 (C) recommend statutory and regulatory mechanisms for such
29 development.

1 (2) The results of the study shall be transmitted to the Congress within 24
2 months after the date of the enactment of this section.

3 **SEC. 504. FEDERAL PURCHASE REQUIREMENT.**

4 (a) REQUIREMENT.— The President, acting through the Secretary of Energy, shall
5 seek to ensure that, to the extent economically feasible and technically practicable, of the
6 total amount of electric energy the Federal Government consumes during any fiscal year,
7 the following amounts shall be renewable energy—

8 (1) not less than 3 percent in fiscal years 2005 through 2007,

9 (2) not less than 5 percent in fiscal years 2008 through 2010, and

10 (3) not less than 7.5 percent in fiscal year 2011 and each fiscal year

11 thereafter,

12 (b) DEFINITION.— For purposes of this section, the term “renewable energy” means
13 electric energy generated from solar, wind, biomass, geothermal, municipal solid waste, or
14 additional hydroelectric generation capacity achieved from increased efficiency or
15 additions of new capacity.

16 (c) CALCULATION.— For purposes of determining compliance with the requirement
17 of this section, the amount of renewable energy shall be doubled if —

18 (1) the renewable energy is produced and used on-site at a Federal facility;

19 (2) the renewable energy is produced on Federal lands and used at a Federal
20 facility; or

21 (3) the renewable energy is produced on Indian land as defined in Title
22 XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et. seq.) and used at a
23 Federal facility.

24 (d) REPORT.— Not later than April 15, 2005, and every 2 years thereafter, the
25 Secretary of Energy shall provide a report to the Congress on the progress of the Federal
26 Government in meeting the goals established by this section.

27 **Subtitle B—Hydroelectric Licensing**

28 **SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.**

29 (a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C.

1 797(e)) is amended by inserting after “adequate protection and utilization of such
2 reservation.” at the end of the first proviso the following:

3 “The license applicant shall be entitled to a determination on the record,
4 after opportunity for an agency trial-type hearing of any disputed issues of material
5 fact, with respect to such conditions.”.

6 (b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended
7 by inserting after “and such fishways as may be prescribed by the Secretary of Commerce.”
8 the following: “The license applicant shall be entitled to a determination on the record,
9 after opportunity for an agency trial-type hearing of any disputed issues of material fact,
10 with respect to such fishways.”.

11 (c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power
12 Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end
13 thereof:

14 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

15 “(a) ALTERNATIVE CONDITIONS.—

16 “(1) Whenever any person applies for a license for any project works within
17 any reservation of the United States, and the Secretary of the Department under
18 whose supervision such reservation falls (referred to in this subsection as ‘the
19 Secretary’) deems a condition to such license to be necessary under the first proviso
20 of section 4(e), the license applicant may propose an alternative condition.

21 “(2) Notwithstanding the first proviso of section 4(e), the Secretary shall
22 accept the proposed alternative condition referred to in paragraph (1), and the
23 Commission shall include in the license such alternative condition, if the Secretary
24 determines, based on substantial evidence provided by the license applicant or
25 otherwise available to the Secretary, that such alternative condition –

26 “(A) provides for the adequate protection and utilization of the reservation;
27 and

28 “(B) will either—

29 “(i) cost less to implement; or

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

4 “(3) The Secretary concerned shall submit into the public record of the
5 Commission proceeding with any condition under section 4(e) or alternative
6 condition it accepts under this section, a written statement explaining the basis for
7 such condition, and reason for not accepting any alternative condition under this
8 section. The written statement must demonstrate that the Secretary gave equal
9 consideration to the effects of the condition adopted and alternatives not accepted
10 on energy supply, distribution, cost, and use; flood control; navigation; water
11 supply; and air quality (in addition to the preservation of other aspects of
12 environmental quality); based on such information as may be available to the
13 Secretary, including information voluntarily provided in a timely manner by the
14 applicant and others. The Secretary shall also submit, together with the
15 aforementioned written statement, all studies, data, and other factual information
16 available to the Secretary and relevant to the Secretary’s decision.

17 “(4) Nothing in this section shall prohibit other interested parties from
18 proposing alternative conditions.

19 “(5) If the Secretary does not accept an applicant’s alternative condition
20 under this section, and the Commission finds that the Secretary’s condition would
21 be inconsistent with the purposes of this part, or other applicable law, the
22 Commission may refer the dispute to the Commission’s Dispute Resolution
23 Service. The Dispute Resolution Service shall consult with the Secretary and the
24 Commission and issue a non-binding advisory within 90 days. The Secretary may
25 accept the Dispute Resolution Service advisory unless the Secretary finds that the
26 recommendation will not adequately protect the reservation. The Secretary shall
27 submit the advisory and the Secretary’s final written determination into the record
28 of the Commission’s proceeding.

29 “(b) ALTERNATIVE PRESCRIPTIONS.—

1 (1) Whenever the Secretary of the Interior or the Secretary of Commerce
2 prescribes a fishway under section 18, the license applicant or licensee may propose
3 an alternative to such prescription to construct, maintain, or operate a fishway. The
4 alternative may include a fishway or an alternative to a fishway.

5 “(2) Notwithstanding section 18, the Secretary of the Interior or the
6 Secretary of Commerce, as appropriate, shall accept and prescribe, and the
7 Commission shall require, the proposed alternative referred to in paragraph (1), if
8 the Secretary of the appropriate department determines, based on substantial
9 evidence provided by the licensee or otherwise available to the Secretary, that such
10 alternative—

11 “(A) will be no less protective of the fish resources than the fishway
12 initially prescribed by the Secretary; and

13 “(B) will either—

14 “(i) cost less to implement; or

15 “(ii) result in improved operation of the project works for
16 electricity production, as compared to the fishway initially deemed
17 necessary by the Secretary.

18 “(3) The Secretary concerned shall submit into the public record of the
19 Commission proceeding with any prescription under section 18 or alternative
20 prescription it accepts under this section, a written statement explaining the basis
21 for such prescription, and reason for not accepting any alternative prescription
22 under this section. The written statement must demonstrate that the Secretary gave
23 equal consideration to the effects of the condition adopted and alternatives not
24 accepted on energy supply, distribution, cost, and use; flood control; navigation;
25 water supply; and air quality (in addition to the preservation of other aspects of
26 environmental quality); based on such information as may be available to the
27 Secretary, including information voluntarily provided in a timely manner by the
28 applicant and others. The Secretary shall also submit, together with the
29 aforementioned written statement, all studies, data, and other factual information

1 available to the Secretary and relevant to the Secretary's decision.

2 “(4) Nothing in this section shall prohibit other interested parties from
3 proposing alternative prescriptions.

4 “(5) If the Secretary concerned does not accept an applicant's alternative
5 prescription under this section, and the Commission finds that the Secretary's
6 prescription would be inconsistent with the purposes of this part, or other applicable
7 law, the Commission may refer the dispute to the Commission's Dispute Resolution
8 Service. The Dispute Resolution Service shall consult with the Secretary and the
9 Commission and issue a non-binding advisory within 90 days. The Secretary may
10 accept the Dispute Resolution Service advisory unless the Secretary finds that the
11 recommendation will not adequately protect the fish resources. The Secretary shall
12 submit the advisory and the Secretary's final written determination into the record
13 of the Commission's proceeding.”.

14 **Subtitle C—Geothermal Energy**

15 **SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.**

16 (a) IN GENERAL.— Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C.
17 1003) is amended by adding at the end the following:

18 “(g) NOMINATIONS.—The Secretary shall accept nominations at any time
19 from qualified companies and individuals of areas to be leased under this Act.

20 “(h) COMPETITIVE LEASE SALE REQUIRED.— The Secretary shall hold a
21 competitive lease sale at least once every 2 years for lands in a State in which there
22 are nominations pending under subsection (g).

23 “(i) NONCOMPETITIVE LEASING.—The Secretary shall make available for a
24 period of 2 years for noncompetitive leasing any tract for which a competitive lease
25 sale is held, but for which the Secretary does not receive any bids in the competitive
26 lease sale.”.

27 (b) PENDING LEASE APPLICATIONS.— It shall be a priority for the Secretary of the
28 Interior and, with respect to National Forest lands, the Secretary of Agriculture, to insure

1 timely completion of administrative actions necessary to conduct competitive lease sales
2 for areas with pending applications for geothermal leasing as of the date of enactment of
3 this section.

4 **SEC. 522. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.**

5 (a) IN GENERAL.— Not later than 180 days after the date of the enactment of this
6 section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and
7 submit to the Congress a memorandum of understanding in accordance with this section
8 regarding leasing and permitting for geothermal development of public lands under their
9 respective jurisdictions.

10 (b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding
11 shall—

12 (1) identify known geothermal areas on public lands within the National
13 Forest System and, when necessary, require review of management plans to
14 consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)
15 as a land use;

16 (2) provide that the Secretary receiving a lease application shall within 30
17 days provide written notice to the lease applicant regarding the status of the
18 application, including an estimate of the time that will be required to complete
19 action on the application; and

20 (3) establish an administrative procedure for processing geothermal lease
21 applications, including lines of authority, steps in application processing, and time
22 limits for application processing.

23 (c) DATA RETRIEVAL SYSTEM.— The memorandum of understanding shall
24 establish a joint data retrieval system that is capable of tracking lease and permit
25 applications and providing to the applicant information as to their status within the
26 Departments of the Interior and Agriculture, including an estimate of the time required for
27 administrative action.

28 **SEC. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY**
29 **PURPOSES.**

1 Not later than 1 year after the date of the enactment of this Act, the Secretary of the
2 Interior and the Secretary of Defense, in consultation with interested states, counties and
3 representatives of the geothermal industry, shall jointly submit to the Congress a report
4 concerning leasing and permitting activities for geothermal energy on Federal lands
5 withdrawn for military purposes. Such report shall —

6 (1) describe any differences, including differences in royalty structure and
7 revenue sharing with states and counties, between—

8 (A) the implementation of the Geothermal Steam Act of 1970 (30
9 U.S.C. 1001 et seq.) and other applicable Federal law by the Secretary of the
10 Interior; and

11 (B) the administration of geothermal leasing under Section 2689 of
12 title 10, United States Code, by the Secretary of Defense;

13 (2) identify procedures for interagency coordination to ensure efficient
14 processing and administration of leases or contracts for geothermal energy on
15 federal lands withdrawn for military purposes, consistent with the defense purposes
16 of such withdrawals; and

17 (3) provide recommendations for legislative or administrative actions that
18 could facilitate program administration, including a common royalty structure.

19 **SEC. 524. REINSTATEMENT OF LEASES TERMINATED FOR FAILURE TO PAY RENT.**

20 (a) **LEASE REINSTATEMENT.**—Section 5(c) of the Geothermal Steam Act of 1970
21 (30 U.S.C. 1004), is amended in the last sentence by inserting “or was inadvertent,” after
22 “reasonable diligence,”.

23 (b) **EFFECTIVE DATE.**—This statute, as amended, shall be applicable retroactively to
24 any geothermal lease with a rental payment due after October 1, 2002.

25 **SEC. 525. REVIEW AND REPORT TO CONGRESS.**

26 Not later than 1 year after the date of enactment of this section, the Secretary of the
27 Interior shall promptly review and report to the Congress on the status of all moratoria on
28 and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et
29 seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act

1 (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or
2 withdrawal still applies.

3 **SEC. 526. ROYALTY REDUCTION AND RELIEF.**

4 (a) **ROYALTY REDUCTION.**— Section 5(a) of the Geothermal Steam Act of 1970 (30
5 U.S.C. 1004(a)) is amended by striking “not less than 10 per centum or more than 15 per
6 centum” and inserting “not more than 8 per centum”.

7 (b) **ROYALTY RELIEF.**— Notwithstanding section 5 of the Geothermal Steam Act of
8 1970 (30 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is
9 required to be paid —

10 (1) under any qualified geothermal energy lease with respect to the first
11 three years of commercial production of heat or energy from a facility that begins
12 such production within 5 years after the date of the enactment of this subtitle; or

13 (2) on qualified expansion geothermal energy.

14 (c) **EFFECTIVE DATE.**— The provisions of this section shall apply only to royalties
15 paid after the date of enactment of this section with respect to any lease executed under the
16 Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before, on, or after the date of
17 enactment of this section.

18 (d) **DEFINITIONS.**—In this section:

19 (1) The term “qualified expansion geothermal energy” means geothermal
20 energy produced from a generation facility for which the rated capacity is increased
21 by more than 10 percent as a result of expansion of the facility carried out in the
22 5-year period beginning on the date of the enactment of this subtitle but does not
23 include the rated capacity of the generation facility on the date of the enactment of
24 this section.

25 (2) The term “qualified geothermal energy lease” means a lease under the
26 Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) that is executed within 5
27 years after the date of the enactment of this subtitle, and under which no
28 commercial production of any form of heat or energy occurred before the date of
29 the enactment of this subtitle.

1 **SEC. 527. ROYALTY EXEMPTION FOR DIRECT USE OF LOW TEMPERATURE**
2 **GEOHERMAL ENERGY RESOURCES.**

3 (a) ROYALTY EXEMPTION.—Section 5 of the Geothermal Steam Act of 1970 (30
4 U.S.C. 1004) is amended—

5 (1) in paragraph (c), by redesignating subparagraphs (1) and (2) as
6 subparagraphs (A) and (B);

7 (2) by redesignating paragraphs (a) through (d) in order as paragraphs (1)
8 through (4);

9 (3) by inserting ‘(a) IN GENERAL.—’ after ‘SEC. 5.’; and

10 (4) by adding at the end the following new subsection:

11 “(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

12 “(1) IN GENERAL.—In lieu of any royalty or rental under
13 subsection (a), a lease for qualified development and direct
14 utilization of low temperature geothermal resources shall provide for
15 payment by the lessee of an annual fee of not less than \$100, and not
16 more than \$1,000, in accordance with the schedule issued under
17 paragraph (2).

18 “(2) SCHEDULE.—The Secretary shall issue a schedule of
19 fees under this section under which a fee is based on the scale of
20 development and utilization to which the fee applies.

21 “(3) DEFINITIONS.—In this subsection:

22 “(A) LOW TEMPERATURE GEOHERMAL
23 RESOURCES.—The term ‘low temperature geothermal
24 resources’ means geothermal steam and associated
25 geothermal resources having a temperature of less than 195
26 degrees Fahrenheit.

27 “(B) QUALIFIED DEVELOPMENT AND DIRECT
28 UTILIZATION.—The term ‘qualified development and direct
29 utilization’ means development and utilization in which all

1 products of geothermal resources, other than any heat
2 utilized, are returned to the geothermal formation from which
3 they are produced.”.

4 **Subtitle D —Biomass Energy**

5 **SEC. 531. DEFINITIONS.**

6 For the purposes of this subtitle:

7 (1) The term “eligible operation” means a facility that is located within the
8 boundaries of an eligible community and uses biomass as a raw material to produce
9 electric energy, sensible heat, transportation fuels, or substitutes for
10 petroleum-based products.

11 (2) The term “biomass” means trees and woody plants, including limbs,
12 tops, needles, and other woody parts, and byproducts of preventive treatment such
13 as wood, brush, thinnings, chips, slash, or other non-merchantable material, that are
14 removed to reduce hazardous fuels, reduce the risk of disease or insect infestation,
15 contain disease or insect infestation, or reduce stand density.

16 (3) The term “green ton” means 2,000 pounds of biomass that has not been
17 mechanically or artificially dried.

18 (4) The term “Secretary” means —

19 (A) with respect to lands within the National Forest System, the
20 Secretary of Agriculture; or

21 (B) with respect to Federal lands under the jurisdiction of the
22 Secretary of the Interior and Indian lands, the Secretary of the Interior.

23 (5) The term “eligible community” means any county, town, township,
24 municipality, or other similar unit of local government that has a population of not
25 more than 50,000 individuals and is determined by the Secretary to be located near
26 an area which is at significant risk of catastrophic wildfire, disease, or insect
27 infestation or which suffers from disease or insect infestation.

28 (6) The term “Indian tribe” has the meaning given the term in section 4(e) of

1 the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

2 (7) The term “person” includes —

3 (A) an individual;

4 (B) an eligible community;

5 (C) an Indian tribe;

6 (D) a small business or a corporation that is incorporated in the
7 United States; or

8 (E) a nonprofit organization.

9 **SEC. 532. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.**

10 (a) IN GENERAL.—The Secretary may make grants to any person that owns or
11 operates an eligible operation to offset the costs incurred to purchase biomass for use by
12 such eligible operation.

13 (b) LIMITATION.—No grant provided under this subsection shall be paid at a rate
14 that exceeds \$20 per green ton of biomass delivered.

15 (c) RECORDS.— Each grant recipient shall keep such records as the Secretary may
16 require to fully and correctly disclose the use of the grant funds and all transactions
17 involved in the purchase of biomass. Upon notice by the Secretary, the grant recipient
18 shall provide the Secretary reasonable access to examine the inventory and records of any
19 facility that purchases or uses biomass and is operated or owned by the grant recipient.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
21 are authorized to be appropriated \$12,500,000 each to the Secretary of Interior and the
22 Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available
23 until expended.

24 **SEC. 533. IMPROVED BIOMASS UTILIZATION GRANT PROGRAM.**

25 (a) IN GENERAL.—The Secretary may make grants to persons in eligible
26 communities to offset the costs of developing or researching proposals to improve the use
27 of biomass or add value to biomass utilization.

28 (b) SELECTION.—Grant recipients shall be selected based on the potential for the
29 proposal to —

1 (1) develop affordable thermal or electric energy resources for the benefit of
2 an eligible community;

3 (2) provide opportunities for the creation or expansion of small businesses
4 within an eligible community; and

5 (3) create new job opportunities within an eligible community.

6 (c) LIMITATION.—No grant awarded under this subsection shall exceed \$100,000.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
8 are authorized to be appropriated \$12,500,000 each to the Secretary of Interior and the
9 Secretary of Agriculture for each fiscal year from 2004 through 2008, to remain available
10 until expended.

11 **SEC. 534. REPORT.**

12 Not later than 3 years after the date of enactment of this subtitle, the Secretary of
13 the Interior and the Secretary of Agriculture shall jointly submit to the Congress a report
14 that describes the interim results of the programs authorized under this subtitle. Such report
15 shall include identification of the size, type, and the use of biomass by persons that receive
16 grants under this subtitle, including a description of all eligible operations and communities
17 that participate and identification of the economic benefits that result from the grants
18 awarded under this subtitle.

19 **TITLE VI — ENERGY EFFICIENCY**

20 **Subtitle A – Federal Programs**

21 **SEC. 601. ENERGY MANAGEMENT REQUIREMENTS.**

22 (a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy
23 Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking “its Federal
24 buildings so that” and all that follows through the end and inserting “the Federal buildings
25 of the agency (including each industrial or laboratory facility) so that the energy
26 consumption per gross square foot of the Federal buildings of the agency in fiscal years
27 2004 through 2013 is reduced, as compared with the energy consumption per gross square
28 foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified

1 in the following table:

2 "Fiscal Year	Percentage reduction
3 2004	2
4 2005	4
5 2006	6
6 2007	8
7 2008	10
8 2009	12
9 2010	14
10 2011	16
11 2012	18
12 2013	20.”.

13 (b) EFFECTIVE DATE.— The energy reduction goals and baseline established in
 14 paragraph (1) of section 543(a) of the National Energy Conservation Policy Act, as
 15 amended by subsection (a) of this section, supersede all previous goals and baselines under
 16 such paragraph, and related reporting requirements.

17 (c) REVIEW OF ENERGY PERFORMANCE REQUIREMENTS.—Section 543(a) of the
 18 National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by
 19 adding at the end the following:

20 “(3) Not later than December 31, 2011, the Secretary shall review the results
 21 of the implementation of the energy performance requirement established under
 22 paragraph (1) and submit to Congress recommendations concerning energy
 23 performance requirements for fiscal years 2014 through 2022.”.

24 (d) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy
 25 Act (42 U.S.C. 8253(c)(1)) is amended by striking “An agency may exclude” and all that
 26 follows through the end and inserting—

27 “(A) An agency may exclude, from the energy performance requirement for
 28 a fiscal year established under subsection (a) and the energy management
 29 requirement established under subsection (b), any Federal building or collection of
 30 Federal buildings, if the head of the agency finds that—

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

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

3 “(iii) the agency has achieved compliance with the energy efficiency
4 requirements of this Act, the Energy Policy Act of 1992, Executive Orders,
5 and other Federal law; and

6 “(iv) the agency has implemented all practicable, life-cycle cost-
7 effective projects with respect to the Federal building or collection of
8 Federal buildings to be excluded.

9 “(B) A finding of impracticability under subparagraph (A)(i) shall be based
10 on—

11 “(i) the energy intensiveness of activities carried out in the Federal
12 building or collection of Federal buildings; or

13 “(ii) the fact that the Federal building or collection of Federal
14 buildings is used in the performance of a national security function.”.

15 (e) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy
16 Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

17 (1) by striking “impracticability standards” and inserting “standards for
18 exclusion”; and

19 (2) by striking “a finding of impracticability” and inserting “the exclusion”.

20 (f) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42
21 U.S.C. 8253(c)) is further amended by adding at the end the following:

22 “(3) Not later than 180 days after the date of enactment of this paragraph,
23 the Secretary shall issue guidelines that establish criteria for exclusions under
24 paragraph (1).”.

25 (g) RETENTION OF ENERGY SAVINGS.—Section 546 of the National Energy
26 Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following
27 new subsection:

28 “(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds
29 appropriated to that agency for energy expenditures, at buildings subject to the

1 requirements of section 543(a) and (b), that are not made because of energy
2 savings. Except as otherwise provided by law, such funds may be used only for
3 energy efficiency or unconventional and renewable energy resources projects.”.

4 (h) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42
5 U.S.C. 8258(b)) is amended—

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

8 (2) by inserting “President and” before “Congress”.

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

14 **SEC. 602. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.**

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

17 “(e) METERING OF ENERGY USE.—

18 “(1) DEADLINE.—By October 1, 2010, in accordance with guidelines
19 established by the Secretary under paragraph (2), all Federal buildings shall, for the
20 purposes of efficient use of energy and reduction in the cost of electricity used in
21 such buildings, be metered or submetered. Each agency shall use, to the maximum
22 extent practicable, advanced meters or advanced metering devices that provide data
23 at least daily and that measure at least hourly consumption of electricity in the
24 Federal buildings of the agency. Such data shall be incorporated into existing
25 Federal energy tracking systems and made available to Federal facility energy
26 managers.

27 “(2) GUIDELINES.—

28 “(A) IN GENERAL.—Not later than 180 days after the date of
29 enactment of this subsection, the Secretary, in consultation with the

1 Department of Defense, the General Services Administration,
2 representatives from the metering industry, utility industry, energy services
3 industry, energy efficiency industry, national laboratories, universities, and
4 Federal facility energy managers, shall establish guidelines for agencies to
5 carry out paragraph (1).

6 “(B) REQUIREMENTS FOR GUIDELINES.— The guidelines shall—

7 “(i) take into consideration—

8 “(I) the cost of metering and submetering and the
9 reduced cost of operation and maintenance expected to result
10 from metering and submetering;

11 “(II) the extent to which metering and submetering
12 are expected to result in increased potential for energy
13 management, increased potential for energy savings and
14 energy efficiency improvement, and cost and energy savings
15 due to utility contract aggregation; and

16 “(III) the measurement and verification protocols of
17 the Department of Energy;

18 “(ii) include recommendations concerning the amount of
19 funds and the number of trained personnel necessary to gather and
20 use the metering information to track and reduce energy use;

21 “(iii) establish priorities for types and locations of buildings
22 to be metered and submetered based on cost effectiveness and a
23 schedule of one or more dates, not later than 1 year after the date of
24 issuance of the guidelines, on which the requirements specified in
25 paragraph (1) shall take effect; and

26 “(iv) establish exclusions from the requirements specified in
27 paragraph (1) based on the de minimis quantity of energy use of a
28 Federal building, industrial process, or structure.

29 “(3) PLAN.—No later than 6 months after the date guidelines are established

1 under paragraph (2), in a report submitted by the agency under section 548(a), each
2 agency shall submit to the Secretary a plan describing how the agency will
3 implement the requirements of paragraph (1), including—

4 “(A) how the agency will designate personnel primarily responsible
5 for achieving the requirements; and

6 “(B) demonstration by the agency, complete with documentation, of
7 any finding that advanced meters or advanced metering devices, as defined
8 in paragraph (1), are not practicable.”.

9 **SEC. 603. FEDERAL BUILDING PERFORMANCE STANDARDS.**

10 Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a))
11 is amended—

12 (a) in paragraph (2)(A), by striking “CABO Model Energy Code, 1992” and
13 inserting “the 2000 International Energy Conservation Code”; and

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

15 “(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE
16 STANDARDS.—

17 “(A) IN GENERAL.—Not later than 1 year after the date of enactment of this
18 paragraph, the Secretary of Energy shall establish, by rule, revised Federal building
19 energy efficiency performance standards that require that, if cost-effective, for new
20 Federal buildings—

21 “(i) such buildings be designed so as to achieve energy consumption
22 levels at least 30 percent below those of the most recent version of the
23 International Energy Conservation Code, as appropriate; and

24 “(ii) sustainable design principles are applied to the siting, design,
25 and construction of all new and replacement buildings.

26 “(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of
27 approval of amendments to ASHRAE Standard 90.1 or the 2000 International
28 Energy Conservation Code, the Secretary of Energy shall determine, based on the
29 cost-effectiveness of the requirements under the amendments, whether the revised

1 standards established under this paragraph should be updated to reflect the
2 amendments.

3 “(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget
4 request of the Federal agency for each fiscal year and each report submitted by the
5 Federal agency under section 548(a) of the National Energy Conservation Policy
6 Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

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

9 “(ii) a statement concerning whether the Federal buildings meet or
10 exceed the revised standards established under this paragraph.”.

11 **SEC. 604. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

12 (a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation
13 Policy Act (42 U.S.C. 8287(c)) is repealed.

14 (b) REPLACEMENT FACILITIES.—Section 801(a) of the National Energy
15 Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the
16 following new paragraph:

17 “(3)(A) In the case of an energy savings contract or energy savings
18 performance contract providing for energy savings through the construction and
19 operation of one or more buildings or facilities to replace one or more existing
20 buildings or facilities, benefits ancillary to the purpose of such contract under
21 paragraph (1) may include savings resulting from reduced costs of operation and
22 maintenance at such replacement buildings or facilities when compared with costs
23 of operation and maintenance at the buildings or facilities being replaced,
24 established through a methodology set forth in the contract.

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

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

3 “(2) The term ‘energy savings’ means—

4 “(A) a reduction in the cost of energy or water, from a base cost
5 established through a methodology set forth in the contract, used in an
6 existing federally owned building or buildings or other federally owned
7 facilities as a result of—

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

11 “(ii) the increased efficient use of existing energy sources by
12 co-generation or heat recovery, excluding any co-generation process
13 for other than a federally owned building or buildings or other
14 federally owned facilities; or

15 “(iii) the increased efficient use of existing water sources; or

16 “(B) in the case of a replacement building or facility described in
17 section 801(a)(3), a reduction in the cost of energy, from a base cost
18 established through a methodology set forth in the contract, that would
19 otherwise be utilized in one or more existing federally owned buildings or
20 other federally owned facilities by reason of the construction and operation
21 of the replacement building or facility.”.

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

24 “(3) The terms ‘energy savings contract’ and ‘energy savings performance
25 contract’ mean a contract which provides for—

26 “(A) the performance of services for the design, acquisition,
27 installation, testing, operation, and, where appropriate, maintenance and
28 repair, of an identified energy or water conservation measure or series of
29 measures at one or more locations; or

1 “(B) energy savings through the construction and operation of one or
2 more buildings or facilities to replace one or more existing buildings or
3 facilities. Such contracts shall, with respect to an agency facility that is a
4 public building as such term is defined in section 13(1) of the Public
5 Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the
6 prospectus requirements and procedures of section 7 of the Public Buildings
7 Act of 1959 (40 U.S.C. 606).”.

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

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

11 “(A) an energy conservation measure, as defined in section 551(4)
12 (42 U.S.C. 8259(4)); or

13 “(B) a water conservation measure that improves water efficiency, is
14 life-cycle cost-effective, and involves water conservation, water recycling or
15 reuse, more efficient treatment of wastewater or stormwater, improvements
16 in operation or maintenance efficiencies, retrofit activities, or other related
17 activities, not at a Federal hydroelectric facility.”.

18 (f) PILOT PROGRAM FOR NON-BUILDING APPLICATIONS.—

19 (1) The Secretary of Defense, and the heads of other interested Federal
20 agencies, are authorized to enter into up to 10 energy savings performance contracts
21 under Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et
22 seq.) for the purpose of achieving energy or water savings, secondary savings, and
23 benefits incidental to those purposes, in non-building applications.

24 (2) The Secretary of Energy, in consultation with the Secretary of Defense
25 and the heads of other interested Federal agencies, shall select projects that
26 demonstrate the applicability and benefits of energy savings performance
27 contracting to a range of non-building applications.

28 (3) For the purposes of this subsection:

29 (A) the term “non-building application” means —

1 (i) any class of vehicles, devices, or equipment that is
2 transportable under its own power by land, sea, or air that consumes
3 energy from any fuel source for the purpose of such transportability,
4 or to maintain a controlled environment within such vehicle, device,
5 or equipment; or

6 (ii) any Federally owned equipment used to generate
7 electricity or transport water.

8 (B) the term “secondary savings”, means additional energy or cost
9 savings that are a direct consequence of the energy or water savings that
10 result from the financing and implementation of the energy savings
11 performance contract, including, but not limited to, energy or cost savings
12 that result from a reduction in the need for fuel delivery and logistical
13 support, or the increased efficiency in the production of electricity.

14 (4) Not later than 3 years after the date of enactment of this section, the
15 Secretary of Energy shall report to the Congress on the progress and results of the
16 projects funded pursuant to this section. Such report shall include a description of
17 projects undertaken; the energy, water and cost savings, secondary savings and
18 other benefits that resulted from such projects; and recommendations on whether
19 the pilot program should be extended, expanded, or authorized permanently as a
20 part of the program authorized under Title VIII of the National Energy
21 Conservation Policy act (42 U.S.C. 8287 et seq.).

22 (5) Section 546(c)(3) of the National Energy Conservation Policy Act (42
23 U.S.C. 8256) is amended by striking the word “facilities”, and inserting the words
24 “facilities, equipment and vehicles”, in lieu thereof.

25 (g) REVIEW.—Within 180 days after the date of the enactment of this section, the
26 Secretary of Energy shall complete a review of the Energy Savings Performance Contract
27 program to identify statutory, regulatory, and administrative obstacles that prevent Federal
28 agencies from fully utilizing the program. In addition, this review shall identify all areas
29 for increasing program flexibility and effectiveness, including audit and measurement

1 verification requirements, accounting for energy use in determining savings, contracting
2 requirements, and energy efficiency services covered. The Secretary shall report these
3 findings to the Committee on Energy and Commerce of the House of Representatives and
4 the Committee on Energy and Natural Resources of the Senate, and shall implement
5 identified administrative and regulatory changes to increase program flexibility and
6 effectiveness to the extent that such changes are consistent with statutory authority.

7 **SEC. 605. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**

8 Part 3 of title V of the National Energy Conservation Policy Act is amended by
9 adding at the end the following:

10 **“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**

11 “(a) DEFINITIONS.—In this section:

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

14 “(2) The term ‘Energy Star program’ means the program established by
15 section 324A of the Energy Policy and Conservation Act.

16 “(3) The term ‘executive agency’ has the meaning given the term in section
17 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

18 “(4) The term ‘FEMP designated product’ means a product that is
19 designated under the Federal Energy Management Program of the Department of
20 Energy as being among the highest 25 percent of equivalent products for energy
21 efficiency.

22 “(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

23 “(1) REQUIREMENT.—To meet the requirements of an executive agency for
24 an energy consuming product, the head of the executive agency shall, except as
25 provided in paragraph (2), procure an Energy Star product or a FEMP designated
26 product.

27 “(2) EXCEPTIONS.—The head of an executive agency is not required to
28 procure an Energy Star product or FEMP designated product under paragraph (1) if
29 the head of the executive agency finds in writing that—

1 “(A) an Energy Star product or FEMP designated product is not
2 cost-effective over the life of the product taking energy cost savings into
3 account; or

4 “(B) no Energy Star product or FEMP designated product is
5 reasonably available that meets the functional requirements of the executive
6 agency.

7 “(3) PROCUREMENT PLANNING.—The head of an executive agency shall
8 incorporate into the specifications for all procurements involving energy consuming
9 products and systems, including guide specifications, project specifications, and
10 construction, renovation, and services contracts that include provision of energy
11 consuming products and systems, and into the factors for the evaluation of offers
12 received for the procurement, criteria for energy efficiency that are consistent with
13 the criteria used for rating Energy Star products and for rating FEMP designated
14 products.

15 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy
16 Star products and FEMP designated products shall be clearly identified and prominently
17 displayed in any inventory or listing of products by the General Services Administration or
18 the Defense Logistics Agency. The General Services Administration or the Defense
19 Logistics Agency shall supply only Energy Star products or FEMP designated products for
20 all product categories covered by the Energy Star program or the Federal Energy
21 Management Program, except in cases where the agency ordering a product specifies in
22 writing that no Energy Star product or FEMP designated product is available to meet the
23 buyer’s functional requirements, or that no Energy Star product or FEMP designated
24 product is cost-effective for the intended application over the life of the product, taking
25 energy cost savings into account.

26 “(d) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to
27 500 horsepower, agencies shall select only premium efficient motors that meet a standard
28 designated by the Secretary. The Secretary shall designate such a standard within 120 days
29 after the date of the enactment of this section, after considering the recommendations of

1 associated electric motor manufacturers and energy efficiency groups.

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

4 (b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the
5 National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting
6 after the item relating to the end of the items relating to part 3 of title V the following:

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

8 **SEC. 606. CONGRESSIONAL BUILDING EFFICIENCY.**

9 (a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act
10 is further amended by adding at the end:

11 **“SEC. 553. CONGRESSIONAL BUILDING EFFICIENCY.**

12 “(a) IN GENERAL.—The Architect of the Capitol—

13 “(1) shall develop, update, and implement a cost-effective energy
14 conservation and management plan (referred to in this section as the ‘plan’) for all
15 facilities administered by the Congress (referred to in this section as ‘congressional
16 buildings’) to meet the energy performance requirements for Federal buildings
17 established under section 543(a)(1); and

18 “(2) shall submit the plan to Congress, not later than 180 days after the date
19 of enactment of this section.

20 “(b) PLAN REQUIREMENTS.—The plan shall include—

21 “(1) a description of the life-cycle cost analysis used to determine the cost-
22 effectiveness of proposed energy efficiency projects;

23 “(2) a schedule of energy surveys to ensure complete surveys of all
24 congressional buildings every 5 years to determine the cost and payback period of
25 energy and water conservation measures;

26 “(3) a strategy for installation of life-cycle cost-effective energy and water
27 conservation measures;

28 “(4) the results of a study of the costs and benefits of installation of
29 submetering in congressional buildings; and

1 “(5) information packages and ‘how-to’ guides for each Member and
2 employing authority of Congress that detail simple, cost-effective methods to save
3 energy and taxpayer dollars in the workplace.

4 “(c) ANNUAL REPORT.—The Architect shall submit to Congress annually a report
5 on congressional energy management and conservation programs required under this
6 section that describes in detail—

7 “(1) energy expenditures and savings estimates for each facility;

8 “(2) energy management and conservation projects; and

9 “(3) future priorities to ensure compliance with this section.”.

10 (b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the
11 National Energy Conservation Policy Act is amended by adding at the end of the items
12 relating to part 3 of title V the following new item:

13 “Sec. 553. Energy and water savings measures in congressional buildings.”.

14 (c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40
15 U.S.C. 166i), is repealed.

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

22 (e) AUTHORIZATION.—There are authorized to be appropriated to the Architect of
23 the Capitol to carry out subsection (d), not more than \$2,000,000 for fiscal year 2004.

24 **SEC. 607. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY**
25 **FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

26 (a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et
27 seq.) is amended by adding at the end the following new section:

28 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY**
29 **FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

30 “(a) DEFINITIONS.—In this section:

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

2 “(A) the Secretary of Transportation; and

3 “(B) the head of each other Federal agency that on a regular basis
4 procures, or provides Federal funds to pay or assist in paying the cost of
5 procuring, material for cement or concrete projects.

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

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

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

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

14 “(A) ground granulated blast furnace slag;

15 “(B) coal combustion fly ash; and

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

21 “(b) IMPLEMENTATION OF REQUIREMENTS.—

22 “(1) IN GENERAL.—Not later than 1 year after the date of enactment of this
23 section, the Administrator and each agency head shall take such actions as are
24 necessary to implement fully all procurement requirements and incentives in effect
25 as of the date of enactment of this section (including guidelines under section 6002)
26 that provide for the use of cement and concrete incorporating recovered mineral
27 component in cement or concrete projects.

28 “(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give
29 priority to achieving greater use of recovered mineral component in cement or

1 concrete projects for which recovered mineral components historically have not
2 been used or have been used only minimally.

3 “(3) CONFORMANCE.—The Administrator and each agency head shall carry
4 out this subsection in accordance with section 6002.

5 “(c) FULL IMPLEMENTATION STUDY.—

6 “(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of
7 Transportation and the Secretary of Energy, shall conduct a study to determine the
8 extent to which current procurement requirements, when fully implemented in
9 accordance with subsection (b), may realize energy savings and environmental
10 benefits attainable with substitution of recovered mineral component in cement
11 used in cement or concrete projects.

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

13 “(A) quantify the extent to which recovered mineral components are
14 being substituted for Portland cement, particularly as a result of current
15 procurement requirements, and the energy savings and environmental
16 benefits associated with that substitution;

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

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

24 “(ii) evaluate the feasibility of establishing guidelines or
25 standards for optimized substitution rates of recovered mineral
26 component in those cement or concrete projects; and

27 “(iii) identify any potential environmental or economic
28 effects that may result from greater substitution of recovered mineral
29 component in those cement or concrete projects.

1 “(3) REPORT.—Not later than 30 months after the date of enactment of this
2 section, the Administrator shall submit to the Committee on Appropriations and
3 Committee on Environment and Public Works of the Senate and the Committee on
4 Appropriations, Committee on Energy and Commerce, and Committee on
5 Transportation and Infrastructure of the House of Representatives a report on the
6 study.

7 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.— Unless the study conducted
8 under subsection (c) identifies any effects or other problems described in subsection
9 (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head
10 shall, within 1 year of the release of the report in accordance with subsection (c)(3), take
11 additional actions authorized under this section to establish procurement requirements and
12 incentives that provide for the use of cement and concrete with increased substitution of
13 recovered mineral component in the construction and maintenance of cement or concrete
14 projects, so as to—

15 “(1) realize more fully the energy savings and environmental benefits
16 associated with increased substitution; and

17 “(2) eliminate barriers identified under subsection (c).

18 “(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of
19 section 6002 (including the guidelines and specifications for implementing those
20 requirements).”.

21 (b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste
22 Disposal Act is amended by adding after the item relating to section 6004 the following
23 new item:

24 “**Sec. 6005. Increased use of recovered mineral component in federally funded projects**
25 **involving procurement of cement or concrete.**”.

26 **Subtitle B—State and Local Programs**

27 **SEC. 611. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.**

28 (a) GRANTS.—The Secretary of Energy is authorized to make grants to units of
29 local government, private, non-profit community development organizations, and Indian

1 tribe economic development entities to improve energy efficiency, identify and develop
2 alternative, renewable and distributed energy supplies, and increase energy conservation in
3 low income rural and urban communities.

4 (b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis
5 for—

6 (1) investments that develop alternative, renewable and distributed energy
7 supplies;

8 (2) energy efficiency projects and energy conservation programs;

9 (3) studies and other activities that improve energy efficiency in low income
10 rural and urban communities;

11 (4) planning and development assistance for increasing the energy
12 efficiency of buildings and facilities; and

13 (5) technical and financial assistance to local government and private
14 entities on developing new renewable and distributed sources of power or combined
15 heat and power generation.

16 (c) DEFINITION.—For purposes of this section, the term “Indian tribe” means any
17 Indian tribe, band, nation, or other organized group or community, including any Alaskan
18 Native village or regional or village corporation as defined in or established pursuant to the
19 Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as
20 eligible for the special programs and services provided by the United States to Indians
21 because of their status as Indians.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there
23 are authorized to be appropriated to the Secretary of Energy \$20,000,000 for fiscal year
24 2003 and each fiscal year thereafter through fiscal year 2005.

25 **SEC. 612. ENERGY EFFICIENT PUBLIC BUILDINGS.**

26 (a) GRANTS.—The Secretary of Energy may make grants to the State agency
27 responsible for developing State energy conservation plans under section 362 of the Energy
28 Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency
29 designated by the Governor of the State, to assist units of local government in the State in

1 improving the energy efficiency of public buildings and facilities—

2 (1) through construction of new energy efficient public buildings that use at
3 least 30 percent less energy than a comparable public building constructed in
4 compliance with standards prescribed in chapter 8 of the 2000 International Energy
5 Conservation Code, or a similar State code intended to achieve substantially
6 equivalent efficiency levels; or

7 (2) through renovation of existing public buildings to achieve reductions in
8 energy use of at least 30 percent as compared to the baseline energy use in such
9 buildings prior to renovation, assuming a 3-year, weather-normalized average for
10 calculating such baseline.

11 (b) ADMINISTRATION.—State energy offices receiving grants under this section
12 shall—

13 (1) maintain such records and evidence of compliance as the Secretary may
14 require; and

15 (2) develop and distribute information and materials and conduct programs
16 to provide technical services and assistance to encourage planning, financing, and
17 design of energy efficient public buildings by units of local government.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
19 are authorized to be appropriated to the Secretary of Energy such sums as may be
20 necessary for each of fiscal years 2003 through 2012. Not more than 30 percent of
21 appropriated funds shall be used for administration.

22 **SEC. 613. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.**

23 (a) DEFINITIONS.—In this section:

24 (1) The term “eligible State” means a State that meets the requirements of
25 subsection (b).

26 (2) The term “Energy Star program” means the program established by
27 section 324A of the Energy Policy and Conservation Act.

28 (3) The term “residential Energy Star product” means a product for a
29 residence that is rated for energy efficiency under the Energy Star program.

1 (4) The term “State energy office” means the State agency responsible for
2 developing State energy conservation plans under section 362 of the Energy Policy
3 and Conservation Act (42 U.S.C. 6322).

4 (5) The term “State program” means a State energy efficient appliance
5 rebate program described in subsection (b)(1).

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

8 (1) establishes (or has established) a State energy efficient appliance rebate
9 program to provide rebates to residential consumers for the purchase of residential
10 Energy Star products to replace used appliances of the same type;

11 (2) submits an application for the allocation at such time, in such form, and
12 containing such information as the Secretary may require; and

13 (3) provides assurances satisfactory to the Secretary that the State will use
14 the allocation to supplement, but not supplant, funds made available to carry out the
15 State program.

16 (c) AMOUNT OF ALLOCATIONS.—

17 (1) Subject to paragraph (2), for each fiscal year, the Secretary shall allocate
18 to the State energy office of each eligible State to carry out subsection (d) an
19 amount equal to the product obtained by multiplying the amount made available
20 under subsection (f) for the fiscal year by the ratio that the population of the State in
21 the most recent calendar year for which data are available bears to the total
22 population of all eligible States in that calendar year.

23 (2) For each fiscal year, the amounts allocated under this subsection shall be
24 adjusted proportionately so that no eligible State is allocated a sum that is less than
25 an amount determined by the Secretary.

26 (d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under
27 subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying
28 out a State program.

29 (e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that

1 meet the requirements of the State program. The amount of a rebate shall be determined by
2 the State energy office, taking into consideration—

3 (1) the amount of the allocation to the State energy office under subsection
4 (c);

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

7 (3) the difference between the cost of the residential Energy Star product
8 and the cost of an appliance that is not a residential Energy Star product, but is of
9 the same type as, and is the nearest capacity, performance, and other relevant
10 characteristics (as determined by the State energy office) to the residential Energy
11 Star product.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated
13 to carry out this section \$50,000,000 for each of the fiscal years 2004 through 2008.

14 **Subtitle C—Consumer Products**

15 **SEC. 621. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.**

16 (a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42
17 U.S.C. 6291) is amended by adding at the end the following:

18 “(32) The term ‘battery charger’ means a device that charges batteries for
19 consumer products.

20 “(33) The term ‘commercial refrigerator, freezer and refrigerator-freezer’
21 means a refrigerator, freezer or refrigerator-freezer that—

22 “(A) is not a consumer product regulated under this Act; and

23 “(B) incorporates most components involved in the vapor-
24 compression cycle and the refrigerated compartment in a single package.

25 “(34) The term ‘external power supply’ means an external power supply
26 circuit that is used to convert household electric current into either DC current or
27 lower-voltage AC current to operate a consumer product.

28 “(35) The term ‘illuminated exit sign’ means a sign that—

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

1 and

2 “(B) consists of an electrically powered integral light source that
3 illuminates the legend ‘EXIT’ and any directional indicators and provides
4 contrast between the legend, any directional indicators, and the background.

5 “(36)(A) Except as provided in subparagraph (B), the term ‘low-voltage
6 dry-type transformer’ means a transformer that—

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

8 “(ii) is air-cooled;

9 “(iii) does not use oil as a coolant; and

10 “(iv) is rated for operation at a frequency of 60 Hertz.

11 “(B) The term ‘low-voltage dry-type transformer’ does not include—

12 “(i) transformers with multiple voltage taps, with the highest voltage
13 tap equaling at least 20 percent more than the lowest voltage tap;

14 “(ii) transformers, such as those commonly known as drive
15 transformers, rectifier transformers, auto-transformers, Uninterruptible
16 Power System transformers, impedance transformers, harmonic
17 transformers, regulating transformers, sealed and nonventilating
18 transformers, machine tool transformers, welding transformers, grounding
19 transformers, or testing transformers, that are designed to be used in a
20 special purpose application and are unlikely to be used in general purpose
21 applications; or

22 “(iii) any transformer not listed in clause (ii) that is excluded by the
23 Secretary by rule because the transformer is designed for a special
24 application and the application of standards to the transformer would not
25 result in significant energy savings.

26 “(37)(A) Except as provided in subsection (B), the term ‘distribution
27 transformer’ means a transformer that —

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

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

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

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

3 “(i) transformers with multiple voltage taps, with the highest voltage
4 tap equaling at least 15 percent more than the lowest voltage tap;

5 “(ii) transformers, such as those commonly known as drive
6 transformers, rectifier transformers, autotransformers, Uninterruptible
7 Power System transformers, impedance transformers, harmonic
8 transformers, regulating transformers, sealed and nonventilating
9 transformers, machine tool transformers, welding transformers, grounding
10 transformers, or testing transformers, that are designed to be used in a
11 special purpose application, and are unlikely to be used in general purpose
12 applications; or

13 “(iii) any transformer not listed in clause (ii) that is excluded by the
14 Secretary by rule because the transformer is designed for a special
15 application, is unlikely to be used in general purpose applications, and the
16 application of standards to the transformer would not result in significant
17 energy savings.

18 “(38) The term ‘standby mode’ means the lowest amount of electric power
19 used by a household appliance when not performing its active functions, as defined
20 on an individual product basis by the Secretary.

21 “(39) The term ‘torchiere’ means a portable electric lamp with a reflector
22 bowl that directs light upward so as to give indirect illumination.

23 “(40) The term ‘transformer’ means a device consisting of two or more coils
24 of insulated wire that transfers alternating current by electromagnetic induction
25 from one coil to another to change the original voltage or current value.

26 “(41) The term ‘unit heater’ means a self-contained fan-type heater designed
27 to be installed within the heated space, except that such term does not include a
28 warm air furnace.

29 “(42) The term ‘traffic signal module’ means a standard 8-inch (200mm) or

1 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and
2 all other parts necessary for operation, that communicates movement messages to
3 drivers through red, amber, and green colors.”.

4 (b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act
5 (42 U.S.C. 6293) is amended—

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

7 “(9) Test procedures for illuminated exit signs shall be based on the
8 test method used under Version 2.0 of the Energy Star program of the
9 Environmental Protection Agency for illuminated exit signs.

10 “(10) Test procedures for low voltage dry-type distribution
11 transformers shall be based on the ‘Standard Test Method for Measuring the
12 Energy Consumption of Distribution Transformers’ prescribed by the
13 National Electrical Manufacturers Association (NEMA TP 2–1998). The
14 Secretary may review and revise this test procedure based on future
15 revisions to such standard test method.

16 “(11) Test procedures for traffic signal modules shall be based on the
17 test method used under the Energy Star program of the Environmental
18 Protection Agency for traffic signal modules, as in effect on the date of
19 enactment of this paragraph.”; and

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

21 “(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The
22 Secretary shall within 24 months after the date of enactment of this
23 subsection prescribe testing requirements for suspended ceiling fans,
24 refrigerated bottled or canned beverage vending machines, commercial unit
25 heaters, and commercial refrigerators, freezers and refrigerator-freezers.
26 Such testing requirements shall be based on existing test procedures used in
27 industry to the extent practical and reasonable. In the case of suspended
28 ceiling fans, such test procedures shall include efficiency at both maximum
29 output and at an output no more than 50 percent of the maximum output.”.

1 (c) NEW STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42
2 U.S.C. 6295) is amended by adding at the end the following:

3 “(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

4 “(1) INITIAL RULEMAKING.—

5 “(A) The Secretary shall, within 18 months after the date of
6 enactment of this subsection, prescribe by notice and comment, definitions
7 of standby mode and test procedures for the standby mode power use of
8 battery chargers and external power supplies. In establishing these test
9 procedures, the Secretary shall consider, among other factors, existing test
10 procedures used for measuring energy consumption in standby mode and
11 assess the current and projected future market for battery chargers and
12 external power supplies. This assessment shall include estimates of the
13 significance of potential energy savings from technical improvements to
14 these products and suggested product classes for standards. Prior to the end
15 of this time period, the Secretary shall hold a scoping workshop to discuss
16 and receive comments on plans for developing energy conservation
17 standards for standby mode energy use for these products.

18 “(B) The Secretary shall, within 3 years after the date of enactment
19 of this subsection, issue a final rule that determines whether energy
20 conservation standards shall be promulgated for battery chargers and
21 external power supplies or classes thereof. For each product class, any such
22 standards shall be set at the lowest level of standby energy use that—

23 “(i) meets the criteria of subsections (o), (p), (q), (r), (s) and

24 (t); and

25 “(ii) will result in significant overall annual energy savings,
26 considering both standby mode and other operating modes.

27 “(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—

28 “(A) Not later than 180 days after the date of enactment of this
29 subsection, the Secretary shall publish for public comment and public

1 hearing a notice to determine whether any non-covered products should be
2 designated as covered products for the purpose of instituting a rulemaking
3 under this section to determine whether an energy conservation standard
4 restricting standby mode energy consumption, should be promulgated;
5 except that any restriction on standby mode energy consumption shall be
6 limited to major sources of such consumption.

7 “(B) In making the determinations pursuant to subparagraph (A) of
8 whether to designate new covered products and institute rulemakings, the
9 Secretary shall, among other relevant factors and in addition to the criteria
10 in section 322(b), consider—

11 “(i) standby mode power consumption compared to overall
12 product energy consumption; and

13 “(ii) the priority and energy savings potential of standards
14 which may be promulgated under this subsection compared to other
15 required rulemakings under this section and the available resources
16 of the Department to conduct such rulemakings.

17 “(C) Not later than 1 year after the date of enactment of this
18 subsection, the Secretary shall issue a determination of any new covered
19 products for which he intends to institute rulemakings on standby mode
20 pursuant to this section and he shall state the dates by which he intends to
21 initiate those rulemakings.

22 “(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In
23 determining pursuant to section 323 whether test procedures and energy
24 conservation standards pursuant to this section should be revised, the Secretary
25 shall consider for covered products which are major sources of standby mode
26 energy consumption whether to incorporate standby mode into such test procedures
27 and energy conservation standards, taking into account, among other relevant
28 factors, the criteria for non-covered products in subparagraph (B) of paragraph (2)
29 of this subsection.

1 “(4) RULEMAKING.—

2 “(A) Any rulemaking instituted under this subsection or for covered
3 products under this section which restricts standby mode power
4 consumption shall be subject to the criteria and procedures for issuing
5 energy conservation standards set forth in this section and the criteria set
6 forth in subparagraph (B) of paragraph (2) of this subsection.

7 “(B) No standard can be proposed for new covered products or
8 covered products in a standby mode unless the Secretary has promulgated
9 applicable test procedures for each product pursuant to section 323.

10 “(C) The provisions of section 327 shall apply to new covered
11 products which are subject to the rulemakings for standby mode after a final
12 rule has been issued.

13 “(5) EFFECTIVE DATE.—Any standard promulgated under this subsection
14 shall be applicable to products manufactured or imported 3 years after the date of
15 promulgation.

16 “(6) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall
17 collaborate and develop programs, including programs pursuant to section 324A
18 (relating to Energy Star Programs) and other voluntary industry agreements or
19 codes of conduct, which are designed to reduce standby mode energy use.

20 “(v) SUSPENDED CEILING FANS, VENDING MACHINES, UNIT HEATERS, AND
21 COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary
22 shall within 24 months after the date on which testing requirements are prescribed by the
23 Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for
24 suspended ceiling fans, refrigerated bottled or canned beverage vending machines, unit
25 heaters, and commercial refrigerators, freezers and refrigerator-freezers. In establishing
26 standards under this subsection, the Secretary shall use the criteria and procedures
27 contained in subsections (l) and (m). Any standard prescribed under this subsection shall
28 apply to products manufactured 3 years after the date of publication of a final rule
29 establishing such standard.

1 “(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after
2 January 1, 2005 shall meet the Version 2.0 Energy Star Program performance requirements
3 for illuminated exit signs prescribed by the Environmental Protection Agency.

4 “(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005 —
5 “(1) shall consume not more than 190 watts of power; and
6 “(2) shall not be capable of operating with lamps that total more than 190
7 watts.

8 “(y) DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type
9 transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency
10 Levels for distribution transformers specified in Table 4–2 of the ‘Guide for Determining
11 Energy Efficiency for Distribution Transformers’ published by the National Electrical
12 Manufacturers Association (NEMA TP–1–2002).

13 “(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after
14 January 1, 2006 shall meet the performance requirements used under the Energy Star
15 program of the Environmental Protection Agency for traffic signals, as in effect on the date
16 of enactment of this paragraph, and shall be installed with compatible, electrically-
17 connected signal control interface devices and conflict monitoring systems.”.

18 **SEC. 622. ENERGY LABELING.**

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

22 “(F) Not later than 3 months after the date of enactment of this subparagraph, the
23 Commission shall initiate a rulemaking to consider the effectiveness of the current
24 consumer products labeling program in assisting consumers in making purchasing
25 decisions and improving energy efficiency and to consider changes to the labeling rules
26 that would improve the effectiveness of consumer product labels. Such rulemaking shall be
27 completed within 2 years after the date of enactment of this subparagraph.”.

28 (b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of
29 the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding

1 at the end the following:

2 “(5) The Secretary or the Commission, as appropriate, may for covered products
3 referred to in subsections (u) through (z) of section 325, prescribe, by rule, pursuant to this
4 section, labeling requirements for such products after a test procedure has been set pursuant
5 to section 323. In the case of products to which TP-1 standards under section 325(y) apply,
6 labeling requirements shall be based on the “Standard for the Labeling of Distribution
7 Transformer Efficiency” prescribed by the National Electrical Manufacturers Association
8 (NEMA TP-3) as in effect upon the date of enactment of this Act.”.

9 **SEC. 623. ENERGY STAR PROGRAM.**

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

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

13 “There is established at the Department of Energy and the Environmental
14 Protection Agency a program to identify and promote energy-efficient products and
15 buildings in order to reduce energy consumption, improve energy security, and
16 reduce pollution through labeling of and other forms of communication about
17 products and buildings that meet the highest energy efficiency standards.
18 Responsibilities under the program shall be divided between the Department of
19 Energy and the Environmental Protection Agency consistent with the terms of
20 agreements between the two agencies. The Administrator and the Secretary shall—

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

24 “(2) work to enhance public awareness of the Energy Star label,
25 including special outreach to small businesses;

26 “(3) preserve the integrity of the Energy Star label; and

27 “(4) solicit the comments of interested parties in establishing a new
28 Energy Star product category or in revising a product category, and upon
29 adoption of a new or revised product category provide an explanation of the

1 decision that responds to significant public comments.”.

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

5 “Sec. 324A. Energy Star program.”.

6 **SEC. 624. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.**

7 Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is
8 amended by adding at the end the following:

9 “(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air
10 conditioning and heating systems operate at their maximum rated efficiency levels, the
11 Secretary shall, within 180 days of the date of enactment of this subsection, carry out a
12 program to educate homeowners and small business owners concerning the energy savings
13 resulting from properly conducted maintenance of air conditioning, heating, and ventilating
14 systems. The Secretary shall carry out the program in cooperation with the Administrator
15 of the Environmental Protection Agency and such other entities as the Secretary considers
16 appropriate, including industry trade associations, industry members, and energy efficiency
17 organizations.

18 “(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the
19 Small Business Administration, in consultation with the Secretary of Energy and the
20 Administrator of the Environmental Protection Agency, shall develop and coordinate a
21 Government-wide program, building on the existing Energy Star for Small Business
22 Program, to assist small business to become more energy efficient, understand the cost
23 savings obtainable through efficiencies, and identify financing options for energy
24 efficiency upgrades. The Secretary and the Administrator shall make the program
25 information available directly to small businesses and through other Federal agencies,
26 including the Federal Emergency Management Program, and the Department of
27 Agriculture.”.

28 **Subtitle D—Public Housing**

29 **SEC. 631. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.**

1 Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is
2 amended—

3 (a) in paragraph (1), by inserting before the semicolon at the end the following: “,
4 including capabilities regarding the provision of energy efficient, affordable housing and
5 residential energy conservation measures”; and

6 (b) in paragraph (2), by inserting before the semicolon the following: “, including
7 such activities relating to the provision of energy efficient, affordable housing and
8 residential energy conservation measures that benefit low-income families”.

9 **SEC. 632. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND**
10 **EFFICIENCY ACTIVITIES.**

11 Section 105(a)(8) of the Housing and Community Development Act of 1974 (42
12 U.S.C. 5305(a)(8)) is amended—

13 (a) by inserting “or efficiency” after “energy conservation”;

14 (b) by striking “, and except that” and inserting “; except that”; and

15 (c) by inserting before the semicolon at the end the following: “; and except that
16 each percentage limitation under this paragraph on the amount of assistance provided under
17 this title that may be used for the provision of public services is hereby increased by 10
18 percent, but such percentage increase may be used only for the provision of public services
19 concerning energy conservation or efficiency”.

20 **SEC. 633. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.**

21 (a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the
22 National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated and
23 indented paragraph beginning after subparagraph (B)(iii) (relating to solar energy
24 systems)—

25 (1) by inserting “or paragraph (10)” before the first comma; and

26 (2) by striking “20 percent” and inserting “30 percent”.

27 (b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the
28 National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated
29 paragraph beginning after paragraph (3) (relating to solar energy systems and residential

1 energy conservation measures), by striking “20 percent” and inserting “30 percent”.

2 (c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the
3 National Housing Act (12 U.S.C. 1715e(p)) is amended by striking “20 per centum” and
4 inserting “30 percent”.

5 (d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE
6 INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C.
7 1715k(d)(3)(B)(iii)) is amended by striking “20 per centum” and inserting “30 percent”.

8 (e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k)
9 of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking “20 per centum”
10 and inserting “30 percent”.

11 (f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section
12 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking “20
13 per centum” and inserting “30 percent”.

14 (g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the
15 National Housing Act (12 U.S.C. 1715y(j)) is amended by striking “20 per centum” and
16 inserting “30 percent”.

17 **SEC. 634. PUBLIC HOUSING CAPITAL FUND.**

18 Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is
19 amended—

20 (a) in subsection (d)(1)—

21 (1) in subparagraph (I), by striking “and” at the end;

22 (2) in subparagraph (J), by striking the period at the end and inserting a
23 semicolon; and

24 (3) by adding at the end the following new subparagraphs:

25 “(K) improvement of energy and water-use efficiency by installing
26 fixtures and fittings that conform to the American Society of Mechanical
27 Engineers/American National Standards Institute standards A112.19.2-1998
28 and A112.18.1-2000, or any revision thereto, applicable at the time of
29 installation, and by increasing energy efficiency and water conservation by
30 such other means as the Secretary determines are appropriate; and

1 “(L) integrated utility management and capital planning to maximize
2 energy conservation and efficiency measures.”; and

3 (b) in subsection (e)(2)(C)—

4 (1) by striking “The” and inserting the following:

5 “(i) IN GENERAL.—The”; and

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

7 “(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i)
8 may include contracts for equipment conversions to less costly utility
9 sources, projects with resident-paid utilities, and adjustments to frozen base
10 year consumption, including systems repaired to meet applicable building
11 and safety codes and adjustments for occupancy rates increased by
12 rehabilitation.

13 “(iii) TERM OF CONTRACT.—The total term of a contract described in
14 clause (i) shall not exceed 20 years to allow longer payback periods for
15 retrofits, including windows, heating system replacements, wall insulation,
16 site-based generations, advanced energy savings technologies, including
17 renewable energy generation, and other such retrofits.”.

18 **SEC. 635. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.**

19 Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C.
20 8231(1)) is amended—

21 (a) by striking “financed with loans” and inserting “assisted”;

22 (b) by inserting after “1959,” the following: “which are eligible multifamily
23 housing projects (as such term is defined in section 512 of the Multi-family Assisted
24 Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to
25 mortgage restructuring and rental assistance sufficiency plans under such Act,”; and

26 (c) by inserting after the period at the end of the first sentence the following new
27 sentence: “Such improvements may also include the installation of energy and water
28 conserving fixtures and fittings that conform to the American Society of Mechanical
29 Engineers/American National Standards Institute standards A112.19.2-1998 and
30 A112.18.1-2000, or any revision thereto, applicable at the time of installation.”.

1 **SEC. 636. NORTH AMERICAN DEVELOPMENT BANK.**

2 Part 2 of subtitle D of title V of the North American Free Trade Agreement
3 Implementation Act (22 U.S.C. 290m–290m-3) is amended by adding at the end the
4 following:

5 **“SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.**

6 “Consistent with the focus of the Bank’s Charter on environmental
7 infrastructure projects, the Board members representing the United States should
8 use their voice and vote to encourage the Bank to finance projects related to clean
9 and efficient energy, including energy conservation, that prevent, control, or reduce
10 environmental pollutants or contaminants.”.

11 **SEC. 637. ENERGY-EFFICIENT APPLIANCES.**

12 In purchasing appliances, a public housing agency shall purchase energy-efficient
13 appliances that are Energy Star products or FEMP-designated products, as such terms are
14 defined in section 553 of the National Energy Policy and Conservation Act (as amended by
15 this Act), unless the purchase of energy-efficient appliances is not cost-effective to the
16 agency.

17 **SEC. 638. ENERGY EFFICIENCY STANDARDS.**

18 Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.
19 12709) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) by striking “1 year after the date of the enactment of the
23 Energy Policy Act of 1992” and inserting “September 30, 2003”;

24 (ii) in subparagraph (A), by striking “and” at the end;

25 (iii) in subparagraph (B), by striking the period at the end and
26 inserting “; and”; and

27 (iv) by adding at the end the following:

28 “(C) rehabilitation and new construction of public and
29 assisted housing funded by HOPE VI revitalization grants under
30 section 24 of the United States Housing Act of 1937 (42

1 U.S.C.1437v), where such standards are determined to be cost
 2 effective by the Secretary of Housing and Urban Development.”;
 3 and

4 (B) in paragraph (2), by striking “Council of American” and all that
 5 follows through “90.1–1989”)” and inserting “2000 International Energy
 6 Conservation Code”;

7 (2) in subsection (b)—

8 (A) by striking “1 year after the date of the enactment of the Energy
 9 Policy Act of 1992” and inserting “September 30, 2003”; and

10 (B) by striking “CABO” and all that follows through “1989” and
 11 inserting “the 2000 International Energy Conservation Code”; and

12 (3) in subsection (c)—

13 (A) in the heading, by striking “MODEL ENERGY CODE” and
 14 inserting “INTERNATIONAL ENERGY CONSERVATION CODE”; and

15 (B) by striking “CABO” and all that follows through “1989” and
 16 inserting “the 2000 International Energy Conservation Code”.

17 **SEC. 639. ENERGY STRATEGY FOR HUD.**

18 The Secretary of Housing and Urban Development shall develop and implement an
 19 integrated strategy to reduce utility expenses through cost-effective energy conservation
 20 and efficiency measures and energy efficient design and construction of public and assisted
 21 housing. The energy strategy shall include the development of energy reduction goals and
 22 incentives for public housing agencies. The Secretary shall submit a report to Congress, not
 23 later than one year after the date of the enactment of this Act, on the energy strategy and
 24 the actions taken by the Department of Housing and Urban Development to monitor the
 25 energy usage of public housing agencies and shall submit an update every two years
 26 thereafter on progress in implementing the strategy.

27 **TITLE VII—TRANSPORTATION FUELS**

28 **Subtitle A—Alternative Fuel Programs**

29 **SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.**

1 Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C.
2 6374(a)(3)(E)) is amended to read as follows:

3 “(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on
4 alternative fuels unless the Secretary determines that an agency qualifies for a waiver of
5 such requirement for vehicles operated by the agency in a particular geographic area
6 where—

7 “(I) the alternative fuel otherwise required to be used in the vehicle is not
8 reasonably available to retail purchasers of the fuel, as certified to the Secretary by
9 the head of the agency; or

10 “(II) the cost of the alternative fuel otherwise required to be used in the
11 vehicle is unreasonably more expensive compared to gasoline, as certified to the
12 Secretary by the head of the agency.

13 “(ii) The Secretary shall monitor compliance with this subparagraph by all such
14 fleets and shall report annually to the Congress on the extent to which the requirements of
15 this subparagraph are being achieved. The report shall include information on annual
16 reductions achieved from the use of petroleum-based fuels and the problems, if any,
17 encountered in acquiring alternative fuels.”.

18 **SEC. 702. FUEL USE CREDITS.**

19 (a) IN GENERAL.— Section 312 of the Energy Policy Act of 1992 (42 U.S.C.
20 13220) is amended to read as follows:

21 **“SEC. 312. FUEL USE CREDITS.**

22 “(a) ALLOCATION.—

23 “(1) The Secretary shall allocate one credit under this section to a
24 fleet or covered person for each qualifying volume of alternative fuel or
25 biodiesel purchased for use in a vehicle operated by the fleet.

26 “(2) No credits shall be allocated under this section for purchase of
27 an alternative fuel or biodiesel that is required by Federal or State law.

28 “(3) A fleet or covered person seeking a credit under this section
29 shall provide written documentation to the Secretary supporting the

1 allocation of a credit to such fleet or covered person under this section.

2 “(b) USE.—At the request of a fleet or covered person allocated a credit
3 under subsection (a), the Secretary shall, for the year in which the purchase of a
4 qualifying volume is made, treat that purchase as the acquisition of one alternative
5 fueled vehicle the fleet or covered person is required to acquire under this title, title
6 IV, or title V.

7 “(c) TREATMENT.—A credit provided to a fleet or covered person under this
8 section shall be considered a credit under section 508.

9 “(d) ISSUANCE OF RULE.—Not later than 6 months after the date of
10 enactment of this section, the Secretary shall issue a rule establishing procedures
11 for the implementation of this section.

12 “(e) DEFINITIONS.—For the purposes of this section—

13 “(1) the term “biodiesel” means a diesel fuel substitute produced
14 from non-petroleum renewable resources that meets the registration
15 requirements for fuels and fuel additives established by the Environmental
16 Protection Agency under section 211 of the Clean Air Act; and

17 “(2) the term “qualifying volume” means—

18 “(A) in the case of biodiesel, when used as a component of
19 fuel containing at least 20 percent biodiesel by volume, 450 gallons,
20 or if the Secretary determines by rule that the average annual
21 alternative fuel use in light duty vehicles by fleets and covered
22 persons exceeds 450 gallons or gallon equivalents, the amount of
23 such average annual alternative fuel use; or

24 “(B) in the case of an alternative fuel, the amount of such
25 fuel determined by the Secretary to have an equivalent energy
26 content to the amount of biodiesel defined as a qualifying volume
27 pursuant to subparagraph (A).”

28 (b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy
29 Act of 1992 is amended by adding at the end of the items relating to title III the following

1 new item:

2 “Sec. 312. Fuel use credits.”

3 **SEC. 703. NEIGHBORHOOD ELECTRIC VEHICLES.**

4 Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

5 (1) in paragraph (3), by striking “or a dual fueled vehicle” and inserting “, a
6 dual fueled vehicle, or a neighborhood electric vehicle”;

7 (2) by striking “and” at the end of paragraph (13);

8 (3) by striking the period at the end of paragraph (14) and inserting “; and”;

9 and

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

11 “(15) the term ‘neighborhood electric vehicle’ means a motor vehicle that
12 qualifies as both—

13 “(A) a low-speed vehicle, as such term is defined in section 571.3(b)
14 of title 49, Code of Federal Regulations; and

15 “(B) a zero-emission vehicle, as such term is defined in section
16 86.1702–99 of title 40, Code of Federal Regulations.”.

17 **SEC. 704. SUBSTANTIAL CONTRIBUTION TOWARDS NONCOVERED FLEETS.**

18 Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is further amended
19 by adding at the end the following:

20 “(p) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED
21 VEHICLES IN NONCOVERED FLEETS.—

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

23 “(A) The term ‘medium duty vehicle’ means a dedicated vehicle that
24 has a gross vehicle weight rating of more than 8,500 pounds but not more
25 than 14,000 pounds.

26 “(B) The term ‘heavy duty vehicle’ means a dedicated vehicle that
27 has a gross vehicle weight rating of more than 14,000 pounds.

28 “(C) The term ‘substantial contribution’ means not less than \$15,000
29 in cash or in kind services, as determined by the Secretary.

30 “(2) SUBSTANTIAL CONTRIBUTION.—The Secretary shall issue a credit to a

1 fleet or covered person under this title if the fleet or person makes a substantial
2 contribution toward the acquisition and use of dedicated vehicles by a person that
3 owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

4 “(3) MEDIUM OR HEAVY DUTY VEHICLE.—The Secretary shall issue 2 full
5 credits to a fleet or covered person under this title if the fleet or person acquires a
6 medium duty dedicated vehicle or a heavy duty dedicated vehicle.

7 “(4) USE OF CREDITS.—At the request of a fleet or covered person allocated
8 a credit under this subsection, the Secretary shall, for the year in which the
9 acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1
10 alternative fueled vehicle that the fleet or covered person is required to acquire
11 under this title.

12 “(5) LIMITATION.—Per vehicle credits acquired under this subsection shall
13 not exceed the per vehicle credits allowed under this section to a fleet for qualifying
14 vehicles in each of the weight categories (light, medium, or heavy duty).”

15 **SEC. 705. ALTERNATIVE FUEL INFRASTRUCTURE.**

16 Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is further amended
17 by adding at the end the following:

18 “(q) CREDIT FOR INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

19 “(1) DEFINITIONS.— In this subsection, the term ‘qualifying infrastructure’
20 means—

21 “(A) equipment required to refuel or recharge alternative fueled
22 vehicles;

23 “(B) facilities or equipment required to maintain, repair, or operate
24 alternative fueled vehicles;

25 “(C) training programs, educational materials, or other activities
26 necessary to provide information regarding the operation, maintenance, or
27 benefits associated with alternative fueled vehicles; and

28 “(D) such other activities the Secretary considers to constitute an
29 appropriate expenditure in support of the operation, maintenance, or further
30 widespread adoption of or utilization of alternative fueled vehicles.

1 “(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or
2 covered person under this title for investment in qualifying infrastructure if the
3 qualifying infrastructure is open to the general public during regular business hours.

4 “(3) AMOUNT.—For the purposes of credits under this subsection—

5 “(A) 1 credit shall be equal to a minimum investment of \$25,000 in
6 cash or in kind services, as determined by the Secretary; and

7 “(B) except in the case of a Federal or State fleet, no part of the
8 investment may be provided by Federal or State funds.

9 “(4) USE OF CREDITS—At the request of a fleet or covered person allocated
10 a credit under this subsection, the Secretary shall, for the year in which the
11 investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle
12 that the fleet or covered person is required to acquire under this title.”.

13 **SEC. 706. REVIEW OF ALTERNATIVE FUEL PROGRAMS.**

14 (a) IN GENERAL.—Not later than 60 days after the date of enactment of this section,
15 the Secretary shall conduct a study to determine the effect that titles III, IV and V of the
16 Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on the development of
17 alternative fueled vehicle technology, its availability in the market, and the cost of light
18 duty motor vehicles that are alternative fueled vehicles.

19 (b) TOPICS.—As part of such study, the Secretary shall specifically identify—

20 (1) the number of alternative fueled vehicles acquired by fleets or covered
21 persons required to acquire alternative fueled vehicles;

22 (2) the amount, by type, of alternative fuel actually used in alternative
23 fueled vehicles acquired by fleets or covered persons;

24 (3) the amount of petroleum displaced by the use of alternative fuels in
25 alternative fueled vehicles acquired by fleets or covered persons;

26 (4) the cost of compliance with vehicle acquisition requirements by fleets or
27 covered persons; and

28 (5) the existence of obstacles preventing compliance with vehicle
29 acquisition requirements and increased use of alternative fuel in alternative fueled
30 vehicles acquired by fleets or covered persons.

1 (c) REPORT.—Not later than 1 year after the date of enactment of this section, the
2 Secretary shall submit to the Congress a report that describes the results of the study
3 conducted under this section and includes any recommendations of the Secretary for
4 legislative or administrative changes concerning the alternative fueled vehicle requirements
5 under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.). Such
6 study shall be updated on a regular basis as deemed necessary by the Secretary.

7 **SEC. 707. HIGH OCCUPANCY VEHICLE EXCEPTION.**

8 Notwithstanding section 102(a)(1) of title 23, United States Code, a State may
9 permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if
10 such vehicle is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of
11 1992 (42 U.S.C. 13211)).

12 **Subtitle B—Automobile Fuel Economy**

13 **SEC. 711. AUTOMOBILE FUEL ECONOMY STANDARDS.**

14 (a) TITLE 49 AMENDMENT.—Section 32902(f) of title 49, United States Code, is
15 amended to read as follows:

16 “(f) CONSIDERATIONS.—When deciding maximum feasible average fuel economy
17 under this section, the Secretary of Transportation shall consider the following matters:

18 “(1) technological feasibility;

19 “(2) economic practicability;

20 “(3) the effect of other motor vehicle standards of the Government on fuel
21 economy;

22 “(4) the need of the United States to conserve energy;

23 “(5) the effects of fuel economy standards on motor vehicle and passenger
24 safety; and

25 “(6) the effects of compliance with average fuel economy standards on
26 levels of employment in the United States.”.

27 (b) CLARIFICATION OF AUTHORITY.—Section 32902(b) of title 49, United States
28 Code, is amended by inserting before the period at the end the following: “or such other
29 number as the Secretary prescribes under subsection (c)”.

1 (c) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth
 2 increased average fuel economy standards under section 32902(a)(2) of title 49, United
 3 States Code, as amended by subsection (a) of this section, the Secretary of Transportation
 4 shall also issue an environmental assessment of the effects of the increased standards on
 5 the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et
 6 seq.).

7 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
 8 are authorized to be appropriated to the Secretary of Transportation \$5,000,000 for each of
 9 fiscal years 2004 through 2008.

10 **SEC. 712. DUAL-FUELED AUTOMOBILES.**

11 (a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code,
 12 is amended —

13 (1) in subsections (b) and (d), by striking “1993–2004” and inserting
 14 “1993–2008”;

15 (2) in subsection (f), by striking “2001” and inserting “2005”.

16 (3) in subsection (f)(1), by striking “2004” and inserting “2008”;

17 (4) in subsection (g), by striking “September 30, 2000” and inserting
 18 “September 30, 2004”.

19 (b) MAXIMUM FUEL ECONOMY INCREASE.— Subsection (a)(1) of section 32906 of
 20 title 49, United States Code, is amended—

21 (1) in subparagraph (A), by striking “the model years 1993–2004” and
 22 inserting “model years 1993–2008”; and

23 (2) in subparagraph (B), by striking “the model years 2005–2008” and
 24 inserting “model years 2009–2012”.

25 **SEC. 713. FEDERAL FLEET FUEL ECONOMY.**

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

27 **“§ 32917. Standards for executive agency automobiles.**

28 “(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive
 29 agency shall determine, for all automobiles in the agency’s fleet of automobiles that
 30 were leased or bought as a new vehicle in fiscal year 1999, the average fuel

1 economy for such automobiles. For the purposes of this section, the average fuel
2 economy so determined shall be the baseline average fuel economy for the agency's
3 fleet of automobiles.

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

7 “(1) not later than September 30, 2004, the average fuel economy of
8 the new automobiles in the agency's fleet of automobiles is not less than 1
9 mile per gallon higher than the baseline average fuel economy determined
10 under subsection (a) for that fleet; and

11 “(2) not later than September 30, 2006, the average fuel economy of
12 the new automobiles in the agency's fleet of automobiles is not less than 3
13 miles per gallon higher than the baseline average fuel economy determined
14 under subsection (a) for that fleet.

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

19 “(d) DEFINITIONS.—In this section:

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

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

25 “(3) The term ‘new automobile’, with respect to the fleet of
26 automobiles of an executive agency, means an automobile that is leased for
27 at least 60 consecutive days or bought, by or for the agency, after September
28 30, 1999.”.

29 **SEC. 714. RAILROAD EFFICIENCY.**

30 (a) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary

1 of Transportation, shall establish a public-private research partnership to develop and
2 demonstrate railroad locomotive technologies that increase fuel economy, reduce
3 emissions, and lower costs of operation. Such partnership shall involve the Federal
4 Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the
5 Association of American Railroads.

6 (b) AUTHORIZATION OF APPROPRIATIONS.— For the purposes of this section, there
7 are authorized to be appropriated to the Secretary of Energy \$25,000,000 for fiscal year
8 2004, \$35,000,000 for fiscal year 2005, and \$50,000,000 for fiscal year 2006.

9 **SEC. 715. REDUCTION OF ENGINE IDLING IN HEAVY-DUTY VEHICLES.**

10 (a) IDENTIFICATION.—Not later than 6 months after the date of enactment of this
11 section, the Secretary of Energy, in consultation with the Secretary of Transportation and
12 the Administrator of the Environmental Protection Agency, shall commence a study to
13 analyze the potential fuel savings and emissions reductions resulting from use of idling
14 reduction technologies as they are applied to heavy-duty vehicles. Upon completion of the
15 study, the Secretary of Energy shall, by rule, certify those idling reduction technologies
16 with the greatest economic or technical feasibility and the greatest potential for fuel
17 savings and emissions reductions, and publish a list of such certified technologies in the
18 Federal Register.

19 (b) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of Title 23, United States Code,
20 is amended by adding at the end the following:

21 “In order to promote reduction of fuel use and emissions due to engine idling, the
22 maximum gross vehicle weight limit and the axle weight limit for any motor vehicle
23 equipped with an idling reduction technology certified by the U.S. Department of Energy
24 will be increased by an amount necessary to compensate for the additional weight of the
25 idling reduction system, provided that the weight increase shall be no greater than 400
26 pounds.”

27 (c) DEFINITIONS.—For the purposes of this section:

28 (1) The term “idling reduction technology” means a device or system of
29 devices utilized to reduce long-duration idling of a vehicle.

30 (2) The term “heavy-duty vehicle” means a vehicle that has a gross vehicle

1 weight rating greater than 8,500 pounds and is powered by a diesel engine.

2 (3) The term “long-duration idling” means the operation of a main drive
3 engine, for a period greater than 30 consecutive minutes, where the main drive
4 engine is not engaged in gear. Such term does not apply to routine stoppages
5 associated with traffic movement or congestion.
6

7 **TITLE VIII—HYDROGEN**

8 **Subtitle A—Basic Research Programs**

9 **SEC. 801. SHORT TITLE.**

10 This subtitle may be cited as the “George E. Brown, Jr. and Robert S. Walker
11 Hydrogen Future Act of 2003”.

12 **SEC. 802. MATSUNAGA ACT AMENDMENT.**

13 The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration
14 Act of 1990 (42 U.S.C. 12401 et seq.) is amended by striking sections 102 through 109 and
15 inserting the following:

16 **“SEC. 102. FINDING, PURPOSES, AND DEFINITIONS.**

17 “(a) **FINDING.**—Congress finds that it is in the national interest to accelerate
18 efforts to develop a domestic capability to economically produce hydrogen in
19 quantities that will make a significant contribution toward reducing the Nation's
20 dependence on conventional fuels.

21 “(b) **PURPOSES.**—The purposes of this Act are—

22 “(1) to promote a research, development, and demonstration
23 program leading to the economical and environmentally sound production,
24 storage, transport, and use of hydrogen as an energy source for industrial,
25 commercial, residential, transportation, and utility applications; and

26 “(2) to promote and coordinate activities in technology transfer,
27 education, and other information transfer among Federal, State, and local
28 agencies; members of the energy, transportation, and other industries;
29 foreign nations; and other entities.

1 “(c) DEFINITIONS.—As used in this Act, the term—

2 “(1) ‘advisory committee’ means the advisory committee established
3 under section 108;

4 “(2) ‘critical technology’ or ‘critical technical issue’ means a
5 technology or issue that, in the opinion of the Secretary, requires
6 understanding and development in order to take the next step needed in the
7 development of hydrogen as an economic fuel or storage medium;

8 “(3) ‘Department’ means the Department of Energy; and

9 “(4) ‘Secretary’ means the Secretary of Energy.

10 “SEC. 103. PLAN; REPORT.

11 “(a) COORDINATION PLAN.—The Secretary, in consultation with other
12 Federal agencies, shall prepare a comprehensive coordination plan for activities
13 under this Act and under title II of the Hydrogen Future Act of 1996. The Secretary
14 shall take into account any plan under section 202(b) of the Hydrogen Future Act of
15 1996.

16 “(b) REPORT.—

17 “(1) REQUIREMENT.—Not later than 1 year after the date of
18 enactment of the George E. Brown, Jr. and Robert S. Walker Hydrogen
19 Future Act of 2003, and biennially thereafter, the Secretary shall transmit to
20 Congress a detailed report, based on the plan prepared under subsection (a),
21 on the status and progress of the programs authorized under this Act.

22 “(2) CONTENTS.—A report under paragraph (1) shall include, in
23 addition to any views and recommendations of the Secretary—

24 “(A) an assessment of the effectiveness of the programs
25 authorized under this Act and of the extent to which they are
26 meeting the purposes specified in section 102(b);

27 “(B) recommendations of the advisory committee for any
28 improvements in the program that are needed, including
29 recommendations for additional legislation; and

1 “(C) to the extent practicable, an analysis of Federal, State,
2 local, and private sector hydrogen-related research, development,
3 and demonstration activities to identify productive areas for
4 increased intergovernmental and private-public sector collaboration.

5 **“SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.**

6 “(a) PROGRAM—The Secretary shall conduct a research and development
7 program relating to the production, storage, transportation, and use of hydrogen as
8 an energy source, with the goal of enabling the private sector to demonstrate the
9 technical feasibility of using hydrogen for industrial, commercial, residential,
10 transportation, and utility applications.

11 “(b) ELEMENTS.—In conducting the program authorized by this section, the
12 Secretary shall—

13 “(1) initiate or accelerate research and development in critical
14 technical issues that will contribute to the development of more economical
15 and environmentally sound hydrogen energy systems, including critical
16 technical issues with respect to—

17 “(A) production, with consideration of cost-effective
18 production from renewable energy sources and hydrogen-carrier
19 fuels;

20 “(B) liquefaction, transmission, and distribution;

21 “(C) storage, including storage of hydrogen in surface
22 transportation; and

23 “(D) use, including use in—

24 “(i) surface transportation;

25 “(ii) isolated villages, islands, and communities in
26 which other energy sources are not available or are very
27 expensive;

28 “(iii) fuel cells and components, including proton
29 exchange membrane technologies; and

30 “(iv) foreign markets, particularly where an energy

1 infrastructure is not well developed;

2 “(2) give particular attention to resolving critical technical issues
3 preventing the introduction of hydrogen as an energy source into the
4 marketplace, so as to enable the development of voluntary consensus
5 technical standards; and

6 “(3) survey private sector hydrogen energy research and
7 development activities worldwide and take steps to ensure that research and
8 development activities under this section do not—

9 “(A) unnecessarily duplicate any available research and
10 development; or

11 “(B) displace or compete with the privately funded hydrogen
12 energy research and development activities of United States
13 industry.

14 “(c) RESEARCH AND DEVELOPMENT SUPPORT.—The Secretary is authorized to
15 arrange for tests and demonstrations and to disseminate to researchers and developers
16 information, data, and other materials necessary to support the research and development
17 activities authorized under this section and other efforts authorized under this Act,
18 consistent with section 106.

19 “(d) FEDERAL FUNDING.—The Secretary shall carry out the research and
20 development activities authorized under this section using a competitive merit review
21 process.

22 “(e) COST SHARING.—

23 “(1) IN GENERAL.—The Secretary shall require a commitment from
24 non-Federal sources of at least 20 percent of the cost of proposed research and
25 development projects under this section.

26 “(2) MODIFICATION.—The Secretary may reduce or eliminate the cost
27 sharing requirement under paragraph (1)—

28 “(A) if the Secretary determines that the research and development is
29 of a basic or fundamental nature; or

1 “(B) for technical analyses, outreach activities, and educational
2 programs that the Secretary does not expect to result in a marketable
3 product.

4 **“SEC. 105. DEMONSTRATIONS.**

5 “(a) REQUIREMENT.—The Secretary shall conduct demonstrations of critical
6 technologies so that technical and nontechnical parameters can be evaluated to best
7 determine commercial applicability of such technologies. Demonstrations under
8 this section shall include fuel cells and fuel cell components, including proton
9 exchange membrane technologies, for commercial, residential, and transportation
10 applications, using improved manufacturing production and processes.

11 “(b) DEMONSTRATIONS WITH RESEARCH AND DEVELOPMENT ACTIVITIES.—
12 Concurrently with activities conducted pursuant to section 104, the Secretary shall
13 conduct small-scale demonstrations of hydrogen energy technology at
14 self-contained sites.

15 “(c) COST SHARING.—

16 “(1) IN GENERAL.—The Secretary shall require a commitment from
17 non-Federal sources of at least 50 percent of the costs directly relating to a
18 demonstration project under this section.

19 “(2) REDUCTION.—The Secretary may reduce the non-Federal
20 requirement under paragraph (1) if the Secretary determines that the
21 reduction is appropriate considering the technological risks involved in the
22 project.

23 **“SEC. 106. TECHNOLOGY ASSESSMENT AND TRANSFER.**

24 “(a) PROGRAM.—

25 “(1) IN GENERAL.—The Secretary shall conduct a program designed
26 to transfer critical technologies to the private sector, including application in
27 foreign countries to increase the global market for the technologies and
28 foster global development without harmful environmental effects.

29 “(2) ADVICE AND ASSISTANCE.—The Secretary shall direct the

1 program authorized by this subsection with the advice and assistance of the
2 advisory committee.

3 “(b) INFORMATION.—

4 “(1) IN GENERAL.—The Secretary, in carrying out the program
5 authorized by subsection (a), shall—

6 “(A) undertake an update of the inventory and assessment of
7 hydrogen energy technologies and their commercial capability to
8 economically produce, store, transport, and use hydrogen as an
9 energy source in the industrial, commercial, residential,
10 transportation, and utility sectors; and

11 “(B) develop with the National Aeronautics and Space
12 Administration, other Federal agencies as appropriate, and industry,
13 an information exchange program to improve technology transfer for
14 hydrogen energy technologies.

15 “(2) ACTIVITIES.—The information exchange program may consist
16 of workshops, publications, conferences, and a database for the use by the
17 public and private sectors. The Secretary shall also foster the exchange of
18 generic, nonproprietary information and technology, developed pursuant to
19 this Act, among industry, academia, and the Federal Government, to help
20 the United States economy attain the economic benefits of this information
21 and technology.

22 **“SEC. 107. COORDINATION AND CONSULTATION.**

23 “(a) IN GENERAL.—The Secretary shall have overall management
24 responsibility for carrying out programs under this Act. In carrying out such
25 programs, the Secretary, consistent with such overall management responsibility—

26 “(1) shall establish a central point for the coordination of all
27 hydrogen energy research, development, and demonstration activities of the
28 Department; and

29 “(2) may use the expertise of any other Federal agency in accordance

1 with subsection (b) in carrying out any activities under this Act, to the
2 extent that the Secretary determines that any such agency has capabilities
3 which would allow such agency to contribute to the purposes of this Act.

4 “(b) ASSISTANCE.—The Secretary may, in accordance with subsection (a),
5 obtain the assistance of any Federal agency upon written request, on a reimbursable
6 basis or otherwise and with the consent of such agency. Each such request shall
7 identify the assistance the Secretary considers necessary to carry out any duty under
8 this Act.

9 “(c) CONSULTATION.—The Secretary shall consult with other Federal
10 agencies as appropriate, and the advisory committee, in carrying out the Secretary's
11 authorities pursuant to this Act.

12 **“SEC. 108. ADVISORY COMMITTEE.**

13 “(a) ESTABLISHMENT.—There is hereby established the Hydrogen Technical
14 Advisory Committee to advise the Secretary on the programs under this Act and
15 under title II of the Hydrogen Future Act of 1996, to remain in existence for the
16 duration of such programs.

17 “(b) MEMBERSHIP.—

18 “(1) IN GENERAL.—The advisory committee shall be comprised of
19 not fewer than 9 nor more than 15 members appointed by the Secretary, and
20 shall be comprised of such representatives from domestic industry,
21 universities, professional societies, Government laboratories, and financial,
22 environmental, and other organizations as the Secretary considers
23 appropriate based on the Secretary's assessment of the technical and other
24 qualifications of such representatives.

25 “(2) TERMS.—

26 “(A) IN GENERAL.—The term of a member of the advisory
27 committee shall not be more than three years.

28 “(B) STAGGERED TERMS.—The Secretary may appoint
29 members of the advisory committee in a manner that allows the

1 terms of the members serving at any time to expire at spaced
2 intervals so as to ensure continuity in the functioning of the advisory
3 committee.

4 “(C) REAPPOINTMENT.—A member of the advisory
5 committee whose term expires may be reappointed.

6 “(3) CHAIRPERSON.—The advisory committee shall have a
7 chairperson, who shall be elected by the members from among their
8 number.

9 “(c) COOPERATION.—The heads of Federal agencies shall cooperate with
10 the advisory committee in carrying out the requirements of this section and shall
11 furnish to the advisory committee such information as the advisory committee
12 considers necessary to carry out this section.

13 “(d) REVIEW.—The advisory committee shall review and make any
14 necessary recommendations to the Secretary on—

15 “(1) the implementation and conduct of programs under this Act;

16 “(2) the economic, technological, and environmental consequences
17 of the deployment of technologies for the production, storage,
18 transportation, and use of hydrogen as an energy source; and

19 “(3) the coordination plan prepared by the Secretary under section
20 103 and the plan developed by the interagency task force under section
21 202(b) of the Hydrogen Future Act of 1996.

22 “(e) RECOMMENDATIONS.—The Secretary shall consider, but need not
23 adopt, any recommendations of the advisory committee under subsection (d). The
24 Secretary shall either describe the implementation, or provide an explanation of the
25 reasons that any such recommendations will not be implemented, in the report to
26 Congress under section 103(b).

27 “(f) SUPPORT.—The Secretary shall provide such staff, funds, and other
28 support as may be necessary to enable the advisory committee to carry out its
29 functions.

1 **“SEC. 109. NATIONAL ACADEMY OF SCIENCES REVIEW.**

2 “Beginning 2 years after the date of the enactment of this section, and every
3 4 years thereafter, the National Academy of Sciences shall perform a review of the
4 progress made through the programs and activities authorized under this Act and
5 title II of the Hydrogen Future Act of 1996, and shall report to the Congress on the
6 results of such reviews.

7 **“SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

8 “There are authorized to be appropriated to carry out the purposes of this
9 Act (in addition to any amounts made available for such purposes under other
10 Acts)—

11 “(1) \$3,000,000 for fiscal year 1992;

12 “(2) \$7,000,000 for fiscal year 1993;

13 “(3) \$10,000,000 for fiscal year 1994;

14 “(4) \$14,500,000 for fiscal year 1996;

15 “(5) \$20,000,000 for fiscal year 1997;

16 “(6) \$25,000,000 for fiscal year 1998;

17 “(7) \$30,000,000 for fiscal year 1999;

18 “(8) \$35,000,000 for fiscal year 2000;

19 “(9) \$40,000,000 for fiscal year 2001;

20 “(10) \$45,000,000 for fiscal year 2002;

21 “(11) \$50,000,000 for fiscal year 2003;

22 “(12) \$55,000,000 for fiscal year 2004;

23 “(13) \$60,000,000 for fiscal year 2005;

24 “(14) \$65,000,000 for fiscal year 2006;

25 “(15) \$70,000,000 for fiscal year 2007; and

26 “(16) \$75,000,000 for fiscal year 2008.”.

27 **SEC. 803. HYDROGEN FUTURE ACT AMENDMENT.**

28 Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note) is amended to
29 read as follows:

“TITLE II—FUEL CELLS

“SEC. 201. INTEGRATION OF FUEL CELLS WITH HYDROGEN SYSTEMS.

“(a) IN GENERAL.—The Secretary shall solicit proposals for projects demonstrating hydrogen technologies needed to use fuel cells in Federal, State, and local government stationary and transportation applications.

“(b) COMPETITIVE EVALUATION.—Each proposal submitted in response to the solicitation under this section shall be evaluated on a competitive basis using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposal.

“(c) PREFERENCE.—The Secretary shall give preference, in making an award under this section, to proposals that—

“(1) are submitted jointly from consortia including academic institutions, industry, State or local governments, and Federal laboratories; and

“(2) reflect proven experience and capability with technologies relevant to the projects proposed.

“(d) NON-FEDERAL SHARE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

“(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project.

“SEC. 202. INTERAGENCY TASK FORCE.

“(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of the George E. Brown, Jr. and Robert S. Walker Hydrogen Future Act of 2003, the Secretary shall establish an interagency task force led by the Secretary’s designee and comprised of

1 representatives of—

2 “(1) the Office of Science and Technology Policy;

3 “(2) the Department of Transportation;

4 “(3) the Department of Defense;

5 “(4) the Department of Commerce (including the National Institute of
6 Standards and Technology);

7 “(5) the Environmental Protection Agency;

8 “(6) the National Aeronautics and Space Administration; and

9 “(7) other Federal agencies as appropriate.

10 “(b) DUTIES.—

11 “(1) DEVELOPMENT OF PLAN.—The task force shall develop a plan for
12 carrying out this title.

13 “(2) FOCUS OF PLAN.—The plan shall focus on development and
14 demonstration of integrated systems and components for—

15 “(A) the production, storage, transport, and use of hydrogen as an
16 energy source for Federal, State, and local government stationary and
17 transportation applications;

18 “(B) hydrogen-based infrastructure for buses and other fleet
19 transportation systems that include zero-emission vehicles; and

20 “(C) hydrogen-based distributed power generation, including the
21 generation of combined heat, power, and hydrogen.

22 **“SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.**

23 “The Secretary shall enter into cooperative and cost-sharing agreements
24 with Federal, State, and local agencies for participation by the agencies in
25 demonstrations at facilities administered by the agencies, with the aim of
26 integrating high-efficiency hydrogen systems using fuel cells into the facilities to
27 provide near-term benefits and promote a smooth transition to hydrogen as an
28 energy source.

29 **“SEC. 204. INTEGRATION AND DISSEMINATION OF TECHNICAL INFORMATION.**

1 “The Secretary shall –

2 “(a) integrate all the technical information available as a result of
3 development and demonstration projects under this title;

4 “(b) make the information available to all interested persons; and

5 “(c) foster the exchange of generic, nonproprietary information and
6 technology developed under this title among industry, academia, and
7 Federal, State, and local governments, to help the United States economy
8 attain the economic benefits of the information and technology.

9 “**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

10 “There are authorized to be appropriated to the Secretary, for activities
11 under this title—

12 “(a) \$5,000,000 for fiscal year 2003;

13 “(b) \$25,000,000 for fiscal year 2004;

14 “(c) \$30,000,000 for fiscal year 2005;

15 “(d) \$35,000,000 for fiscal year 2006;

16 “(e) \$40,000,000 for fiscal year 2007; and

17 “(f) \$50,000,000 for fiscal year 2008.”.

18 **Subtitle B – Transportation Fuel Programs**

19 **SEC. 811. HYDROGEN TRANSPORTATION FUEL INITIATIVE.**

20 (a) **IN GENERAL.**—The Secretary of Energy, in partnership with the private sector,
21 shall conduct a research and development program designed to accelerate the use of
22 hydrogen and related technologies in transportation applications. Such program shall have
23 as its goal the potential introduction of hydrogen-based transportation vehicles into
24 commerce by 2015.

25 (b) **RESEARCH AREAS.**—The program authorized under this section shall address—

26 (1) production of hydrogen from diverse energy resources, including—

27 (A) fossil fuels, in conjunction with carbon capture and
28 sequestration;

29 (B) hydrogen-carrier fuels;

1 (C) renewable energy resources; and

2 (D) nuclear energy;

3 (2) delivery of hydrogen or hydrogen-carrier fuels, including—

4 (A) transmission by pipeline and other distribution methods; and

5 (B) safe, convenient, and economic refueling of vehicles, either at
6 central refueling stations or through distributed on-site generation;

7 (3) storage of hydrogen or hydrogen-carrier fuels, including development of
8 materials for safe and economic storage in gaseous, liquid or solid forms at
9 refueling facilities or onboard vehicles;

10 (4) development of advanced vehicle technologies, such as efficient fuel
11 cells and direct hydrogen combustion engines, and related component technologies
12 such as advanced materials and control systems; and

13 (5) development of necessary codes, standards, and safety practices to
14 accompany the production, distribution, storage and use of hydrogen or hydrogen-
15 carrier fuels in transportation.

16 (c) ADVISORY COMMITTEE.—The Hydrogen Technical Advisory Committee
17 authorized under section 108 of the Spark M. Matsunaga Hydrogen Research,
18 Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.), as amended in
19 this title, shall also advise the Secretary on the programs and activities carried out under
20 this section, and shall ensure that such programs and activities are consistent with
21 technology roadmaps and plans, such as the National Hydrogen Energy Roadmap
22 published by the Department of Energy in November 2002, that are developed in
23 consultation with stakeholders through workshops or other public processes.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
25 are authorized to be appropriated to the Secretary—

26 (1) \$273,500,000 for fiscal year 2004;

27 (2) \$325,000,000 for fiscal year 2005;

28 (3) \$375,000,000 for fiscal year 2006;

29 (4) \$400,000,000 for fiscal year 2007; and

1 (5) \$425,000,000 for fiscal year 2008.

2 **SEC. 812. HYDROGEN VEHICLE DEMONSTRATION PROGRAM.**

3 (a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of
4 Transportation and the private sector, shall establish a pilot program for awarding grants on
5 a peer-reviewed, competitive basis for the integrated demonstration and deployment of
6 hydrogen vehicles and associated infrastructure to support such vehicles.

7 (b) SOLICITATION.—Not later than 6 months after the date of the enactment of this
8 section, the Secretary shall establish procedures for implementation of the grant program
9 and publish in the Federal Register a solicitation for proposals for grants to be awarded
10 under this section.

11 (c) ELIGIBILITY.—Grants shall be awarded under this section only to proposals
12 that—

13 (1) address all aspects of the hydrogen energy system, including production,
14 delivery, storage, conversion and actual use in transportation applications; and

15 (2) include two or more participants from the private sector (including
16 technology developers, fuel suppliers, auto manufacturers, and transportation
17 industries), National Laboratories, local or State governments, colleges and
18 universities, or other interested stakeholders;

19 (3) include programs and activities to provide for education and outreach to
20 potential consumers of hydrogen-based transportation technologies; and

21 (4) include programs and activities that aid in the development of codes and
22 standards to ensure safe use of hydrogen for transportation applications.

23 (d) COST SHARING.—

24 (1) The Secretary shall require a commitment from non-Federal sources of
25 at least 50 percent of the cost of proposed demonstration and deployment projects
26 under this section.

27 (2) The Secretary may reduce or eliminate the cost sharing requirement
28 under paragraph (1) for technical analyses, outreach activities, and educational
29 programs that the Secretary does not expect to result in a marketable product.

30 (e) Not later than 2 years after the date of enactment of this section, the Secretary

1 shall provide to Congress a report that describes the projects and grants funded under this
2 section and the interim results of such projects and grants, as well as recommendations for
3 any legislative or administrative changes that may be needed to improve the effectiveness
4 of the projects and grants funded under this section.

5 (f) For the purposes of this section, there is authorized to be appropriated to the
6 Secretary \$100,000,000 for each of fiscal years 2004 through 2008, to remain available
7 until expended, provided that not more than \$20,000,000 of which can be provided to a
8 single grant award in each calendar year.

9 **TITLE IX — RESEARCH AND DEVELOPMENT**

10 **SEC. 901. SHORT TITLE.**

11 This Title may be cited as the “Energy Research, Development, Demonstration, and
12 Commercial Application Act of 2003”.

13 **SEC. 902. GOALS.**

14 (a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall
15 conduct a balanced set of programs of energy research, development, demonstration, and
16 commercial application, focused on—

- 17 (1) increasing the efficiency of all energy intensive sectors through
18 conservation and improved technologies,
- 19 (2) promoting diversity of energy supply,
- 20 (3) decreasing the nation’s dependence on foreign energy supplies, and
- 21 (4) decreasing the environmental impact of energy-related activities.

22 (b) GOALS.—The Secretary shall publish goals with each annual budget submission
23 in at least the following areas:

- 24 (1) Energy efficiency for buildings, energy-consuming industries, and
25 vehicles,
- 26 (2) Electric energy generation (including distributed generation),
27 transmission, and storage,
- 28 (3) Renewable energy technologies including wind power, photovoltaics,
29 solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based

1 power systems, biofuels, and hydropower,

2 (4) fossil energy including power generation, onshore and offshore oil and
3 gas resource recovery, transportation,

4 (5) nuclear energy including programs for existing and advanced reactors,
5 and education of future specialists.

6 (c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the
7 annually published goals from industry, university, and other public sources.

8 (d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals
9 creates any new authority for any Federal agency, or may be used by a Federal agency to
10 support the establishment of regulatory standards or regulatory requirements.

11 **SEC. 903. DEFINITIONS.**

12 For purposes of this title:

13 (1) The term “Department” means the Department of Energy.

14 (2) The term “departmental mission” means any of the functions vested in
15 the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C.
16 7101 et seq.) or other law.

17 (3) The term “institution of higher education” has the meaning given that
18 term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

19 (4) The term “joint venture” has the meaning given that term under section 2
20 of the National Cooperative Research and Production Act of 1993 (15 U.S.C.
21 4301).

22 (5) The term “National Laboratory” means any of the following laboratories
23 owned by the Department:

24 (A) Ames National Laboratory.

25 (B) Argonne National Laboratory.

26 (C) Brookhaven National Laboratory.

27 (D) Fermi National Laboratory.

28 (E) Idaho National Engineering and Environmental Laboratory.

29 (F) Lawrence Berkeley National Laboratory.

30 (G) Lawrence Livermore National Laboratory.

1 (H) Los Alamos National Laboratory.

2 (I) National Energy Technology Laboratory.

3 (J) National Renewable Energy Laboratory.

4 (K) Oak Ridge National Laboratory.

5 (L) Pacific Northwest National Laboratory.

6 (M) Princeton Plasma Physics Laboratory.

7 (N) Sandia National Laboratories.

8 (O) Thomas Jefferson National Accelerator Facility.

9 (6) The term “nonmilitary energy laboratory” means the following
10 laboratories listed in (6): A-D, F, I, J, K, L, M, and O.

11 (7) The term “Secretary” means the Secretary of Energy.

12 (8) The term “single-purpose research facility” means any of the primarily
13 single-purpose entities owned by the Department or any other organization of the
14 Department designated by the Secretary.

15 **Subtitle A—Energy Efficiency**

16 **SEC. 911. ENERGY EFFICIENCY.**

17 (a) IN GENERAL.—The following sums are authorized to be appropriated to the
18 Secretary for energy efficiency and conservation research, development, demonstration,
19 and commercial application activities, including activities authorized under this subtitle:

20 (1) For fiscal year 2004, \$616,000,000;

21 (2) For fiscal year 2005, \$695,000,000;

22 (3) For fiscal year 2006, \$772,000,000;

23 (4) For fiscal year 2007, \$865,000,000; and

24 (5) For fiscal year 2008, \$920,000,000.

25 (b) ALLOCATIONS.—From amounts authorized under subsection (a), the following
26 sums are authorized:

27 (1) For activities under section 912—

28 (A) \$20,000,000 for fiscal year 2004; and

29 (B) \$30,000,000 for each of fiscal years 2005 through 2008.

1 (2) For activities under section 914—

2 (A) for fiscal year 2004, \$4,000,000; and

3 (B) for each of fiscal years 2005 through 2008, \$7,000,000.

4 (3) For activities under section 915—

5 (A) for fiscal year 2004, \$20,000,000;

6 (B) for fiscal year 2005, \$25,000,000;

7 (C) for fiscal year 2006, \$30,000,000;

8 (D) for fiscal year 2007, \$35,000,000; and

9 (E) for fiscal year 2008, \$40,000,000.

10 (c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the
11 Secretary for activities under section 912, \$50,000,000 for each of fiscal years 2008
12 through 2012.

13 (d) None of the funds authorized to be appropriated under this section may be used
14 for—

15 (1) the promulgation and implementation of energy efficiency regulations;

16 (2) the Weatherization Assistance Program under part A of title IV of the
17 Energy Conservation and Production Act;

18 (3) the State Energy Program under part D of title III of the Energy Policy
19 and Conservation Act; or

20 (4) the Federal Energy Management Program under part 3 of title V of the
21 National Energy Conservation Policy Act.

22 **SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.**

23 (a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting
24 Initiative in accordance with this section to support research, development, demonstration,
25 and commercial application activities related to advanced solid-state lighting technologies
26 based on white light emitting diodes.

27 (b) OBJECTIVES.—The objectives of the initiative shall be to develop advanced
28 solid-state organic and inorganic lighting technologies based on white light emitting diodes
29 that, compared to incandescent and fluorescent lighting technologies, are longer lasting,
30 more energy-efficient; and cost-competitive

1 (c) FUNDAMENTAL RESEARCH.—

2 (1) The Secretary shall carry out the fundamental research activities of the
3 Next Generation Lighting Initiative through a private consortium (which may
4 include private firms, trade associations and institutions of higher education), which
5 the Secretary shall select through a competitive process.

6 (2) The consortium shall be structured as a joint venture among the
7 participants of the consortium. The Secretary shall serve on the governing council
8 of the consortium.

9 (3) To be eligible to be selected as the consortium under paragraph (1), an
10 applicant must be broadly representative of United States solid-state lighting
11 research, development, and manufacturing expertise as a whole.

12 (4) The Secretary shall establish procedures for awarding grants, which shall
13 be matched by the consortium pursuant to section 992.

14 (5) National Laboratories may participate in the research described in this
15 section, and may receive funds from the consortium.

16 (6) Participants in the consortium and the Federal Government shall have
17 royalty-free nonexclusive rights to use intellectual property derived from research
18 funded pursuant to this subsection.

19 (d) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—The
20 Secretary shall carry out the development, demonstration, and commercial application
21 activities of the Next Generation Lighting Initiative through awards to private firms, trade
22 associations, and institutions of higher education. In selecting awardees, the Secretary may
23 give preference to members of the consortium selected pursuant to subsection (c).

24 (e) PLANS AND ASSESSMENTS.—

25 (1) The consortium shall formulate an annual operating plan which shall
26 include research priorities, technical milestones, and plans for technology transfer,
27 and which shall be subject to approval by the Secretary.

28 (2) The Secretary shall enter into an arrangement with the National
29 Academy of Sciences to conduct periodic reviews of the Next Generation Lighting

1 Initiative and shall consider the results of such reviews in evaluating the plans
2 submitted under paragraph (1).

3 (f) AUDIT.—The Secretary shall retain an independent, commercial auditor to
4 perform an audit of the consortium to determine the extent to which the funds authorized
5 by this section have been expended in a manner consistent with the purposes of this
6 section. The auditor shall transmit a report annually to the Secretary, who shall transmit the
7 report to Congress, along with a plan to remedy any deficiencies cited in the report.

8 (g) SUNSET.—The Next Generation Lighting Initiative shall terminate no later than
9 September 30, 2013.

10 (h) DEFINITIONS.—As used in this section:

11 (1) The term “advanced solid-state lighting” means a semiconducting device
12 package and delivery system that produces white light using externally applied
13 voltage.

14 (2) The term “fundamental research” includes basic research on both solid-
15 state materials and manufacturing processes.

16 (3) The term “white light emitting diode” means a semiconducting package
17 that produces white light using externally applied voltage.

18 **SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

19 (a) INTERAGENCY GROUP.—Not later than 3 months after the date of enactment of
20 this Act, the Director of the Office of Science and Technology Policy shall establish an
21 interagency group to develop, in coordination with the advisory committee established
22 under subsection (e), a National Building Performance Initiative (in this section referred to
23 as the “Initiative”). The interagency group shall be cochaired by appropriate officials of the
24 Department and the Department of Commerce, who shall jointly arrange for the provision
25 of necessary administrative support to the group.

26 (b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and
27 voluntary private sector efforts to reduce the costs of construction, operation, maintenance,
28 and renovation of commercial, industrial, institutional, and residential buildings.

29 (c) PLAN.—Not later than 1 year after the date of enactment of this Act, the
30 interagency group shall submit to Congress a plan for carrying out the appropriate Federal

1 role in the Initiative. The plan shall include—

2 (1) research, development, demonstration, and commercial application of
3 systems and materials for new construction and retrofit relating to the building
4 envelope and building system components; and

5 (2) the collection, analysis, and dissemination of research results and other
6 pertinent information on enhancing building performance to industry, government
7 entities, and the public.

8 (d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative,
9 the Department shall be the lead agency for all aspects of building performance related to
10 use and conservation of energy.

11 (e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology
12 Policy shall establish an advisory committee to—

13 (1) analyze and provide recommendations on potential private sector roles
14 and participation in the Initiative; and

15 (2) review and provide recommendations on the plan described in
16 subsection (c).

17 (f) CONSTRUCTION.—Nothing in this section provides any Federal agency with new
18 authority to regulate building performance.

19 **SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.**

20 (a) DEFINITIONS.—For purposes of this part, the term—

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

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

25 (b) PROGRAM.—The Secretary shall establish and conduct a research, development,
26 demonstration, and commercial application program for the secondary use of batteries.

27 Such program shall be—

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

30 (2) structured to evaluate the performance, including useful service life and

1 costs, of such batteries in field operations, and evaluate the necessary supporting
2 infrastructure, including reuse and disposal of batteries; and

3 (3) coordinated with ongoing secondary battery use programs at the
4 National Laboratories and in industry.

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

10 (d) SELECTION OF PROPOSALS.—

11 (1) The Secretary shall, not later than 3 months after the closing date
12 established by the Secretary for receipt of proposals under subsection (b), select up
13 to 5 proposals which may receive financial assistance under this section once the
14 Department is in receipt of appropriated funds.

15 (2) In selecting proposals, the Secretary shall consider diversity of battery
16 type, geographic and climatic diversity, and life-cycle environmental effects of the
17 approaches.

18 (3) No one project selected under this section shall receive more than 25
19 percent of the funds authorized for this Program.

20 (4) The Secretary shall consider the extent of involvement of State or local
21 government and other persons in the demonstration project to optimize use of
22 federal resources.

23 (5) The Secretary may consider such other criteria as the Secretary considers
24 appropriate.

25 (e) CONDITIONS.—

26 (1) The Secretary shall require that relevant information be provided to the
27 Department, the users of the batteries, the proposers, and the battery manufacturers.

28 (2) the proposer provide at least 50 percent of the costs associated with the
29 proposal.

1 **SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.**

2 (a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science
3 Initiative to be managed by the Assistant Secretary in the Department with responsibility
4 for energy conservation under section 203(a)(9) of the Department of Energy Organization
5 Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for
6 grants to be competitively awarded and subject to peer review for research relating to
7 energy efficiency.

8 (b) REPORT.—The Secretary shall submit to the Congress, along with the
9 President's annual budget request under section 1105(a) of title 31, United States Code, a
10 report on the activities of the Energy Efficiency Science Initiative, including a description
11 of the process used to award the funds and an explanation of how the research relates to
12 energy efficiency.

13 **Subtitle B—Distributed Energy**
14 **and Electric Energy Systems**

15 **SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.**

16 (a) IN GENERAL.—

17 (1) The following sums are authorized to be appropriated to the Secretary
18 for distributed energy and electric energy systems activities, including activities
19 authorized under this subtitle:

20 (A) For fiscal year 2004, \$190,000,000;

21 (B) For fiscal year 2005, \$200,000,000;

22 (C) For fiscal year 2006, \$220,000,000;

23 (D) For fiscal year 2007, \$240,000,000; and

24 (E) For fiscal year 2008, \$260,000,000.

25 (2) For the Initiative in subsection 926(d), there are authorized to be
26 appropriated:

27 (A) \$15,000,000 for fiscal year 2004;

28 (B) \$20,000,000 in fiscal year 2005;

29 (C) \$30,000,000 in fiscal year 2006;

1 (D) \$35,000,000 in fiscal year 2007; and

2 (E) \$40,000,000 in fiscal year 2008.

3 (b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized
4 under subsection (a), \$20,000,000 for each of fiscal years 2004 and 2005 shall be available
5 for activities under section 924.

6 **SEC. 922. HYBRID DISTRIBUTED POWER SYSTEMS.**

7 Not later than 1 year after the date of enactment of this Act, the Secretary shall
8 develop and transmit to the Congress a strategy for a comprehensive research,
9 development, demonstration, and commercial application program to develop hybrid
10 distributed power systems that combine—

11 (1) one or more renewable electric power generation technologies of 10
12 megawatts or less located near the site of electric energy use; and

13 (2) nonintermittent electric power generation technologies suitable for use
14 in a distributed power system.

15 **SEC. 923. HIGH POWER DENSITY INDUSTRY PROGRAM.**

16 The Secretary shall establish a comprehensive research, development,
17 demonstration, and commercial application program to improve energy efficiency of high
18 power density facilities, including data centers, server farms, and telecommunications
19 facilities. Such program shall consider technologies that provide significant improvement
20 in thermal controls, metering, load management, peak load reduction, or the efficient
21 cooling of electronics.

22 **SEC. 924. MICRO-COGENERATION ENERGY TECHNOLOGY.**

23 The Secretary shall make competitive, merit-based grants to consortia for the
24 development of micro-cogeneration energy technology. The consortia shall explore the use
25 of small-scale combined heat and power in residential heating appliances.

26 **SEC. 925. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.**

27 (a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND
28 DISTRIBUTION.—Title II of the Department of Energy Organization Act is amended by
29 inserting the following after section 217 (42 U.S.C. 7144d):

30 **“OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.**

1 **“SEC. 218.** (a) There is established within the Department an Office of Electric
 2 Transmission and Distribution. This Office shall be headed by a Director, who shall be
 3 appointed by the Secretary. The Director shall be compensated at the annual rate
 4 prescribed for level IV of the Executive Schedule under section 5315 of title 5, United
 5 States Code.”

6 “(b) The Director shall –

7 “(1) coordinate and develop a comprehensive, multi-year strategy to
 8 improve the Nation’s electricity transmission;

9 “(2) ensure that the recommendations of the Secretary’s National
 10 Transmission Grid Study are implemented;

11 “(3) carry out the research, development, and demonstration functions;

12 “(4) grant authorizations for electricity import and export; and

13 “(5) perform other electricity transmission-related functions assigned by the
 14 Secretary.”

15 (b) CONFORMING AMENDMENTS.—

16 (1) The Table of Contents of the Department of Energy Act is amended by
 17 inserting after the item relating to section 217 the following new item:

18 “218. Office of Electric Transmission and Distribution.”.

19 (2) Section 5315 of title 5, United States Code, is amended by inserting
 20 “Director, Office of Electric Transmission and Distribution, Department of
 21 Energy.” after “Director, Office of Science, Department of Energy.”.

22 **SECTION 926. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.**

23 (a) DEMONSTRATION PROGRAM.—The Secretary, acting through the Director of the
 24 Office of Electric Transmission and Distribution, shall establish a comprehensive research,
 25 development, and demonstration program to ensure the reliability, efficiency, and
 26 environmental integrity of electrical transmission systems. This program shall include—

27 (1) advanced energy technologies, materials, and systems;

28 (2) advanced grid reliability and efficiency technology development;

29 (3) technologies contributing to significant load reductions;

1 (4) advanced metering, load management, and control technologies;

2 (5) technologies to enhance existing grid components;

3 (6) the development and use of high-temperature superconductors to

4 (A) enhance the reliability, operational flexibility, or power-carrying
5 capability of electric transmission or distribution systems; or

6 (B) increase the efficiency of electric energy generation,
7 transmission, distribution, or storage systems;

8 (7) integration of power systems, including systems to deliver high-quality
9 electric power, electric power reliability, and combined heat and power;

10 (8) any other infrastructure technologies, as appropriate; and

11 (9) technology transfer and education.

12 (b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this
13 legislation, the Secretary, in consultation with other appropriate Federal agencies, shall
14 prepare and transmit to Congress a 5-year program plan to guide activities under this
15 section. In preparing the program plan, the Secretary shall consult with utilities, energy
16 services providers, manufacturers, institutions of higher education, other appropriate State
17 and local agencies, environmental organizations, professional and technical societies, and
18 any other persons the Secretary considers appropriate.

19 (c) REPORT.—Not later than 2 years after the transmittal of the plan under
20 subsection (b), the Secretary shall transmit a report to Congress describing the progress
21 made under this section and identifying any additional resources needed to continue the
22 development and commercial application of transmission infrastructure technologies.

23 (d) POWER DELIVERY RESEARCH INITIATIVE.—The Secretary shall establish a
24 research, development and demonstration initiative specifically focused on power delivery
25 research utilizing components incorporating high temperature superconductivity. Goals of
26 this Initiative shall be to—

27 (1) establish world class facilities to develop high temperature
28 superconductivity power applications in partnership with manufacturers and
29 utilities;

1 (2) provide technical leadership for establishing reliability for high
2 temperature superconductivity power applications including suitable modeling and
3 analysis; and

4 (3) facilitate commercial transition toward direct current power
5 transmission, storage, and use for high power systems utilizing high temperature
6 superconductivity.

7 (e) The Initiative in (d) shall use—

8 (A) feasibility analysis, planning, research, and design to construct
9 demonstrations of superconducting links in a high power, direct current
10 transmission system;

11 (B) public-private partnerships to demonstrate deployment of high
12 temperature superconducting cable into testbeds simulating a realistic
13 transmission grid; and

14 (C) testbeds developed in cooperation with national laboratories,
15 industries, and universities to demonstrate these technologies, prepare the
16 technologies for commercial introduction, and address cost or performance
17 roadblocks to successful commercial use.

18 **Subtitle C—Renewable Energy**

19 **SEC. 931. RENEWABLE ENERGY.**

20 (a) **IN GENERAL.**—The following sums are authorized to be appropriated to the
21 Secretary for renewable energy research, development, demonstration, and commercial
22 application activities, including activities authorized under this subtitle:

23 (1) For fiscal year 2003, \$390,000,000;

24 (2) For fiscal year 2004, \$480,000,000;

25 (3) For fiscal year 2005, \$550,000,000;

26 (4) For fiscal year 2006, \$610,000,000; and

27 (5) For fiscal year 2007, \$659,000,000.

28 (b) **BIOENERGY.**—From the amounts authorized under subsection (a), the following
29 sums are authorized to be appropriated to carry out section 932:

- 1 (1) For fiscal year 2003, \$117,800,000;
- 2 (2) For fiscal year 2004, \$135,425,000;
- 3 (3) For fiscal year 2005, \$155,600,000;
- 4 (4) For fiscal year 2006, \$167,650,000; and
- 5 (5) For fiscal year 2007, \$180,000,000.

6 (c) **CONCENTRATING SOLAR POWER.**—From amounts authorized under subsection
7 (a), the following sums are authorized to be appropriated to carry out section 933:

- 8 (1) For fiscal year 2004, \$20,000,000
- 9 (2) for fiscal year 2005, \$40,000,000,
- 10 (2) For each of fiscal years 2006, 2007 and 2008, \$50,000,000,

11 (d) **LIMITS ON USE OF FUNDS.**—

12 (1) None of the funds authorized to be appropriated under this section may
13 be used for Renewable Support and Implementation.

14 (2) Of the funds authorized under subsection (b), not less than \$5,000,000
15 for each fiscal year shall be made available for grants to Historically Black
16 Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

17 (3) In carrying out this section, the Secretary, in consultation with the
18 Secretary of Agriculture, shall demonstrate the use of advanced wind power
19 technology, biomass, geothermal energy systems, and other renewable energy
20 technologies to assist in delivering electricity to rural and remote locations.

21 **SEC. 932. BIOENERGY PROGRAMS.**

22 The Secretary shall conduct a program of research, development, demonstration,
23 and commercial application for bioenergy, including—

- 24 (1) biopower energy systems;
- 25 (2) biofuels;
- 26 (3) integrated applications of both biopower and biofuels;
- 27 (4) cross-cutting research and development in feedstocks; and
- 28 (5) economic analysis.

29 **SEC. 933. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.**

30 (a) **IN GENERAL.**—The Secretary shall conduct a program of research and

1 development to evaluate the potential of concentrating solar power for hydrogen
2 production, including co-generation approaches for both hydrogen and electricity. Such
3 program shall include—

4 (1) development of optimized core technologies that are common to both
5 electricity and hydrogen production;

6 (2) evaluation of thermo-chemical cycles for hydrogen production at the
7 temperatures attainable with concentrating solar power;

8 (3) evaluation of materials issues for the thermo-chemical cycles in (1);

9 (4) system architectures and economics studies; and

10 (5) coordination with activities in the Advanced Reactor Hydrogen Co-
11 generation Project on high temperature materials and thermo-chemical cycle issues.

12 (b) ASSESSMENT.—In carrying out the program under this section, the Secretary is
13 directed to assess conflicting guidance on the economic potential of concentrating solar
14 power for electricity production received from the National Research Council report
15 entitled “Renewable Power Pathways: A Review of the U.S. Department of Energy’s
16 Renewable Energy Programs” in 2000 and subsequent DOE-funded reviews of that report
17 and provide an assessment of the potential impact of this technology before, or concurrent
18 with, submission of the FY2005 budget.

19 (c) REPORT.—Not later than 5 years after the date of enactment of this section, the
20 Secretary shall provide a report to Congress on the economic and technical potential for
21 hydrogen production, with or without co-generation of electricity, with concentrating solar
22 power, including the economic and technical feasibility of potential construction of a pilot
23 demonstration facility suitable for commercial production of hydrogen from concentrating
24 solar power.

25 **SEC. 934 MISCELLANEOUS PROJECTS.**

26 The Secretary shall conduct research, development, demonstration, and commercial
27 application programs for—

28 (1) ocean energy, including wave energy; and

29 (2) the combined use of renewable energy technologies with one another
30 and with other energy technologies, including the combined use of wind power and

1 coal gasification technologies.

2 **Subtitle D—Nuclear Energy**

3 **SEC. 941. NUCLEAR ENERGY.**

4 (a) CORE PROGRAMS.—The following sums are authorized to be appropriated to the
5 Secretary for nuclear energy research, development, demonstration, and commercial
6 application activities, including activities authorized under this subtitle, other than those
7 described in subsection (b):

8 (1) For fiscal year 2004, \$233,000,000;

9 (2) For fiscal year 2005, \$266,000,000;

10 (3) For fiscal year 2006, \$300,000,000;

11 (4) For fiscal year 2007, \$334,000,000; and

12 (5) For fiscal year 2008, \$370,000,000.

13 (b) NUCLEAR INFRASTRUCTURE SUPPORT.—The following sums are authorized to
14 be appropriated to the Secretary for activities under section 942(f):

15 (1) For fiscal year 2004, \$125,000,000;

16 (2) For fiscal year 2005, \$130,000,000;

17 (3) For fiscal year 2006, \$135,000,000;

18 (4) For fiscal year 2007, \$140,000,000; and

19 (5) For fiscal year 2008, \$145,000,000.

20 (c) ALLOCATIONS.—From amounts authorized under subsection (a), the following
21 sums are authorized:

22 (1) For activities under section 943—

23 (A) for fiscal year 2004, \$100,000,000;

24 (B) for fiscal year 2005, \$106,000,000;

25 (C) for fiscal year 2006, \$120,000,000;

26 (D) for fiscal year 2007, \$134,000,000;

27 (E) for fiscal year 2008, \$150,000,000.

28 (2) For activities under section 944—

29 (A) for fiscal year 2004, \$33,000,000;

- 1 (B) for fiscal year 2005, \$37,900,000;
2 (C) for fiscal year 2006, \$43,600,000;
3 (D) for fiscal year 2007, \$50,100,000; and
4 (E) for fiscal year 2008, \$56,000,000.

5 (d) None of the funds authorized under this section may be used for
6 decommissioning the Fast Flux Test Facility.

7 **SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.**

8 (a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a
9 Nuclear Energy Research Initiative for research and development related to nuclear energy.

10 (b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry
11 out a Nuclear Energy Plant Optimization Program to support research and development
12 activities addressing reliability, availability, productivity, and component aging in existing
13 nuclear power plants.

14 (c) NUCLEAR POWER 2010 PROGRAM.—The Secretary shall carry out a Nuclear
15 Power 2010 Program, consistent with recommendations in the October 2001 report entitled
16 “A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010” issued by
17 the Nuclear Energy Research Advisory Committee of the Department. The Program
18 shall—

19 (1) rely on the expertise and capabilities of the National Laboratories in the
20 areas of advanced nuclear fuels cycles and fuels testing;

21 (2) pursue an approach that considers a variety of reactor designs suitable
22 for both developed and developing nations;

23 (3) include participation of international collaborators in research,
24 development, and design efforts as appropriate; and

25 (4) encourage university and industry participation.

26 (d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—The Secretary shall
27 carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall
28 technology plan and to support research and development necessary to make an informed
29 technical decision about the most promising candidates for eventual commercial
30 application. The Initiative shall examine advanced proliferation-resistant and passively safe

1 reactor designs, including designs that—

- 2 (1) are economically competitive with other electric power generation
3 plants;
- 4 (2) have higher efficiency, lower cost, and improved safety compared to
5 reactors in operation on the date of enactment of this Act;
- 6 (3) use fuels that are proliferation resistant and have substantially reduced
7 production of high-level waste per unit of output; and
- 8 (4) utilize improved instrumentation.

9 (e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research
10 to examine designs for high-temperature reactors capable of producing large-scale
11 quantities of hydrogen using thermochemical processes.

12 (f) NUCLEAR INFRASTRUCTURE SUPPORT.—The Secretary shall develop and
13 implement a strategy for the facilities of the Office of Nuclear Energy, Science, and
14 Technology and shall transmit a report containing the strategy along with the President's
15 budget request to the Congress for fiscal year 2005. Such strategy shall provide a cost-
16 effective means for—

- 17 (1) maintaining existing facilities and infrastructure, as needed;
- 18 (2) closing unneeded facilities;
- 19 (3) making facility upgrades and modifications; and
- 20 (4) building new facilities.

21 **SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.**

22 (a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear
23 Energy, Science and Technology, shall conduct an advanced fuel recycling technology
24 research and development program to evaluate proliferation-resistant fuel recycling and
25 transmutation technologies which minimize environmental or public health and safety
26 impacts as an alternative to aqueous reprocessing technologies deployed as of the date of
27 enactment of this Act in support of evaluation of alternative national strategies for spent
28 nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by
29 the Secretary's Nuclear Energy Research Advisory Committee or other independent entity,
30 as appropriate. Opportunities to enhance progress of this program through international

1 cooperation should be sought.

2 (b) REPORTS.—The Secretary shall report on the activities of the advanced fuel
3 recycling technology research and development program, as part of the Department's
4 annual budget submission.

5 **SEC. 944. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.**

6 (a) ESTABLISHMENT.—The Secretary shall support a program to invest in human
7 resources and infrastructure in the nuclear sciences and engineering and related fields
8 (including health physics and nuclear and radiochemistry), consistent with departmental
9 missions related to civilian nuclear research and development.

10 (b) DUTIES.—In carrying out the program under this section, the Secretary shall
11 establish fellowship and faculty assistance programs, as well as provide support for
12 fundamental research and encourage collaborative research among industry, national
13 laboratories, and universities through the Nuclear Energy Research Initiative. The
14 Secretary shall support communication and outreach related to nuclear science and
15 engineering.

16 (c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND
17 ASSOCIATED INFRASTRUCTURE.—Activities under this section may include—

18 (1) converting research reactors currently using high-enrichment fuels to
19 low-enrichment fuels, upgrading operational instrumentation, and sharing of
20 reactors among institutions of higher education;

21 (2) providing technical assistance, in collaboration with the United States
22 nuclear industry, in relicensing and upgrading training reactors as part of a student
23 training program; and

24 (3) providing funding for reactor improvements as part of a focused effort
25 that emphasizes research, training, and education.

26 (d) UNIVERSITY–NATIONAL LABORATORY INTERACTIONS.—The Secretary shall
27 develop sabbatical fellowship and visiting scientist programs to encourage sharing of
28 personnel between national laboratories and universities.

29 (e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project

1 provided under this section may be used to offset a portion of the operating and
2 maintenance costs of a research reactor at an institution of higher education used in the
3 research project.

4 **Subtitle E—Fossil Energy**

5 **SEC. 951. FOSSIL ENERGY.**

6 (a) IN GENERAL.—The following sums are authorized to be appropriated to the
7 Secretary for fossil energy research, development, demonstration, and commercial
8 application activities, including activities authorized under this subtitle, other than those
9 described in subsection (b):

- 10 (1) For fiscal year 2004, \$523,000,000;
- 11 (2) For fiscal year 2005, \$542,000,000;
- 12 (3) For fiscal year 2006, \$558,000,000;
- 13 (4) For fiscal year 2007, \$585,000,000; and
- 14 (5) For fiscal year 2008, \$600,000,000.

15 (b) ALLOCATIONS.—From amounts authorized under subsection (a), the following
16 sums are authorized:

17 (1) For activities under section 952(c)(2), \$28,000,000 for each of the fiscal
18 years 2003 through 2007.

19 (2) For activities under section 953:

- 20 (A) for fiscal year 2004, \$12,000,000; and
- 21 (B) for fiscal year 2005, \$15,000,000.

22 (3) For the Office of Arctic Energy under section 3197 of the Floyd D.
23 Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-
24 398), \$25,000,000 for each of fiscal years 2004 through 2008.

25 (c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the
26 Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence
27 National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398),
28 \$25,000,000 for each of fiscal years 2009 through 2012.

1 (d) LIMITS ON USE OF FUNDS.—

2 (1) None of the funds authorized under this section may be used for—

3 (A) Fossil Energy Environmental Restoration; or

4 (B) Import/Export Authorization.

5 (2) Of the funds authorized under subsection (b)(2), not less than 20 percent
6 of the funds appropriated for each fiscal year shall be dedicated to research and
7 development carried out at institutions of higher education.

8 **SEC. 952. FOSSIL ENERGY RESEARCH PROGRAMS .**

9 (a) COAL RESEARCH.—

10 (1) In addition to the Clean Coal Power Initiative authorized under Title II,
11 the Secretary shall conduct a program of research, development, demonstration, and
12 commercial application for coal and power systems, including—

13 (A) central systems;

14 (B) sequestration research and development;

15 (C) fuels;

16 (D) advanced research; and

17 (E) advanced separation technologies.

18 (2) No funds may be used to carry out the activities authorized by paragraph
19 (1) after September 30, 2003, unless one month has elapsed since the Secretary has
20 transmitted to the Congress a report providing—

21 (A) a detailed description of how proposals will be solicited and
22 evaluated;

23 (B) a list of activities and technical milestones; and

24 (C) a description of how these activities will complement and not
25 duplicate the Clean Coal Power Initiative authorized under Title II.

26 (b) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research,
27 development, demonstration, and commercial application on oil and gas, including—

28 (1) exploration and production;

29 (2) gas hydrates;

- 1 (3) reservoir life and extension;
- 2 (4) transportation and distribution infrastructure;
- 3 (5) ultraclean fuels;
- 4 (6) heavy oil and oil shale; and
- 5 (7) environmental research.

6 (c) FUEL CELLS.—

7 (1) The Secretary shall conduct a program of research, development,
8 demonstration, and commercial application on fuel cells for low-cost, high-
9 efficiency, fuel-flexible, modular power systems.

10 (2) The demonstrations shall include fuel cell proton exchange membrane
11 technology for commercial, residential, and transportation applications, and
12 distributed generation systems, utilizing improved manufacturing production and
13 processes.

14 (d) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the
15 date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary of the
16 Interior, in consultation with other appropriate Federal agencies, shall transmit a report to
17 the Congress of the latest estimates of natural gas and oil reserves, reserves growth, and
18 undiscovered resources in Federal and State waters off the coast of Louisiana and Texas.

19 **SEC. 953. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.**

20 (a) ESTABLISHMENT.—The Secretary shall carry out a program of research and
21 development on coal mining technologies. The Secretary shall cooperate with appropriate
22 Federal agencies, coal producers, trade associations, equipment manufacturers, institutions
23 of higher education with mining engineering departments, and other relevant entities.

24 (b) PROGRAM.—The research and development activities carried out under this
25 section shall—

26 (1) be guided by the mining research and development priorities identified
27 by the Mining Industry of the Future Program and in the recommendations from
28 relevant reports of the National Academy of Sciences on mining technologies;

29 (2) include activities exploring minimization of contaminants in mined coal

1 that contribute to environmental concerns including development and
 2 demonstration of electromagnetic wave imaging ahead of mining operations;

3 (3) develop and demonstrate coal bed electromagnetic wave imaging and
 4 radar techniques for horizontal drilling in order to increase methane recovery
 5 efficiency, prevent spoilage of domestic coal reserves and minimize water disposal
 6 associated with methane extraction; and

7 (4) expand mining research capabilities at institutions of higher education

8 **Subtitle F—Science**

9 **SEC. 961. SCIENCE.**

10 (a) IN GENERAL.—The following sums are authorized to be appropriated to the
 11 Secretary for research, development, demonstration, and commercial application activities
 12 of the Office of Science, including activities authorized under this subtitle, including the
 13 amounts authorized under the amendment made by section 967(c)(2)(D), and including
 14 basic energy sciences, advanced scientific and computing research, biological and
 15 environmental research, fusion energy sciences, high energy physics, nuclear physics, and
 16 research analysis and infrastructure support:

17 (1) For fiscal year 2004, \$3,785,000,000;

18 (2) For fiscal year 2005, \$4,153,000,000;

19 (3) For fiscal year 2006, \$4,586,000,000

20 (4) For fiscal year 2007, \$5,000,000,000; and

21 (5) For fiscal year 2008, \$5,400,000,000.

22 (b) ALLOCATIONS.—From amounts authorized under subsection (a), the following
 23 sums are authorized:

24 (1) For activities of the Fusion Energy Sciences Program, including
 25 activities under section 962—

26 (A) for fiscal year 2004, \$335,000,000;

27 (B) for fiscal year 2005, \$349,000,000;

28 (C) for fiscal year 2006, \$362,000,000;

1 (D) for fiscal year 2007, \$377,000,000;

2 (E) for fiscal year 2008, \$393,000,000.

3 (2) For the Spallation Neutron Source—

4 (A) for construction in fiscal year 2004, \$124,600,000;

5 (B) for construction in fiscal year 2005, \$79,800,000; and

6 (C) for completion of construction in fiscal year 2006, \$41,100,000.

7 (D) For other project costs (including research and development
8 necessary to complete the project, preoperations costs, and capital
9 equipment related to construction) of the Spallation Neutron Source,
10 \$103,279,000 for the period encompassing fiscal years 2003 through 2006,
11 to remain available until expended through September 30, 2006.

12 (3) For Nanoscale Science and Engineering Research activities under
13 section 966—

14 (A) for fiscal year 2004, \$270,000,000;

15 (B) for fiscal year 2005, \$290,000,000;

16 (C) for fiscal year 2006, \$310,000,000;

17 (D) for fiscal year 2007, \$330,000,000; and

18 (E) for fiscal year 2008, \$375,000,000.

19 (4) For activities under subsection 966(c), from the amounts authorized
20 under subparagraph (3)—

21 (A) for fiscal year 2004, \$135,000,000;

22 (B) for fiscal year 2005, \$150,000,000;

23 (C) for fiscal year 2006, \$120,000,000;

24 (D) for fiscal year 2007, \$100,000,000; and

25 (E) for fiscal year 2008, \$125,000,000.

26 (5) For activities in the Genomes to Life Program under section 968—

27 (A) \$100,000,000 for fiscal year 2004;

28 (B) \$170,000,000 for fiscal year 2005;

29 (C) \$325,000,000 for fiscal year 2006;

1 (D) \$415,000,000 for fiscal year 2007; and

2 (E) \$455,000,000 for fiscal year 2008.

3 (6) For construction and ancillary equipment of the Genomes to Life User
4 Facilities under section 968(d), of funds authorized under (5)—

5 (A) \$16,000,000 for fiscal year 2004;

6 (B) \$70,000,000 for fiscal year 2005;

7 (C) \$175,000,000 for fiscal year 2006;

8 (D) \$215,000,000 for fiscal year 2007; and

9 (E) \$205,000,000 for fiscal year 2008.

10 (7) For activities in the Water Supply Technologies Program under section
11 970, \$20,000,000 for each of fiscal years 2004 through 2008.

12 (c) In addition to the funds authorized under subsection (b)(1), the following sums
13 are authorized for participation in the ITER project under section 962—

14 (1) for fiscal year 2004, \$12,000,000;

15 (2) for fiscal year 2005, \$20,000,000;

16 (3) for fiscal year 2006, \$50,000,000;

17 (4) for fiscal year 2007, \$75,000,000; and

18 (5) for fiscal year 2008, \$115,000,000.

19 **SEC. 962. UNITED STATES PARTICIPATION IN ITER.**

20 (a)(1) The Secretary of Energy is authorized to undertake full scientific and
21 technological cooperation in the international burning plasma project referred to as
22 “ITER”; or

23 (2) In the event that ITER fails to go forward within a reasonable period of time, the
24 Secretary shall send to Congress a plan, including costs and schedules, for implementing
25 the domestic burning plasma experiment known as FIRE. Such a plan shall be developed
26 with full consultation with the Fusion Energy Sciences Advisory Committee and be
27 reviewed by the National Research Council.

28 (3) It is the intent of Congress that such sums shall be largely for work performed in
29 the United States and that such work contributes the maximum amount possible to the U.S.

1 scientific and technological base.

2 (b)(1) Within 180 days of the date of enactment of this act, the Secretary shall
3 present to Congress a plan, with proposed cost estimates, budgets and potential
4 international partners, for the implementation of the goals of this section. The plan shall
5 ensure that—

6 (A) existing fusion research facilities are more fully utilized;

7 (B) fusion science, technology, theory, advanced computation, modeling
8 and simulation are strengthened;

9 (C) new magnetic and inertial fusion research facilities are selected based
10 on scientific innovation, cost effectiveness, and their potential to advance the goal
11 of practical fusion energy at the earliest date possible, and those that are selected
12 are funded at a cost-effective rate;

13 (D) communication of scientific results and methods between the fusion
14 energy science community and the broader scientific and technology communities
15 is improved;

16 (E) inertial confinement fusion facilities are utilized to the extent practicable
17 for the purpose of inertial fusion energy research and development; and

18 (F) attractive alternative inertial and magnetic fusion energy approaches
19 are more fully explored.

20 (2) Such plan shall also address the status of and, to the degree possible, costs and
21 schedules for the following—

22 (A) in coordination with the program in section 969, the design and
23 implementation of international or national facilities for the testing of fusion
24 materials; and

25 (B) the design and implementation of international or national facilities
26 for the testing and development of key fusion technologies.

27 **SEC. 963. SPALLATION NEUTRON SOURCE.**

28 (a) DEFINITION.—For the purposes of this section, the term “Spallation Neutron
29 Source” means Department Project 9909E 09334, Oak Ridge National Laboratory, Oak

1 Ridge, Tennessee.

2 (b) REPORT.—The Secretary shall report on the Spallation Neutron Source as part
3 of the Department’s annual budget submission, including a description of the achievement
4 of milestones, a comparison of actual costs to estimated costs, and any changes in
5 estimated project costs or schedule.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—The total amount obligated by the
7 Department, including prior year appropriations, for the Spallation Neutron Source may
8 not exceed—

9 (1) \$1,192,700,000 for costs of construction;

10 (2) \$219,000,000 for other project costs; and

11 (3) \$1,411,700,000 for total project cost.

12 **SEC. 964. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY**
13 **LABORATORIES.**

14 (a) FACILITY POLICY.—The Secretary shall develop and implement a strategy for
15 the nonmilitary energy laboratories and facilities of the Office of Science. Such strategy
16 shall provide a cost-effective means for—

17 (1) maintaining existing facilities and infrastructure, as needed;

18 (2) closing unneeded facilities;

19 (3) making facility modifications; and

20 (4) building new facilities.

21 (b) REPORT.—

22 (1) The Secretary shall prepare and transmit, along with the President’s
23 budget request to the Congress for fiscal year 2005, a report containing the strategy
24 developed under subsection (a).

25 (2) For each nonmilitary energy laboratory and facility, such report shall
26 contain—

27 (A) the current priority list of proposed facilities and infrastructure
28 projects, including cost and schedule requirements;

29 (B) a current ten-year plan that demonstrates the reconfiguration of

1 its facilities and infrastructure to meet its missions and to address its long-
2 term operational costs and return on investment;

3 (C) the total current budget for all facilities and infrastructure
4 funding; and

5 (D) the current status of each facilities and infrastructure project
6 compared to the original baseline cost, schedule, and scope.

7 **SEC. 965. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.**

8 From the amounts authorized to be appropriated to the Secretary under section 961,
9 such sums as may be necessary for each of the fiscal years 2003, 2004, and 2005 may be
10 used to carry out research in the use of precious metals (excluding platinum, palladium,
11 and rhodium) in catalysis.

12 **SEC. 966. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.**

13 (a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall
14 support a program of research, development, demonstration, and commercial application in
15 nanoscience and nanoengineering. The program shall include efforts to further the
16 understanding of the chemistry, physics, materials science, and engineering of phenomena
17 on the scale of 1 to 100 nanometers and to apply this knowledge to the Department's
18 mission areas.

19 (b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this
20 section, the Office of Science shall—

21 (1) support both individual investigators and teams of investigators,
22 including multidisciplinary teams;

23 (2) carry out activities under subsection (c);

24 (3) support technology transfer activities to benefit industry and other users
25 of nanoscience and nanoengineering; and

26 (4) coordinate research and development activities with industry and other
27 Federal agencies.

28 (c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR
29 INSTRUMENTATION.—

1 (1) The Secretary shall carry out projects to develop, plan, construct,
2 acquire, operate, or support special equipment, instrumentation, or facilities for
3 investigators conducting research and development in nanoscience and
4 nanoengineering.

5 (2) Projects under paragraph (1) may include the measurement of properties
6 at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration
7 of technologies based on nanoscience or nanoengineering into bulk materials or
8 other technologies.

9 (3) Facilities under paragraph (1) may include electron
10 microcharacterization facilities, microlithography facilities, scanning probe
11 facilities, and related instrumentation.

12 (4) The Secretary shall encourage collaborations among institutions of
13 higher education, laboratories, and industry at facilities under this subsection.

14 **SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.**

15 (a) IN GENERAL.—The Secretary, acting through the Office of Science, shall
16 support a program to advance the Nation’s computing capability across a diverse set of
17 grand challenge computationally based science problems related to departmental missions.

18 (b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this
19 section, the Office of Science shall—

20 (1) advance basic science through computation by developing software to
21 solve grand challenge science problems on new generations of computing
22 platforms;

23 (2) enhance the foundations for scientific computing by developing the
24 basic mathematical and computing systems software needed to take full advantage
25 of the computing capabilities of computers with peak speeds of 100 teraflops or
26 more, some of which may be unique to the scientific problem of interest;

27 (3) enhance national collaborative and networking capabilities by
28 developing software to integrate geographically separated researchers into effective
29 research teams and to facilitate access to and movement and analysis of large

1 (petabyte) data sets;

2 (4) maintain a robust scientific computing hardware infrastructure to ensure
3 that the computing resources needed to address departmental missions are
4 available; and

5 (5) explore new computing approaches and technologies that promise to
6 advance scientific computing including developments in quantum computing.

7 (c) HIGH-PERFORMANCE COMPUTING ACT OF 1991 AMENDMENTS.—The High-
8 Performance Computing Act of 1991 is amended—

9 (1) in section 4 (15 U.S.C. 5503)—

10 (A) in paragraph (3) by striking “means” and inserting “and
11 ‘networking and information technology’ mean”, and by striking
12 “(including vector supercomputers and large scale parallel systems)”; and

13 (B) in paragraph (4), by striking “packet switched”.

14 (2) in section 203 (15 U.S.C. 5523)—

15 (A) in subsection (a), by striking all after “As part of the” and
16 inserting

17 “Networking and Information Technology Research and
18 Development Program, the Secretary of Energy shall conduct basic and
19 applied research in networking and information technology, with emphasis
20 on supporting fundamental research in the physical sciences and
21 engineering, and energy applications; providing supercomputer access and
22 advanced communication capabilities and facilities to scientific researchers;
23 and developing tools for distributed scientific collaboration.”;

24 (B) in subsection (b), by striking “Program” and inserting
25 “Networking and Information Technology Research and Development
26 Program”; and

27 (C) in subsection (e), by striking “(1)”;
28

29 (D) in subsection (e), by striking “the Program” and all that follows
through “fiscal year 1996” and inserting “carrying out this section

1 \$285,000,000 for fiscal year 2003, \$300,000,000 for fiscal year 2004,
2 \$310,000,000 for fiscal year 2005, and \$320,000,000 for fiscal year 2006”;
3 and

4 (E) in subsection (e), by striking paragraph (2).

5 (d) COORDINATION.—The Secretary shall ensure that the program under this section
6 is integrated and consistent with—

7 (1) the Accelerated Strategic Computing Initiative of the National Nuclear
8 Security Administration; and

9 (2) other national efforts related to advanced scientific computing for
10 science and engineering.

11 (e) REPORT.—

12 (1) Before undertaking any new initiative to develop a new advanced
13 architecture for high-speed computing, the Secretary, through the Director of the
14 Office of Science, shall transmit a report to the Congress describing—

15 (A) the expected duration and cost of the initiative;

16 (B) the technical milestones the initiative is designed to achieve;

17 (C) how institutions of higher education and private firms will
18 participate in the initiative; and

19 (D) why the goals of the initiative could not be achieved through
20 existing programs.

21 (2) No funds may be expended on any initiative described in paragraph (1)
22 until 30 days after the report required by that paragraph is transmitted to the
23 Congress.

24 **SEC. 968. GENOMES TO LIFE PROGRAM**

25 (a) ESTABLISHMENT.—The Secretary shall carry out a program of research,
26 development, demonstration, and commercial application, to be known as the Genomes to
27 Life Program, in systems biology and proteomics consistent with the Department’s
28 statutory authorities.

29 (b) PLANNING.—

1 (1) The Secretary shall prepare a program plan describing how knowledge
2 and capabilities would be developed by the program and applied to Department
3 missions relating to energy, environmental cleanup, national security, and
4 mitigation of global climate change.

5 (2) The program plan will be developed in consultation with other relevant
6 Department technology programs.

7 (3) The program plan shall focus science and technology on long-term goals
8 including—

9 (A) contributing to U.S. independence from foreign energy sources,

10 (B) stabilizing atmospheric levels of carbon dioxide to counter
11 global warming,

12 (C) advancing environmental cleanup, and

13 (D) providing the science and technology basis for new industries in
14 biotechnology.

15 (4) The program plan shall identify appropriate research, development,
16 demonstration, and commercial application activities to address the following
17 issues within the next decade—

18 (A) identifying new biological sources of fuels and electricity, with
19 particular emphasis on creating biological technologies for the production
20 and utilization of hydrogen;

21 (B) understanding the Earth's natural carbon cycle and create
22 strategies to stabilize atmospheric carbon dioxide;

23 (C) developing a knowledge and capability base for exploring more
24 cost effective cleanup strategies for Department sites; and

25 (D) capturing key biological processes in engineered systems not
26 requiring living cells.

27 (c) PROGRAM EXECUTION.—In carrying out the program under this Act, the
28 Secretary shall—

29 (1) support individual investigators and multidisciplinary teams of

1 investigators;

2 (2) subject to subsection (d), develop, plan, construct, acquire, or operate
3 special equipment or facilities for the use of investigators conducting research,
4 development, demonstration, or commercial application in systems biology and
5 proteomics;

6 (3) support technology transfer activities to benefit industry and other users
7 of systems biology and proteomics; and

8 (4) coordinate activities by the Department with industry and other federal
9 agencies; and

10 (5) award funds authorized under this Act only after an impartial review of
11 the scientific and technical merit of the proposals for such awards has been carried
12 out by or for the Department.

13 (d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

14 (1) Within the funds authorized to be appropriated pursuant to this Act, the
15 amounts specified under section 961(b)(6) shall, subject to appropriations, be
16 available for projects to develop, plan, construct, acquire, or operate special
17 equipment, instrumentation, or facilities for investigators conducting research,
18 development, demonstration, and commercial application in systems biology and
19 proteomics and associated biological disciplines.

20 (2) Projects under paragraph (1) may include—

21 (A) the identification and characterization of multiprotein
22 complexes;

23 (B) characterization of gene regulatory networks; characterization of
24 the functional repertoire of complex microbial communities in their natural
25 environments at the molecular level; and

26 (C) development of computational methods and capabilities to
27 advance understanding of complex biological systems and predict their
28 behavior.

29 (3) Facilities under paragraph (1) may include facilities for—

- 1 (A) the production and characterization of proteins;
- 2 (B) whole proteome analysis;
- 3 (C) characterization and imaging of molecular machines; and
- 4 (D) analysis and modeling of cellular systems.

5 (4) The Secretary shall encourage collaborations among universities,
6 laboratories and industry at facilities under this subsection. All facilities under this
7 subsection shall have a specific mission of technology transfer to other institutions.

8 **SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM**

9 (a) The Secretary shall establish a research and development program on material
10 science issues presented by advanced fission reactors and Department's fusion program.

11 (b) The program shall—

- 12 (1) develop a catalog of material properties required for these applications,
- 13 (2) develop theoretical models for materials possessing the required
14 properties,
- 15 (3) benchmark models against existing data,
- 16 (4) develop a roadmap to guide further research and development in this
17 area.

18 (c) The Secretary shall propose a program with the FY2005 budget to address these
19 issues.

20 **SEC. 970. WATER SUPPLY TECHNOLOGIES PROGRAM.**

21 (a) ESTABLISHMENT.—There is established within the Office of Science, Office of
22 Biological and Environmental Research, the “Water Supply Technologies Program,” to
23 study energy-related issues associated with water resources and municipal waterworks.

24 (b) DEFINITIONS.—

- 25 (1) The term “Consortium” means the Consortium for Environmental
26 Education and Technology Development.
- 27 (2) The term “Foundation” means the American Water Works Association
28 Research Foundation.
- 29 (3) The term “Indian tribe” has the meaning given the term in section 4 of

1 the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

2 (4) The term 'Program' means the Water Supply Technologies Program
3 established by section 970(a).

4 (c) PROGRAM AREAS.—The program shall include—

- 5 (1) arsenic removal under subsection (d),
6 (2) desalination program under subsection (e),
7 (3) the water and energy sustainability program under subsection (f),
8 (4) other energy-intensive water supply and treatment technologies selected
9 by the Secretary.

10 (d) ARSENIC REMOVAL PROGRAM.—

11 (1) As soon as practicable after the date of enactment of this Act, the
12 Secretary shall enter into a contract with the Foundation under which the
13 Foundation shall carry out a research program to develop and demonstrate
14 innovative arsenic removal technologies.

15 (2) In carrying out the arsenic removal program, the Foundation shall, to the
16 maximum extent practicable, conduct research on means of—

- 17 (A) reducing energy costs incurred in using arsenic removal
18 technologies;
19 (B) minimizing materials costs, operating costs, and maintenance
20 costs incurred in using arsenic removal technologies; and
21 (C) minimizing any quantities of waste (especially hazardous waste)
22 that result from use of arsenic removal technologies.

23 (3) In carrying out the arsenic removal program, the Foundation shall carry
24 out peer-reviewed projects (including research projects and cost-shared
25 demonstration projects with municipal water systems) to develop and demonstrate
26 water purification technologies.

27 (4)(A) In carrying out the arsenic removal program, the Foundation shall
28 carry out demonstration projects to demonstrate the applicability of innovative
29 arsenic removal technologies in areas with different water chemistries

1 representative of areas with arsenic levels near or exceeding EPA guidelines.

2 (B) Not less than 40 percent of the funds of the Department used for
3 demonstration projects under the arsenic removal program shall be expended in
4 partnership with rural communities or Indian tribes.

5 (5) The Consortium shall assist the Foundation in evaluations of cost
6 effectiveness of arsenic removal technologies used in the program and in
7 development of an education, training, and technology transfer component of the
8 program.

9 (6) The Secretary, in conjunction with the Administrator of the
10 Environmental Protection Agency, shall ensure that activities under the arsenic
11 removal program are coordinated with appropriate programs of the Environmental
12 Protection Agency.

13 (7) Not later than 1 year after the date of commencement of the arsenic
14 removal program, and annually thereafter, the Secretary shall submit to Congress a
15 report on the results of the arsenic removal program.

16 (e) DESALINATION PROGRAM.—

17 (1) The Secretary, in cooperation with the Commissioner of Reclamation,
18 shall carry out a desalination program in accordance with the desalination
19 technology progress plan developed in title II of the Energy and Water
20 Development Appropriations Act, 2002 (115 Stat. 498), and described in Senate
21 Report 107-39 under the heading ‘WATER AND RELATED RESOURCES’ in the
22 ‘BUREAU OF RECLAMATION’ section.

23 (2)(A) The desalination program shall draw on the national laboratory
24 partnership established with the Bureau of Reclamation to develop the January
25 2003 national Desalination and Water Purification Technology Roadmap for
26 next-generation desalination technology.

27 (B) This research shall focus on research relating to, and development and
28 demonstration of, technologies that are appropriate for use in desalinating brackish
29 groundwater and other saline water supplies; and consider the use of renewable

1 energy sources.

2 (3) Under the desalination program, funds made available may be used for
3 construction projects, including completion of the National Desalination Research
4 Center.

5 (4) The Secretary and the Commissioner of Reclamation shall jointly
6 establish a steering committee for the desalination program. The steering committee
7 shall be jointly chaired by 1 representative from this Program and 1 representative
8 from the Bureau of Reclamation.

9 (f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

10 (1) The Secretary shall carry out a program to help ensure that sufficient
11 quantities of water are available for the energy sector through development of
12 modeling and analysis tools to assess and manage—

13 (A) competing demands for water by the energy sector and other
14 categories of water users, including agriculture, industry, domestic users,
15 and the environment; and

16 (B) the impacts of energy production on the availability of water.

17 (2) Under the water and energy sustainability program, the Secretary shall—

18 (A) in accordance with paragraph (3), develop a coordinated strategy
19 to identify technology development and improved modeling capabilities
20 needed to achieve the goal of water and energy sustainability;

21 (B) in accordance with paragraph (4), develop such advanced
22 modeling and decision analysis tools as are necessary to assess and manage
23 competing demands for water by various categories of water users specified
24 in paragraph (1)(A); and

25 (C) in accordance with paragraph (5), carry out demonstration
26 projects to test the models and tools developed under subparagraph (B).

27 (3) In developing the strategy under paragraph (2)(A), the Secretary shall—

28 (A) collaborate with water management agencies, universities,
29 industry, and stakeholder groups to define issues and needs; and

1 (B) develop a coordinated science and technology strategy to support
2 future water use decisions that include issues of energy sustainability.

3 (4) Modeling and decision analysis tools developed under paragraph (2)(B)
4 shall—

5 (A) address water and energy availability issues both physically, on
6 the scale of river basins; and temporally, on scales ranging from seasons to
7 decades;

8 (B) be coordinated with global climate modeling capabilities
9 supported by the Federal Government;

10 (C) for modeling tools, include tools for modeling the effects of
11 atmospheric, surface, and subsurface phenomena; rural and urban
12 populations and land use changes; energy, agriculture, and other industrial
13 demands; energy impacts on water quality and quantity; and changing
14 marketplace behaviors and other economic forces; and

15 (D) for decision analysis tools, include tools to support water and
16 energy resources planning through provision of direct support for policy and
17 planning decisions; optimization of water use for the energy sector and other
18 categories of water users specified in paragraph (1)(A); and assessment of
19 the potential benefits of new technologies to improve water and energy
20 sustainability.

21 (5) Demonstration projects carried out under paragraph (2)(C) shall—

22 (A) test water and energy modeling and decision analysis tools for 3
23 river basins, at least 1 of which includes an international border;

24 (B) focus on assessing water resources and managing competing
25 demands for, and impacts on, water by the energy sector and other
26 categories of water users specified in paragraph (1)(A); and

27 (C) be conducted in collaboration with water resources management
28 organizations in the basins described in subparagraph (A).

29 (6) Not later than 1 year after the date of enactment of this Act, the

1 Secretary shall submit to Congress a report on the water and energy sustainability
2 program that describes the elements required under paragraph (2), and makes
3 recommendations for a management structure and research and development plan
4 for the water and energy sustainability program that optimizes use of Federal
5 resources and programs.

6 (g) COST SHARING.—

7 (1) Except as provided in paragraph (2), each demonstration project carried
8 out under the Program shall be carried out on a cost-shared basis, as determined by
9 the Secretary.

10 (2) With respect to a demonstration project, the Secretary may accept
11 in-kind contributions, and waive the cost-sharing requirement in appropriate
12 circumstances.

13 **Subtitle G—Energy and Environment**

14 **SEC. 971. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.**

15 (a) PROGRAM.—The Secretary shall establish a research, development,
16 demonstration, and commercial application program to be carried out in collaboration with
17 entities in Mexico and the United States to promote energy efficient, environmentally
18 sound economic development along the United States-Mexico border which minimizes
19 public health risks from industrial activities in the border region.

20 (b) PROGRAM MANAGEMENT.—The program under subsection (a) shall be managed
21 by the Department of Energy Carlsbad Environmental Management Field Office.

22 (c) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this
23 section, the Secretary shall assess the applicability of technology developed under the
24 Environmental Management Science Program of the Department.

25 (d) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall
26 comply with the requirements of any agreement entered into between the United States and
27 Mexico regarding intellectual property protection.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—The following sums are authorized to
2 be appropriated to the Secretary to carry out activities under this section:

3 (1) For each of fiscal years 2004 and 2005, \$5,000,000; and

4 (2) For each of fiscal years 2006, 2007, and 2008, \$6,000,000.

5 **SEC. 972. COAL TECHNOLOGY LOAN.**

6 There are authorized to be appropriated to the Secretary \$125,000,000 to provide a
7 loan to the owner of the experimental plant constructed under United States Department of
8 Energy cooperative agreement number DE09FC22 0991PC99544 on such terms and
9 conditions as the Secretary determines, including interest rates and upfront payments.

10 **Subtitle H—Management**

11 **SEC. 981. AVAILABILITY OF FUNDS.**

12 Funds authorized to be appropriated to the Department under this title shall remain
13 available until expended.

14 **SEC. 982. COST SHARING.**

15 (a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for
16 research and development programs carried out under this title, the Secretary shall require
17 a commitment from non-Federal sources of at least 20 percent of the cost of the project.
18 The Secretary may reduce or eliminate the non-Federal requirement under this subsection
19 if the Secretary determines that the research and development is of a basic or fundamental
20 nature.

21 (b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise
22 provided in this subtitle, the Secretary shall require at least 50 percent of the costs directly
23 and specifically related to any demonstration or commercial application project under this
24 subtitle to be provided from non-Federal sources. The Secretary may reduce the non-
25 Federal requirement under this subsection if the Secretary determines that the reduction is
26 necessary and appropriate considering the technological risks involved in the project and is

1 necessary to meet the objectives of this title.

2 (c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal
3 commitment under subsection (a) or (b), the Secretary may include personnel, services,
4 equipment, and other resources.

5 **SEC. 983. MERIT REVIEW OF PROPOSALS.**

6 Awards of funds authorized under this title shall be made only after an impartial
7 review of the scientific and technical merit of the proposals for such awards has been
8 carried out by or for the Department.

9 **SEC. 984. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.**

10 (a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

11 (1) The Secretary shall establish one or more advisory boards to review
12 Department research, development, demonstration, and commercial application
13 programs in energy efficiency, renewable energy, nuclear energy, and fossil energy.

14 (2) The Secretary may designate an existing advisory board within the
15 Department to fulfill the responsibilities of an advisory board under this subsection,
16 and may enter into appropriate arrangements with the National Academy of
17 Sciences to establish such an advisory board.

18 (b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary shall continue to use
19 the scientific program advisory committees chartered under the Federal Advisory
20 Committee Act by the Office of Science to oversee research and development programs
21 under that Office.

22 (c) MEMBERSHIP.—Each advisory board under this section shall consist of persons
23 with appropriate expertise representing a diverse range of interests.

24 (d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet
25 at least semi-annually to review and advise on the progress made by the respective
26 research, development, demonstration, and commercial application program or programs.

27 The advisory board shall also review the measurable cost and performance-based goals for

1 such programs as established under section 902, and the progress on meeting such goals.

2 (e) PERIODIC REVIEWS AND ASSESSMENTS.—The Secretary shall enter into
3 appropriate arrangements with the National Academy of Sciences to conduct periodic
4 reviews and assessments of the programs authorized by this title, the measurable cost and
5 performance-based goals for such programs as established under section 902, if any, and
6 the progress on meeting such goals. Such reviews and assessments shall be conducted
7 every 5 years, or more often as the Secretary considers necessary, and the Secretary shall
8 transmit to the Congress reports containing the results of all such reviews and assessments.

9 **SEC. 985. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.**

10 (a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall designate a
11 Technology Transfer Coordinator to perform oversight of and policy development for
12 technology transfer activities at the Department. The Technology Transfer Coordinator
13 shall coordinate the activities of the Technology Transfer Working Group, and shall
14 oversee the expenditure of funds allocated to the Technology Transfer Working Group, and
15 shall coordinate with each technology partnership ombudsman appointed under section 11
16 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c).

17 (b) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a
18 Technology Transfer Working Group, which shall consist of representatives of the
19 National Laboratories and single-purpose research facilities, to—

20 (1) coordinate technology transfer activities occurring at National
21 Laboratories and single-purpose research facilities;

22 (2) exchange information about technology transfer practices, including
23 alternative approaches to resolution of disputes involving intellectual property
24 rights and other technology transfer matters; and

25 (3) develop and disseminate to the public and prospective technology
26 partners information about opportunities and procedures for technology transfer
27 with the Department, including those related to alternative approaches to resolution

1 of disputes involving intellectual property rights and other technology transfer
2 matters.

3 (c) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section shall affect
4 the technology transfer responsibilities of Federal employees under the Stevenson-Wydler
5 Technology Innovation Act of 1980.

6 **SEC. 986. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

7 (a) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure
8 Program in accordance with this section.

9 (b) PURPOSE.—The purpose of the Technology Infrastructure Program shall be to
10 improve the ability of National Laboratories and single-purpose research facilities to
11 support departmental missions by—

12 (1) stimulating the development of technology clusters that can support
13 departmental missions at the National Laboratories or single-purpose research
14 facilities;

15 (2) improving the ability of National Laboratories and single-purpose
16 research facilities to leverage and benefit from commercial research, technology,
17 products, processes, and services; and

18 (3) encouraging the exchange of scientific and technological expertise
19 between National Laboratories or single-purpose research facilities and entities that
20 can support departmental missions at the National Laboratories or single-purpose
21 research facilities, such as institutions of higher education; technology-related
22 business concerns; nonprofit institutions; and agencies of State, tribal, or local
23 governments,

24 (c) PROJECTS.—The Secretary shall authorize the Director of each National
25 Laboratory or single-purpose research facility to implement the Technology Infrastructure
26 Program at such National Laboratory or facility through projects that meet the
27 requirements of subsections (d) and (e).

1 (d) PROGRAM REQUIREMENTS.—Each project funded under this section shall meet
2 the following requirements:

3 (1) Each project shall include at least one of each of the following entities: a
4 business; an institution of higher education; a nonprofit institution; and an agency
5 of a State, local, or tribal government.

6 (2) Not less than 50 percent of the costs of each project funded under this
7 section shall be provided from non-Federal sources. The calculation of costs paid
8 by the non-Federal sources to a project shall include cash, personnel, services,
9 equipment, and other resources expended on the project after start of the project.
10 Independent research and development expenses of Government contractors that
11 qualify for reimbursement under section 3109205 0918(e) of the Federal
12 Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal
13 Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid
14 by non-Federal sources to a project, if the expenses meet the other requirements of
15 this section.

16 (3) All projects under this section shall be competitively selected using
17 procedures determined by the Secretary.

18 (4) Any participant that receives funds under this section may use generally
19 accepted accounting principles for maintaining accounts, books, and records
20 relating to the project.

21 (5) No Federal funds shall be made available under this section for
22 construction or any project for more than 5 years.

23 (e) SELECTION CRITERIA.—

24 (1) The Secretary shall allocate funds under this section only if the Director
25 of the National Laboratory or single-purpose research facility managing the project
26 determines that the project is likely to improve the ability of the National
27 Laboratory or single-purpose research facility to achieve technical success in

1 meeting departmental missions.

2 (2) The Secretary shall consider the following criteria in selecting a project
3 to receive Federal funds—

4 (A) the potential of the project to promote the development of a
5 commercially sustainable technology cluster, which will derive most of the
6 demand for its products or services from the private sector, and which will
7 support departmental missions at the participating National Laboratory or
8 single-purpose research facility;

9 (B) the potential of the project to promote the use of commercial
10 research, technology, products, processes, and services by the participating
11 National Laboratory or single-purpose research facility to achieve its
12 departmental mission or the commercial development of technological
13 innovations made at the participating National Laboratory or single-purpose
14 research facility;

15 (C) the extent to which the project involves a wide variety and
16 number of institutions of higher education, nonprofit institutions, and
17 technology-related business concerns that can support the missions of the
18 participating National Laboratory or single-purpose research facility and
19 that will make substantive contributions to achieving the goals of the
20 project;

21 (D) the extent to which the project focuses on promoting the
22 development of technology-related business concerns that are small
23 businesses or involves such small businesses substantively in the project;
24 and

25 (E) such other criteria as the Secretary determines to be appropriate.

26 (f) ALLOCATION.—In allocating funds for projects approved under this section, the
27 Secretary shall provide—

1 (1) the Federal share of the project costs; and

2 (2) additional funds to the National Laboratory or single-purpose research
3 facility managing the project to permit the National Laboratory or single-purpose
4 research facility to carry out activities relating to the project, and to coordinate such
5 activities with the project.

6 (g) REPORT TO CONGRESS.—Not later than January 1, 2006, the Secretary shall
7 report to Congress on whether the Technology Infrastructure Program should be continued
8 and, if so, how the program should be managed.

9 (h) DEFINITIONS.—In this section:

10 (1) The term “technology cluster” means a concentration of technology-
11 related business concerns, institutions of higher education, or other nonprofit
12 institutions, that reinforce each other’s performance in the areas of technology
13 development through formal or informal relationships.

14 (2) The term “technology-related business concern” means a for-profit
15 corporation, company, association, firm, partnership, or small business concern that
16 conducts scientific or engineering research; develops new technologies;
17 manufactures products based on new technologies; or performs technological
18 services.

19 (i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated
20 to the Secretary for activities under this section \$10,000,000 for each of fiscal years 2004
21 and 2005.

22 **SEC. 987. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

23 (a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each
24 National Laboratory, and may require the Director of a single-purpose research facility, to
25 designate a small business advocate to—

26 (1) increase the participation of small business concerns, including socially
27 and economically disadvantaged small business concerns, in procurement,

1 collaborative research, technology licensing, and technology transfer activities
2 conducted by the National Laboratory or single-purpose research facility;

3 (2) report to the Director of the National Laboratory or single-purpose
4 research facility on the actual participation of small business concerns in
5 procurement and collaborative research along with recommendations, if
6 appropriate, on how to improve participation;

7 (3) make available to small businesses training, mentoring, and information
8 on how to participate in procurement and collaborative research activities;

9 (4) increase the awareness inside the National Laboratory or single-purpose
10 research facility of the capabilities and opportunities presented by small business
11 concerns; and

12 (5) establish guidelines for the program under subsection (b) and report on
13 the effectiveness of such program to the Director of the National Laboratory or
14 single-purpose research facility.

15 (b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary
16 shall require the Director of each National Laboratory, and may require the Director of a
17 single-purpose research facility, to establish a program to provide small business
18 concerns—

19 (1) assistance directed at making them more effective and efficient
20 subcontractors or suppliers to the National Laboratory or single-purpose research
21 facility; or

22 (2) general technical assistance, the cost of which shall not exceed \$10,000
23 per instance of assistance, to improve the small business concern's products or
24 services.

25 (c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used
26 for direct grants to the small business concerns.

27 (d) DEFINITIONS.—In this section:

1 (1) The term “small business concern” has the meaning given such term in
2 section 3 of the Small Business Act (15 U.S.C. 632).

3 (2) The term “socially and economically disadvantaged small business
4 concerns” has the meaning given such term in section 8(a)(4) of the Small Business
5 Act (15 U.S.C. 637(a)(4)).

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
7 to the Secretary for activities under this section \$5,000,000 for each of fiscal years 2004
8 through 2008.

9 **SEC. 988. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.**

10 Not later than 2 years after the date of enactment of this section, the Secretary shall
11 transmit a report to the Congress identifying any policies or procedures of a contractor
12 operating a National Laboratory or single-purpose research facility that create disincentives
13 to the temporary transfer of scientific and technical personnel among the contractor-
14 operated National Laboratories or contractor-operated single-purpose research facilities.

15 **SEC. 989. NATIONAL ACADEMY OF SCIENCES REPORT.**

16 Within 90 days after the date of enactment of this Act, the Secretary shall enter into
17 an arrangement with the National Academy of Sciences for the Academy to—

18 (1) conduct a study on—

19 (A) the obstacles to accelerating the research, development,
20 demonstration, and commercial application cycle for energy technology;
21 and

22 (B) the adequacy of Department policies and procedures for, and
23 oversight of, technology transfer-related disputes between contractors of the
24 Department and the private sector; and

25 (2) report to the Congress on recommendations developed as a result of the
26 study.

1 **SEC. 990. OUTREACH.**

2 The Secretary shall ensure that each program authorized by this title includes an
3 outreach component to provide information, as appropriate, to manufacturers, consumers,
4 engineers, architects, builders, energy service companies, institutions of higher education,
5 facility planners and managers, State and local governments, and other entities.

6 **SEC. 991. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.**

7 (a) **COMPETITIVE PROCEDURE REQUIREMENT.**—None of the funds authorized to be
8 appropriated to the Secretary by this title may be used to award a management and
9 operating contract for a nonmilitary energy laboratory of the Department unless such
10 contract is competitively awarded or the Secretary grants, on a case-by-case basis, a waiver
11 to allow for such a deviation. The Secretary may not delegate the authority to grant such a
12 waiver.

13 (b) **CONGRESSIONAL NOTICE.**—At least 2 months before a contract award for which
14 the Secretary intends to grant such a waiver, the Secretary shall submit to the Congress a
15 report notifying the Congress of the waiver and setting forth the reasons for the waiver.

16 **SEC. 992. REPROGRAMMING.**

17 (a) **DISTRIBUTION REPORT.**—Not later than 60 days after the date of the enactment
18 of an Act appropriating amounts authorized under this title, the Secretary shall transmit to
19 the appropriate authorizing committees of the Congress a report explaining how such
20 amounts will be distributed among the authorizations contained in this title.

21 (b) **PROHIBITION.**—

22 (1) No amount identified under subsection (a) shall be reprogrammed if
23 such reprogramming would result in an obligation which changes an individual
24 distribution required to be reported under subsection (a) by more than 5 percent
25 unless the Secretary has transmitted to the appropriate authorizing committees of
26 the Congress a report described in subsection (c) and a period of 30 days has
27 elapsed after such committees receive the report.

1 (2) In the computation of the 30-day period described in paragraph (1), there
2 shall be excluded any day on which either House of Congress is not in session
3 because of an adjournment of more than 3 days to a day certain.

4 (c) REPROGRAMMING REPORT.—A report referred to in subsection (b)(1) shall
5 contain a full and complete statement of the action proposed to be taken and the facts and
6 circumstances relied on in support of the proposed action.

7 **SEC. 993. CONSTRUCTION WITH OTHER LAWS.**

8 Except as otherwise provided in this title, the Secretary shall carry out the research,
9 development, demonstration, and commercial application programs, projects, and activities
10 authorized by this title in accordance with the applicable provisions of the Atomic Energy
11 Act of 1954 (42 U.S.C. et seq.), the Federal Nonnuclear Research and Development Act of
12 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.),
13 the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.),
14 chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act),
15 and any other Act under which the Secretary is authorized to carry out such activities.

16 **SEC. 994. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND**
17 **TECHNOLOGY PROGRAMS.**

18 (a) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF
19 SCIENCE.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is
20 amended to read as follows:

21 “office of science

22 “Sec. 209. (a) There shall be within the Department an Office of Science, to be
23 headed by an Assistant Secretary of Science, who shall be appointed by the President, by
24 and with the advice and consent of the Senate, and who shall be compensated at the rate
25 provided for level IV of the Executive Schedule under section 5315 of title 5, United States
26 Code.

27 “(b) The Assistant Secretary of Science shall be in addition to the Assistant

1 Secretaries provided for under section 203 of this Act.

2 “(c) It shall be the duty and responsibility of the Assistant Secretary of Science to
3 carry out the fundamental science and engineering research functions of the Department,
4 including the responsibility for policy and management of such research, as well as other
5 functions vested in the Secretary which he may assign to the Assistant Secretary.”.

6 (b) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED
7 MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

8 (1) Section 203(a) of the Department of Energy Organization Act (42
9 U.S.C. 7133(a)) is amended by striking “There shall be in the Department six
10 Assistant Secretaries” and inserting “Except as provided in section 209, there shall
11 be in the Department seven Assistant Secretaries”.

12 (2) It is the sense of the Congress that the leadership for departmental
13 missions in nuclear energy should be at the Assistant Secretary level.

14 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) Section 5315 of title 5, United States Code, is amended by—

16 (A) striking “Director, Office of Science, Department of Energy.”;

17 and

18 (B) striking “Assistant Secretaries of Energy (6)” and inserting
19 “Assistant Secretaries of Energy (8)”.

20 (2) The table of contents for the Department of Energy Organization Act (42
21 U.S.C. 7101 note) is amended—

22 (A) by striking “Section 209” and inserting “Sec. 209”;

23 (B) by striking “213.” and inserting “Sec. 213.”;

24 (C) by striking “214.” and inserting “Sec. 214.”;

25 (D) by striking “215.” and inserting “Sec. 215.”; and

(E) by striking “216.” and inserting “Sec. 216.”.

TITLE X— PERSONNEL AND TRAINING

SEC. 1001. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) The Secretary of Energy (in this title referred to as the “Secretary”), in consultation with the Secretary of Labor and utilizing statistical data collected by the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) The Secretary shall report to the Congress whenever the Secretary determines that significant national shortfalls of skilled technical personnel in one or more energy industry segments are forecast or have occurred.

(B) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish grant programs in the appropriate offices of the Department of Energy to enhance training of skilled technical personnel for which a shortfall is determined under subsection (a).

(c) DEFINITION.—For purposes of this section, the term “skilled technical personnel” means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.

SEC. 1002. RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.

1 (a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of
2 fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral
3 research appointments in energy research and development at institutions of higher
4 education of their choice.

5 (b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall
6 establish a program of fellowships to allow outstanding senior researchers in energy
7 research and development and their research groups to explore research and development
8 topics of their choosing for a fixed period of time. Awards under this program shall be
9 made on the basis of past scientific or technical accomplishment and promise for continued
10 accomplishment during the period of support, which shall not be less than 3 years.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there
12 are authorized to be appropriated to the Secretary \$40,000,000 for each of fiscal years 2004
13 through 2008, to remain available until expended.

14 **SEC. 1003. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.**

15 The Secretary of Labor, in consultation with the Secretary of Energy and jointly
16 with the electric industry and recognized employee representatives, shall develop model
17 personnel training guidelines to support electric system reliability and safety. The training
18 guidelines shall, at a minimum—

19 (1) include training requirements for workers engaged in the construction,
20 operation, inspection, and maintenance of electric generation, transmission, and
21 distribution, including competency and certification requirements, and assessment
22 requirements that include initial and ongoing evaluation of workers, recertification
23 assessment procedures, and methods for examining or testing the qualification of
24 individuals performing covered tasks; and

25 (2) consolidate existing training guidelines on the construction, operation,
26 maintenance, and inspection of electric generation, transmission, and distribution
27 facilities, such as those established by the National Electric Safety Code and other

1 industry consensus standards.

2 **SEC. 1004. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING**
3 **TECHNOLOGIES.**

4 The Secretary shall support the establishment of a National Center on Energy
5 Management and Building Technologies, to carry out research, education, and training
6 activities to facilitate the improvement of energy efficiency and indoor air quality in
7 industrial, commercial, and residential buildings. The National Center shall be established
8 by—

9 (1) recognized representatives of employees in the heating, ventilation, and
10 air-conditioning industry;

11 (2) contractors that install and maintain heating, ventilation, and air-
12 conditioning systems and equipment;

13 (3) manufacturers of heating, ventilation, and air-conditioning systems and
14 equipment;

15 (4) representatives of the advanced building envelope industry, including
16 design, windows, lighting, and insulation industries; and

17 (5) other entities as the Secretary may deem appropriate.

18 **SEC. 1005. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL**
19 **CAREERS.**

20 (a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS.—Section 3164 of
21 the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is
22 amended by adding at the end the following:

23 “(c) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying
24 out a program under subsection (a), the Secretary shall give priority to activities that are
25 designed to encourage students from under-represented groups to pursue scientific and
26 technical careers.”.

27 (b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES,

1 HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy
2 Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

3 (1) by redesignating sections 3167 and 3168 as sections 3168 and 3169,
4 respectively; and

5 (2) by inserting after section 3166 the following:

6 **“SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND**
7 **UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL**
8 **COLLEGES.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) HISPANIC-SERVICING INSTITUTION.—The term ‘Hispanic-
11 serving institution’ has the meaning given that term in section 502(a)
12 of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

13 “(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.— The
14 term ‘historically Black college or university’ has the meaning given
15 the term ‘part B institution’ in section 322 of the Higher Education
16 Act of 1965 (20 U.S.C. 1061).

17 “(3) NATIONAL LABORATORY.—The term ‘National
18 Laboratory’ has the meaning given that term in section 903(5) of the
19 Clean and Secure Energy Act.

20 “(4) SCIENCE FACILITY.—The term ‘science facility’ has the
21 meaning given the term ‘single-purpose research facility’ in section
22 903(8) of the Clean and Secure Energy Act .

23 “(5) TRIBAL COLLEGE.—The term ‘tribal college’ has the
24 meaning given the term ‘tribally controlled college or university’ in
25 section 2(a) of the Tribally Controlled College or University
26 Assistance Act of 1978 (25 U.S.C. 1801(a)).

27 “(b) EDUCATION PARTNERSHIP.— The Secretary shall direct the

1 Director of each National Laboratory, and may direct the head of any
 2 science facility, to increase the participation of historically Black colleges or
 3 universities, Hispanic-serving institutions, or tribal colleges in activities that
 4 increase the capacity of the historically Black colleges or universities,
 5 Hispanic-serving institutions, or tribal colleges to train personnel in science
 6 or engineering.

7 “(c) ACTIVITIES.—An activity under subsection (b) may include —

8 “(1) collaborative research;

9 “(2) equipment transfer;

10 “(3) training activities conducted at a National Laboratory or
 11 science facility; and

12 “(4) mentoring activities conducted at a National Laboratory
 13 or science facility.

14 “(d) REPORT.—Not later than 2 years after the date of enactment of
 15 this section, the Secretary shall submit to the Congress a report on the
 16 activities carried out under this section.”.

17 **SEC. 1006. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION**
 18 **CENTER.**

19 (a) ESTABLISHMENT.—The Secretary shall support the establishment of a National
 20 Power Plant Operations Technology and Education Center (in this section referred to as the
 21 “Center”), to address the need for training and educating certified operators for electric
 22 power generation plants.

23 (b) ROLE.—The Center shall provide both training and continuing education
 24 relating to electric power generation plant technologies and operations. The Center shall
 25 conduct training and education activities on site and through Internet-based information
 26 technologies that allow for learning at remote sites.

27 (c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall support the

1 establishment of the Center at an institution of higher education with expertise in power
2 plant technology and operation and with the ability to provide on-site as well as Internet-
3 based training.

4 **SEC. 1007. FEDERAL MINE INSPECTORS.**

5 In light of projected retirements of Federal mine inspectors and the need for
6 additional personnel, the Secretary of Labor shall hire, train, and deploy such additional
7 skilled Federal mine inspectors as necessary to ensure the availability of skilled and
8 experienced individuals and to maintain the number of Federal mine inspectors at or above
9 the levels authorized by law or established by regulation.

10 **TITLE XI—CLIMATE CHANGE**

11 **SEC. 1101. DEFINITIONS.**

12 In this title:

13 (1) The term “Administrator” means the Administrator of the Energy
14 Information Administration;

15 (2) The term “Annual Report” means the report submitted on an annual
16 basis to the Congress by the President pursuant to section 1114.

17 (3) The term “Director” means the Director of Climate Change Policy
18 designated pursuant to section 1112.

19 (4) The term “entity” means a public person, a Federal, interstate, State, or
20 local governmental agency, department, corporation, or other publicly owned
21 organization;

22 (5) The term “facility” means those buildings, structures, installations, or
23 plants (including units thereof) that are on contiguous or adjacent land, are under
24 common control of the same person or entity and are a source of emissions of
25 greenhouse gases in excess for emission purposes of a threshold as recognized by
26 the guidelines issued under this title;

1 (6) The term “greenhouse gas” means an anthropogenic gaseous constituent
2 of the atmosphere (including carbon dioxide, methane, nitrous oxide,
3 chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride,
4 and tropospheric ozone) that absorbs and re-emits infrared radiation and influences
5 climate;

6 (7) The term “Interagency Task Force” means the Interagency Task Force
7 on Climate Change Policy established under section 1113.

8 (8) The term “Office” means the Office of Climate Change Policy
9 designated pursuant to section 1112.

10 (9) The term “person” means an individual, corporation, association, joint
11 venture, cooperative, or partnership;

12 (10) The term “reductions” means actions, projects or measures taken,
13 whether in the United States or internationally, by a person or entity to reduce,
14 avoid or sequester, directly or indirectly, emissions of one or more greenhouse
15 gases;

16 (11) The term “Secretary” means the Secretary of Energy;

17 (12) The term “Strategy” means the national climate change strategy
18 developed pursuant to section 1111.

19 **Subtitle A—National Strategy**

20 **SEC. 1111. NATIONAL CLIMATE CHANGE STRATEGY.**

21 (a) IN GENERAL.—The President, through the Interagency Task Force and the
22 Director, and in consultation with the Congress, shall develop and implement a national
23 Strategy to manage the risks posed by potential climate change.

24 (b) ELEMENTS.—Such Strategy should contain the following elements—

25 (1) definition of interim greenhouse gas emission intensity goals that, over
26 time, will stabilize and ultimately reduce net U.S. emissions of greenhouse gases

1 consistent with the aims of the United Nations Framework Convention on Climate
2 Change, in a manner than does not result in serious harm to the U.S. economy;

3 (2) specific mitigation programs that, taken collectively, will achieve such
4 interim emissions intensity goals;

5 (3) expanded climate-related technology research, development,
6 demonstration and deployment activities, including—

7 (A) a national commitment to increase energy research and
8 development by the United States public and private sectors; and

9 (B) domestic and international demonstration and deployment
10 programs that employ bold, breakthrough technologies that will make
11 possible a profound transformation of the energy, transportation, industrial,
12 agricultural, and building sectors of the United States;

13 (4) climate adaptation research that—

14 (A) assesses the sensitivity, adaptive capacity, and vulnerability of
15 natural and human systems to natural climate variability, climate change,
16 and its potential impacts; and

17 (B) identifies potential strategies and actions that can reduce
18 vulnerability to natural climate variability and climate change and damage
19 resulting from impacts of climate change;

20 (5) climate science research that—

21 (A) continually builds on existing scientific understanding of the
22 climate system; and

23 (B) focuses on resolving the remaining scientific, technical, and
24 economic uncertainties with respect to observation, analysis, detection and
25 attribution of the causes of and impacts from climate change.

26 (c) REPORT.—Not later than 1 year after the date of enactment of this section, the

1 President, through the Interagency Task Force and the Director, shall submit to Congress a
2 report that includes—

3 (1) a description of the Strategy and its goals, including how the Strategy
4 addresses each of the elements outlined in subsection (b);

5 (2) an inventory and evaluation of Federal programs and activities intended
6 to carry out the Strategy;

7 (3) a description of how the Strategy will serve as a framework of climate
8 change response actions by all Federal agencies, including a description of
9 coordination mechanisms and interagency activities;

10 (4) demonstrated evidence that the Strategy is consistent with other energy,
11 transportation, industrial, agricultural, forestry, environmental, economic, and other
12 relevant policies of the United States;

13 (5) a description of safeguards to ensure that the Strategy minimizes any
14 adverse short-term and long-term social, economic, national security, and
15 environmental impacts, including ensuring that the Strategy is developed in an
16 economically and environmentally sound manner;

17 (6) demonstrated evidence that the Strategy has been developed in a manner
18 that provides for participation by, and consultation among, Federal, State, tribal,
19 and local government agencies, non-governmental organizations, academia,
20 scientific bodies, industry, the public, and other interested parties;

21 (7) a description of Federal activities that promote, to the maximum extent
22 practicable, public awareness, outreach, and information-sharing to further the
23 understanding of the full range of climate change-related issues; and

24 (8) recommendations for legislative or administrative changes to Federal
25 programs or activities implemented to carry out this Strategy, in light of new
26 knowledge of climate change and its impacts and costs or benefits, or technological
27 capacity to improve mitigation or adaptation activities.

1 (d) UPDATE.—Not later than 4 years after the date of submission of the initial report
2 on the Strategy developed pursuant to this section, and at the end of each 4-year period
3 thereafter, the President shall submit to Congress an updated version of the Strategy
4 described in subsection (c).

5 (e) CONFORMING AMENDMENT.—Section 1103(b) of the Global Climate Protection
6 Act of 1987 (P.L. 100-204) is amended by inserting “, the Department of Energy, and other
7 Federal agencies as appropriate” after “Environmental Protection Agency”.

8 **SEC. 1112. OFFICE OF CLIMATE CHANGE POLICY.**

9 (a) DESIGNATION.—The President shall designate a qualified individual within the
10 Executive Office of the President to serve as the Director of Climate Change Policy.

11 (b) DUTIES.—The Director shall be solely dedicated to climate change policy
12 activities and shall—

13 (1) coordinate of the development and periodic revision of the Strategy;

14 (2) facilitate the work of the Interagency Task Force and serve as the
15 primary liaison between Federal agencies in developing and implementing the
16 Strategy;

17 (3) coordinate the submission of Federal agency budget requests as needed
18 to carry out interagency programs and policies necessary to meet the goals of the
19 Strategy;

20 (4) advise the President concerning—

21 (A) necessary changes in organization, management, budgeting, and
22 personnel allocation of Federal agencies involved in climate change
23 activities;

24 (B) the extent to which existing or newly-created tax, trade, or
25 foreign policies and energy, transportation, industrial, agricultural, forestry,
26 building, and other relevant sectoral programs are capable of achieving the

1 Strategy individually or in combination;

2 (C) through the Secretary of State, analyze any proposed
3 international treaties or components of treaties that have an influence on
4 activities that effect greenhouse gas emissions and review such treaties or
5 components of treaties for consistency with the Strategy;

6 (5) establish and maintain a process to ensure the participation of Federal,
7 State, tribal, and local government agencies, non-governmental organizations,
8 academia, scientific bodies, industry, the public, and other interested parties in the
9 formulation of climate change-related advice to be provided to the President; and

10 (6) promote public awareness, outreach, and information sharing to further
11 the understanding of climate change-related issues.

12 (c) APPEARANCE BEFORE THE CONGRESS.—

13 (1) The Director shall appear before Congress at annual hearings to provide
14 testimony on

15 (A) the Strategy;

16 (B) the Annual Report;

17 (C) other efforts, activities, objectives, and plans within the Federal
18 government regarding climate change; and

19 (D) the economic and environmental impacts of such efforts,
20 activities, objectives and plans.

21 (2) The Director shall appear by request—

22 (A) within 45 days of the submission of the Annual Report to the
23 Congress before a hearing or joint hearing of —

24 (1) the Committee on Energy and Natural Resources of the
25 United States Senate;

26 (2) the Committee on Environment and Public Works of the

1 United States Senate;

2 (3) the Committee on Commerce, Science and Transportation
3 of the United States Senate;

4 (4) the Committee on Energy and Commerce of the United
5 States House of Representatives;

6 (5) the Committee on Science of the United States House of
7 Representatives; and

8 (B) within 45 days of the submission of the Annual Report to the
9 Congress before a hearing of—

10 (1) the Committee on Appropriations of the United States
11 Senate; and

12 (2) the Committee on Appropriations of the United States
13 House of Representatives.

14 (3) The Director may be accompanied by members of the Interagency Task
15 Force or others deemed appropriate by the Director.

16 (d) PERSONNEL.—

17 (1) The Director may employ a professional staff of not more than 10
18 individuals to carry out the responsibilities and duties of this section.

19 (2) The Director may use the authority provided by the Intergovernmental
20 Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of
21 title 5, United States Code to obtain staff from Federal agencies and national
22 laboratories for appointments of a limited term.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
24 to the Executive Office of the President such sums as may be necessary to fulfill the
25 obligations of this section.

26 **SEC. 1113. INTERAGENCY TASK FORCE ON CLIMATE CHANGE.**

1 (a) IN GENERAL.—The President shall establish an Interagency Task Force on
2 Climate Change to coordinate Federal climate change activities and programs carried out in
3 furtherance of the Strategy.

4 (b) COMPOSITION.—The Interagency Task Force shall be composed of—

5 (1) the Director, who shall serve as Chair;

6 (2) the Secretary of State;

7 (3) the Secretary of Energy;

8 (4) the Secretary of Commerce;

9 (5) the Secretary of Transportation;

10 (6) the Secretary of Agriculture;

11 (7) the Administrator of the Environmental Protection Agency;

12 (8) the Chairman of the Council of Economic Advisers;

13 (9) the Chairman of the Council on Environmental Quality;

14 (10) the Director of the Office of Science and Technology Policy;

15 (11) such other agencies and departments of the United States as the
16 President considers appropriate.

17 (c) STRATEGY.—The Interagency Task Force shall serve as the primary forum
18 through which the Federal agencies and offices represented on the Interagency Task Force
19 jointly advise the President on—

20 (1) the development and periodic update of the Strategy; and

21 (2) the implementation of interagency and agency programs to carry out
22 activities in furtherance of the goals and objectives of the Strategy.

23 (d) WORKING GROUPS.—The members of the Interagency Task Force may establish
24 such topical working groups as may be necessary to carry out the duties of the Interagency
25 Task Force and implement the Strategy, taking into consideration the elements of the

1 Strategy as outlined in this title. Such working groups may be comprised of members of the
2 Interagency Task Force or their designees.

3 (e) STAFF.—The Federal agencies represented on the Interagency Task Force may
4 provide staff from the agencies to support information, data collection, and analyses
5 required by the Interagency Task Force.

6 (f) HEARINGS.—Upon the request of the Director, the Interagency Task Force may
7 hold such hearings, meet and act at such times and places, take such testimony, and receive
8 such evidence and the Interagency Task Force considers to be appropriate.

9 **SEC. 1114. ANNUAL REPORT.**

10 The Director shall, in consultation with the Interagency Task Force and other
11 interested parties, prepare an annual report for submission by the President to the Congress
12 on or about February 15 of each calendar year that includes—

13 (1) a description of the Strategy and its goals;

14 (2) an inventory of Federal programs and activities intended to carry out the
15 Strategy;

16 (3) an evaluation of such Federal programs and activities implemented as
17 part of this strategy against the goals outlined in the Strategy;

18 (4) a description of changes to Federal programs or activities implemented
19 to carry out the Strategy, in light of new knowledge of climate change and its
20 impacts and costs or benefits, or technological capacity to improve mitigation or
21 adaptation activities;

22 (5) a description of all Federal spending on climate change for the current
23 fiscal year and each of the five years previous; categorized by Federal agency and
24 program function (including scientific research, energy research and development,
25 regulation, education, and other activities), and a recommendation for Federal
26 spending on climate change for the next fiscal year;

1 (6) an estimate of the budgetary impact for the current fiscal year and each
2 of the five years previous of any Federal tax credits, tax deductions or other
3 incentives claimed by taxpayers that are directly or indirectly attributable to
4 greenhouse gas emissions reduction activities;

5 (7) an estimate of the amount, in metric tons, of greenhouse gas emissions
6 reduced, avoided, or sequestered directly or indirectly as a result of the
7 implementation of the Strategy; and

8 (8) recommendations for legislative or administrative actions or adjustments
9 that will accelerate progress towards meeting the near-term and long-term
10 emissions intensity goals contained in the Strategy.

11 **Subtitle B—Greenhouse Gas Emissions Registry**

12 **SEC. 1121. ESTABLISHMENT.**

13 (a) **IN GENERAL.**—Not later than 1 year after the enactment of this title, the
14 President shall, in consultation with the Interagency Task Force, establish a National
15 Greenhouse Gas Registry to be administered by the Secretary through the Administrator in
16 accordance with the applicable provisions of this title, section 205 of the Department of
17 Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101,
18 et seq.).

19 (b) **DESIGNATION.**—Upon establishment of the registry and issuance of the
20 guidelines pursuant to this title, such registry shall thereafter be the depository for the
21 United States of data on greenhouse gas emissions and emissions reductions collected from
22 and reported by persons or entities with facilities or operations in the United States,
23 pursuant to the guidelines issued under this title.

24 (c) **PARTICIPATION.**—Any person or entity conducting business or activities in the
25 United States may, in accordance with the guidelines established pursuant to this title,
26 voluntarily report its total emissions levels and register its certified emissions reductions
27 with such registry, provided that such reports—

1 (1) represent a complete and accurate inventory of emissions from facilities
2 and operations within the United States and any domestic or international reduction
3 activities; and

4 (2) have been verified as accurate by an independent person certified
5 pursuant to guidelines developed pursuant to this title, or other means.

6 (d) CONFIDENTIALITY OF REPORTS.—Trade secret and commercial or financial
7 information that is privileged and confidential submitted pursuant to activities under this
8 title shall be protected as provided in section 552(b)(4) of title 5, United States Code.

9 **SEC. 1122. IMPLEMENTATION.**

10 (a) GUIDELINES.—Not later than 1 year after the date of establishment of the
11 registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task
12 Force, issue guidelines establishing procedures for the administration of the national
13 registry. Such guidelines shall include—

14 (1) means and methods for persons or entities to determine, quantify, and
15 report by appropriate and credible means their baseline emissions levels on an
16 annual basis, taking into consideration any reports made by such participants under
17 past Federal programs;

18 (2) procedures for the use of an independent third-party or other effective
19 verification process for reports on emissions levels and emissions reductions, using
20 the authorities available to the Secretary under this and other provisions of law and
21 taking into account, to the extent possible, costs, risks, the voluntary nature of the
22 registry, and other relevant factors;

23 (3) a range of reference cases for reporting of project-based reductions in
24 various sectors, and the inclusion of benchmark and default methodologies and
25 practices for use as reference cases for eligible projects;

26 (4) safeguards to prevent and address reporting, inadvertently or otherwise,
27 of some or all of the same greenhouse gas emissions or reductions by more than one

1 reporting person or entity and to make corrections and adjustments in data where
2 necessary;

3 (5) procedures and criteria for the review and registration of ownership or
4 holding of all or part of any reported and independently verified emission reduction
5 projects, actions and measures relative to such reported baseline emissions level;

6 (6) measures or a process for providing to such persons or entities
7 transferable credits with unique serial numbers for such verified emissions
8 reductions; and

9 (7) accounting provisions needed to allow for changes in registration and
10 transfer of ownership of such credits resulting from a voluntary private transaction
11 between persons or entities, provided that the Secretary is notified of any such
12 transfer within 30 days of the transfer having been effected either by private
13 contract or market mechanism.

14 (b) CONSIDERATION.—In developing such guidelines, the Secretary shall take into
15 consideration—

16 (1) the existing guidelines for voluntary emissions reporting issued under
17 section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience
18 in applying such guidelines, and any revisions thereof initiated by the Secretary
19 pursuant to direction of the President issued prior to the enactment of this title;

20 (2) protocols and guidelines developed under any Federal, State, local, or
21 private voluntary greenhouse gas emissions reporting or reduction programs;

22 (3) the various differences and potential uniqueness of the facilities,
23 operations and business and other relevant practices of persons and entities in the
24 private and public sectors that may be expected to participate in the registry;

25 (4) issues, such as comparability, that are associated with the reporting of
26 both emissions baselines and reductions from activities and projects;

27 (5) the appropriate level or threshold emissions applicable to a facility or

1 activity of a person or entity that may be reasonably and cost effectively identified,
2 measured and reported voluntarily, taking into consideration different types of
3 facilities and activities and the de minimis nature of some emissions and their
4 sources; and

5 (6) any other consideration the Secretary may deem appropriate.

6 (c) EXPERTS AND CONSULTANTS.—The Secretary, and any member of the
7 Interagency Task Force, may secure the services of experts and consultants in the private
8 and non-profit sectors in accordance with the provisions of section 3109 of title 5, United
9 States Code, in the areas of greenhouse gas measurement, certification, and emissions
10 trading. In securing such services, any grant, contract, cooperative agreement, or other
11 arrangement authorized by law and already available to the Secretary or the member of the
12 Interagency Task Force securing such services may be used.

13 (d) TRANSFERABILITY OF PRIOR REPORTS.—Emissions reports and reductions that
14 have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act
15 of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas
16 reduction programs may be independently verified and registered with the registry using
17 the same guidelines developed by the Secretary pursuant to this section.

18 (e) PUBLIC COMMENT.—The Secretary shall make such guidelines available in draft
19 form for public notice and opportunity for comment for a period of at least 90 days, and
20 thereafter shall adopt them for use in implementation of the registry established pursuant to
21 this title.

22 (f) REVIEW AND REVISION.—The Secretary, through the Interagency Task Force,
23 shall periodically thereafter review the guidelines and, as needed, revise them in the same
24 manner as provided for in this section.

25 **SEC. 1123. VOLUNTARY AGREEMENTS.**

26 (a) IN GENERAL.—In furtherance of the purposes of this title, any person or entity,
27 and the Secretary, may voluntarily enter into an agreement to provide that—

1 (1) such person or entity (and successors thereto) shall report annually to the
2 registry on emissions and sources of greenhouse gases from applicable facilities
3 and operations which generate net emissions above any de minimis thresholds
4 specified in the guidelines issued by the Secretary pursuant to this title;

5 (2) such person or entity (and successors thereto) shall commit to report and
6 participate in the registry for a period of at least 5 calendar years, provided that
7 such agreements may be renewed by mutual consent;

8 (3) for purposes of measuring performance under the agreement, such
9 person or entity (and successors thereto) shall determine, by mutual agreement with
10 the Secretary—

11 (A) pursuant to the guidelines issued under this title, a baseline
12 emissions level for a representative period preceding the effective date of
13 the agreement; and

14 (B) emissions reduction goals, taking into consideration the baseline
15 emissions level determined under subparagraph (A) and any relevant
16 economic and operational factors that may affect such baseline emissions
17 level over the duration of the agreement; and

18 (4) for certified emissions reductions made relative to the baseline emissions
19 level, the Secretary shall provide, at the request of the person or entity, transferable
20 credits (with unique assigned serial numbers) to the person or entity (and successors
21 thereto) which, inter alia,—

22 (A) can be used by such person or entity towards meeting emissions
23 reductions goals set forth under the agreement;

24 (B) can be transferred to other persons or entities through a
25 voluntary private transaction between persons or entities; or

26 (C) may be applicable towards any incentive, market-based, or
27 regulatory programs determined by the Congress in a future enactment to be

1 necessary and feasible to reduce the risk of climate change and its impacts.

2 (b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is
3 final, the Secretary shall give notice thereof in the Federal Register and provide an
4 opportunity for public written comment. After reviewing such comments, the Secretary
5 may withdraw the agreement or the parties thereto may mutually agree to revise it or
6 finalize it without substantive change. Such agreement shall be retained in the national
7 registry and be available to the public.

8 (c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that
9 emissions from applicable facilities and operations are less than the emissions reduction
10 goals contained in the agreement, such person or entity shall take actions as necessary to
11 reduce such excess emissions, including—

12 (1) redemption of transferable credits acquired in previous years if owned
13 by the person or entity;

14 (2) acquisition of transferable credits from other persons or entities
15 participating in the registry through their own agreements; or

16 (3) the undertaking of additional emissions reductions activities in
17 subsequent years as may be determined by agreement with the Secretary.

18 (d) NO NEW AUTHORITY.—This section shall not be construed as providing any
19 regulatory or mandate authority regarding reporting of such emissions or reductions.

20 **SEC. 1124. MEASUREMENT AND VERIFICATION.**

21 (a) IN GENERAL.—The Secretary of Commerce, through the National Institute of
22 Standards and Technology and in consultation with the Secretary of Energy, shall develop
23 and propose standards and practices for accurate measurement and verification of
24 greenhouse gas emissions and emissions reductions. Such standards and best practices shall
25 address the need for—

26 (1) standardized measurement and verification practices for reports made by
27 all persons or entities participating in the registry, taking into account—

1 (A) existing protocols and standards already in use by persons or
2 entities desiring to participate in the registry;

3 (B) boundary issues such as leakage and shifted utilization;

4 (C) avoidance of double-counting of greenhouse gas emissions and
5 emissions reductions; and

6 (D) such other factors as the panel determines to be appropriate;

7 (2) measurement and verification of actions taken to reduce, avoid or
8 sequester greenhouse gas emissions;

9 (3) in coordination with the Secretary of Agriculture, measurement of the
10 results of the use of carbon sequestration and carbon recapture technologies,
11 including—

12 (A) organic soil carbon sequestration practices;

13 (B) forest preservation and re-forestation activities which adequately
14 address the issues of permanence, leakage and verification; and

15 (4) such other measurement and verification standards as the Secretary of
16 Commerce, the Secretary of Agriculture, and the Secretary of Energy shall
17 determine to be appropriate.

18 (b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards
19 and practices available in draft form for public notice and opportunity for comment for a
20 period of at least 90 days, and thereafter shall adopt them, in coordination with the
21 Secretary of Energy, for use in the guidelines for implementation of the registry as issued
22 pursuant to this title.

23 **SEC. 1125. CERTIFIED INDEPENDENT THIRD PARTIES.**

24 (a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the
25 National Institute of Standards and Technology and the Administrator, develop standards
26 for certification of independent persons to act as certified parties to be employed in

1 verifying the accuracy and reliability of reports made under this title, including standards
2 that—

3 (1) prohibit a certified party from themselves participating in the registry
4 through the ownership or transaction of transferable credits recorded in the registry;

5 (2) prohibit the receipt by a certified party of compensation in the form of a
6 commission where such party receives payment based on the amount of emissions
7 reductions verified; and

8 (3) authorize such certified parties to enter into agreements with persons
9 engaged in trading of transferable credits recorded in the registry.

10 (b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available
11 to persons or entities making reports under this title and to the public upon request a list of
12 such certified parties and their clients making reports under this title.

13 **SEC. 1126. REPORT TO CONGRESS.**

14 Not later than 1 year after guidelines are issued for the registry pursuant to this title,
15 and biennially thereafter, the President, through the Interagency Task Force, shall report to
16 the Congress on the status of the registry established by this title. The report shall
17 include—

18 (1) an assessment of the level of participation in the registry (both by sector
19 and in terms of total national emissions represented);

20 (2) effectiveness of voluntary reporting agreements in enhancing
21 participation in the registry;

22 (3) use of the registry for emissions trading and other purposes;

23 (4) assessment of progress towards individual and national emissions
24 reduction goals; and

25 (5) an inventory of administrative actions taken or planned to improve the
26 national registry or the guidelines, or both, and such recommendations for

1 legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42
2 U.S.C. 13385) as the President believes necessary to better carry out the purposes
3 of this title.

4 **Subtitle C—Climate Technology Programs**

5 **SEC. 1131. OFFICE OF CLIMATE CHANGE TECHNOLOGY.**

6 Section 1603 of the Energy Policy Act of 1992 (42 U.S.C. 13383) is amended to
7 read as follows:

8 **“SEC. 1603. OFFICE OF CLIMATE CHANGE TECHNOLOGY**

9 “(a) ESTABLISHMENT.—There shall be within the Department an Office of
10 Climate Change Technology. The Office shall be headed by a Director, who shall
11 be appointed in the Senior Executive Service, and who shall report to the Secretary
12 in such manner as the Secretary may prescribe. The Director shall be a person who,
13 by reason of professional background and experience, is specially qualified to
14 coordinate climate change policy and technical activities.

15 “(b) DUTIES OF THE DIRECTOR.—The Director shall—

16 “(1) promote and coordinate issues, policies, and activities within the
17 Department related to climate change and coordinate the issuance of such
18 reports as may be required under this title;

19 “(2) lead the formulation and periodic revision of a comprehensive
20 Departmental strategy for energy research, development, demonstration, and
21 technology deployment to implement national climate change policy,
22 including quantitative performance and deployment goals for energy
23 technologies that reduce, avoid, or sequester emissions of greenhouse gases;

24 “(3) analyze the research, development, demonstration, and
25 technology deployment activities of the Department to assess their
26 contribution to the strategy under paragraph (2) and make recommendations

1 to the appropriate officers of the Department;

2 “(4) facilitate, in cooperation with the appropriate Departmental
3 programs, the development of domestic and international cooperative
4 research and development agreements (as that term is defined in section
5 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15
6 U.S.C. 3710a(d)(1))), or similar cooperative, cost-shared partnerships with
7 non-federal organizations to accelerate the rate of domestic and
8 international demonstration and deployment of energy technologies that
9 reduce, avoid or sequester emissions of greenhouse gases;

10 “(5) participate in the planning activities of relevant Department
11 programs;

12 “(6) participate in the development and assessment of domestic and
13 international policies in order to determine and report on the effects of such
14 policies on the generation, reduction, avoidance, and sequestration of
15 greenhouse gases from activities related to the production and use of energy;

16 “(7) help develop national climate change policy by providing
17 technical support, upon request, to the President, interagency groups, or
18 other federal agencies;

19 “(8) carry out programs to raise public awareness of climate change,
20 its relation to energy production and use, and means to mitigate human-
21 induced climate change through changes in energy production or use; and

22 “(9) at the direction of the Secretary or another appropriate officer of
23 the Department, serve as the Department’s representative for interagency
24 and multilateral policy discussions relating to global climate change,
25 including the activities of—

26 “(A) the Committee on Earth and Environmental Sciences
27 established by section 102 of the Global Change Research Act of

1 1990 (15 U.S.C. 2932) and its successor committees; and

2 “(B) other interagency committees coordinating policies or
3 activities relating to global climate change; and

4 “(10) in accordance with all law administered by the Secretary and
5 other applicable Federal law and contracts, including patent and intellectual
6 property laws, and in furtherance of the United Nations Framework
7 Convention on Climate Change—

8 “(A) identify for, and transfer, deploy, diffuse, and apply to,
9 Parties to such Convention, including the United States, any
10 technologies, practices, or processes which reduce, avoid, or
11 sequester emissions of greenhouse gases if such technologies,
12 practices or processes have been developed with funding from the
13 Department of Energy or any of its facilities or laboratories; and

14 “(B) support reasonable efforts by the Parties to such
15 convention, including the United States, to identify and remove
16 legal, trade, financial, and other barriers to the use and application of
17 any technologies, practices, or processes which reduce, avoid, or
18 sequester emissions of greenhouse gases.”.

19 **SEC. 1132. CLIMATE CHANGE TECHNOLOGY PROGRAM.**

20 (a) IN GENERAL.—Section 1604 of the Energy Policy Act of 1992 (42 U.S.C.
21 13384) is amended to read as follows:

22 **“SEC. 1604. CLIMATE CHANGE TECHNOLOGY PROGRAM.**

23 “(a) ESTABLISHMENT.—There is established within the Office of Climate
24 Change Technology a program to support accelerated research and development
25 projects on energy technologies that—

26 “(1) have significant potential to—

27 “(A) reduce or avoid anthropogenic emissions of greenhouse

1 gases;

2 “(B) remove and sequester greenhouse gases from emissions
3 streams; or

4 “(C) remove and sequester greenhouse gases from the
5 atmosphere;

6 “(2) are not being addressed significantly by other Department
7 programs;

8 “(3) would represent a substantial advance beyond currently
9 available technology; and

10 “(4) are not expected to be applied commercially before 2020.

11 “(b) PROGRAM PLAN.—Not later than one year after the date of enactment
12 of this section, the Secretary shall prepare and submit to the Congress a ten-year
13 program plan to guide activities to be carried out under this section. Thereafter, the
14 Secretary shall biennially update and resubmit the program plan to the Congress,
15 and include evaluation of

16 “(c) PROPOSALS.—Proposals may be submitted by applicants or consortia
17 from industry, institutions of higher education, or Department of Energy national
18 laboratories. At minimum, each proposal shall also include—

19 “(1) a multi-year management plan that outlines how the proposed
20 research, development, demonstration and deployment activities will be
21 carried out;

22 “(2) quantitative technology goals and greenhouse gas emission
23 reduction targets that can be used to measure performance against program
24 objectives;

25 “(3) the total cost of the proposal for each year in which funding is
26 requested, and a breakdown of those costs by category;

1 “(4) evidence that the applicant has in existence or has access to—

2 “(A) the technical capability to enable it to make use of
3 existing research support and facilities in carrying out the objectives
4 of the proposal;

5 “(B) a multi-disciplinary research staff experienced in
6 technologies or practices able to sequester, avoid, or capture
7 greenhouse gas emissions;

8 “(C) access to facilities and equipment to enable the conduct
9 of laboratory-scale testing or demonstration of technologies or
10 related processes undertaken through the program; and

11 “(D) commitment for matching funds and other resources as
12 may be needed from non-Federal sources, including cash,
13 equipment, services, materials, appropriate technology transfer
14 activities, and other assets directly related to the cost of the proposal;

15 “(5) evidence that the proposed activities are supplemental to, and
16 not duplicative of, existing research and development activities carried out,
17 funded, or otherwise supported by the Department;

18 “(6) a description of the technology transfer mechanisms and public-
19 private partnerships that the applicant will use to make available research
20 results to industry and to other researchers;

21 “(7) a statement whether the unique capabilities of Department of
22 Energy national laboratories warrant collaboration with those laboratories,
23 and the extent of any such collaboration proposed; and

24 “(8) demonstrated evidence of the ability of the applicant to
25 undertake and complete the proposed project.

26 “(d) PROCUREMENT AUTHORITIES.—The program under this section may
27 use any of the procurement authorities available to the Department to solicit

1 proposals for projects under subsection (a) and to encourage partnerships among
2 research performers that will increase the likelihood of success of such projects.

3 “(e) RELATIONSHIP TO DEPARTMENT PROGRAMS.—Each project under
4 subsection (a) shall be—

5 “(1) initiated only after consultation by the Office of Climate
6 Change Technology with one or more appropriate offices in the Department
7 that support research and development in areas related to the project; and

8 “(2) either—

9 “(A) managed directly by the Office of Climate Change
10 Technology; or

11 “(B) managed by the appropriate office (or by a cross-
12 functional team from several offices) in the Department that
13 supports research and development in areas related to the project,
14 using funds transferred by the Office of Climate Change
15 Technology.

16 “(f) COST SHARING.—

17 “(1) Except as otherwise provided in this subsection, each project
18 under subsection (a) shall be subject only to such cost-sharing requirements
19 as the Office of Climate Change Technology may provide.

20 “(2) Each cost-sharing agreement under this subsection shall be
21 published in the Federal Register by the Office of Climate Change
22 Technology.

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
24 appropriated to the Secretary to carry out this section \$40,000,000 for fiscal year
25 2004 and \$200,000,000 for each of fiscal years 2005 through 2014, to remain
26 available until expended.”.

1 (b) CONFORMING AMENDMENTS.—Section 6 of the Federal Nonnuclear Energy
2 Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (2), by striking “and” at the end;

5 (B) in paragraph (3) by striking the period at the end and inserting “,
6 and”; and

7 (C) by adding at the end the following—

8 “(4) solutions to the effective management of greenhouse gas
9 emissions in the long term by the development of technologies and
10 practices designed to—

11 “(A) reduce or avoid anthropogenic emissions of
12 greenhouse gases;

13 “(B) remove and sequester greenhouse gases from
14 emissions streams; and

15 “(C) remove and sequester greenhouse gases from the
16 atmosphere.”; and

17 (2) in subsection (b)—

18 (A) in paragraph (2), by striking “subsection (a)(1) through (3)” and
19 inserting “paragraphs (1) through (4) of subsection (a)”; and

20 (B) in paragraph (3)—

21 (i) in subparagraph (R), by striking “and” at the end;

22 (ii) in subparagraph (S), by striking the period at the end and
23 inserting “; and”; and

24 (iii) by adding at the end the following:

25 “(T) to pursue a long-term climate technology

1 strategy designed to demonstrate a variety of technologies by
2 which stabilization of greenhouse gases might be best
3 achieved, including accelerated research, development,
4 demonstration and deployment of—

5 “(i) renewable energy systems;

6 “(ii) advanced fossil energy technology;

7 “(iii) advanced nuclear power plant design;

8 “(iv) fuel cell technology for residential,
9 industrial and transportation applications;

10 “(v) carbon capture and sequestration
11 practices and technologies, including agricultural and
12 forestry practices that store and sequester carbon;

13 “(vi) efficient electrical generation,
14 transmission and distribution technologies; and

15 “(vii) efficient end use energy technologies.”.

16 **SEC. 1133. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.**

17 (a) DEFINITIONS—In this section:

18 (1) The term “clean energy technology” means an energy supply or end-use
19 technology that, over its lifecycle and compared to a similar technology already in
20 commercial use in developing countries, countries with economies in transition, and
21 other partner countries—

22 (A) emits substantially lower levels of pollutants or greenhouse
23 gases; and

24 (B) may generate substantially smaller or less toxic volumes of solid
25 or liquid waste.

26 (2) The term “interagency working group” means the Interagency Working

1 Group on Clean Energy Technology Exports established under subsection (b).

2 (b) INTERAGENCY WORKING GROUP.—

3 (1) Not later than 90 days after the date of enactment of this section, the
4 Secretary of Energy, the Secretary of Commerce, and the Administrator of the
5 United States Agency for International Development shall jointly establish a
6 Interagency Working Group on Clean Energy Technology Exports. The interagency
7 working group will focus on opening and expanding energy markets and
8 transferring clean energy technology to those developing countries, countries with
9 economies in transition, and other partner countries that are expected to experience,
10 over the next 20 years, the most significant growth in energy production and
11 associated greenhouse gas emissions, including through technology transfer
12 programs under the Framework Convention on Climate Change, other international
13 agreements, and relevant Federal efforts.

14 (2) The interagency working group shall be jointly chaired by
15 representatives appointed by the agency heads under paragraph (1) and shall also
16 include representatives from the Department of State, the Department of the
17 Treasury, the Environmental Protection Agency, the Export-Import Bank, the
18 Overseas Private Investment Corporation, the Trade and Development Agency, and
19 other Federal agencies as deemed appropriate by all three agency heads under
20 paragraph (1).

21 (3) The interagency working group shall—

22 (A) analyze technology, policy, and market opportunities for
23 international development, demonstration, and deployment of clean energy
24 technology;

25 (B) investigate issues associated with building capacity to deploy
26 clean energy technology in developing countries, countries with economies
27 in transition, and other partner countries, including energy-sector reform;

1 creation of open, transparent, and competitive markets for clean energy
2 technologies; availability of trained personnel to deploy and maintain such
3 clean energy technology; and demonstration and cost-buydown mechanisms
4 to promote first adoption of the technology;

5 (C) examine relevant trade, tax, international, and other policy issues
6 to assess what policies would help open markets and improve United States
7 clean energy technology exports in support of the following areas—

8 (i) enhancing energy innovation and cooperation, including
9 energy sector and market reform, capacity building, and financing
10 measures;

11 (ii) improving energy end-use efficiency technologies,
12 including buildings and facilities, vehicle, industrial, and co-
13 generation technology initiatives; and

14 (iii) promoting energy supply technologies, including fossil,
15 nuclear, and renewable technology initiatives;

16 (D) establish an advisory committee involving the private sector and
17 other interested groups on the export and deployment of clean energy
18 technology;

19 (E) monitor each agency's progress towards meeting goals in the 5-
20 year strategic plan submitted to Congress pursuant to the Energy and Water
21 Development Appropriations Act, 2001, and the Energy and Water
22 Development Appropriations Act, 2002;

23 (F) make recommendations to heads of appropriate Federal agencies
24 on ways to streamline Federal programs and policies to improve each
25 agency's role in the international development, demonstration, and
26 deployment of clean energy technology;

27 (G) make assessments and recommendations regarding the distinct

1 technological, market, regional, and stakeholder challenges necessary to
2 carry out the program; and

3 (H) recommend conditions and criteria that will help ensure that
4 United States funds promote sound energy policies in participating countries
5 while simultaneously opening their markets and exporting United States
6 energy technology.

7 (c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY

8 TRANSFER.—Notwithstanding any other provision of law, each Federal agency or
9 Government corporation carrying out an assistance program in support of the activities of
10 United States persons in the environment or energy sector of a developing country, country
11 with an economy in transition, or other partner country shall support, to the maximum
12 extent practicable, the transfer of United States clean energy technology as part of that
13 program.

14 (d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this
15 section, and on April 1st of each year thereafter, the interagency working group shall
16 submit a report to Congress on its activities during the preceding calendar year. The report
17 shall include a description of the technology, policy, and market opportunities for
18 international development, demonstration, and deployment of clean energy technology
19 investigated by the interagency working group in that year, as well as any policy
20 recommendations to improve the expansion of clean energy markets and United States
21 clean energy technology exports.

22 (e) REPORT ON USE OF FUNDS.—Not later than October 1, 2003, and each year
23 thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a
24 report to Congress indicating how United States funds appropriated for clean energy
25 technology exports and other relevant Federal programs are being directed in a manner that
26 promotes sound energy policy commitments in developing countries, countries with
27 economies in transition, and other partner countries, including efforts pursuant to
28 multilateral environmental agreements.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated
2 to the departments, agencies, and entities of the United States described in subsection (b)
3 such sums as may be necessary to support the transfer of clean energy technology,
4 consistent with the subsidy codes of the World Trade Organization, as part of assistance
5 programs carried out by those departments, agencies, and entities in support of activities of
6 United States persons in the energy sector of a developing country, country with an
7 economy in transition, or other partner country.

8 **SEC. 1134. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.**

9 Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended
10 by adding at the end the following:

11 **“SEC. 1610. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.**

12 “(a) DEFINITIONS.— In this subsection:

13 “(1) The term ‘international energy deployment project’ means a
14 project to construct an energy production facility outside the United States
15 for the production of energy to be consumed outside the United States,
16 where the deployment of such project will result in a greenhouse gas
17 reduction per unit of energy produced (when compared to the technology
18 that would otherwise be deployed) of —

19 “(A) 20 percentage points or more, in the case of a unit
20 placed in service before January 1, 2010;

21 “(B) 40 percentage points or more, in the case of a unit
22 placed in service after December 31, 2009, and before January 1,
23 2020; or

24 “(C) 60 percentage points or more, in the case of a unit
25 placed in service after December 31, 2019, and before January 1,
26 2030.

27 “(2) The term ‘qualifying international energy deployment project’

1 means an international energy deployment project that —

2 “(A) is submitted by a United States firm to the Secretary in
3 accordance with procedures established by the Secretary by
4 regulation;

5 “(B) meets the criteria of subsection 1608(k), and uses
6 technology that has been successfully developed or deployed in the
7 United States;

8 “(C) is selected by the Secretary without regard to the
9 country in which the project is located, with notice of such selection
10 being published in the Federal Register; and

11 “(D) complies with such other terms and conditions as the
12 Secretary establishes by regulation.

13 “(3) For purposes of this section, the term “United States”, when
14 used in a geographical sense, means the 50 States, the District of Columbia,
15 Puerto Rico, Guam, the Virgin Islands, American Samoa, and the
16 Commonwealth of the Northern Mariana Islands.

17 “(b) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

18 “(1) IN GENERAL.— Not later than 180 days after the date of
19 enactment of this subsection, the Secretary shall, by regulation, provide for
20 a pilot program that provides financial assistance for qualifying
21 international energy deployment projects.

22 “(2) FINANCIAL ASSISTANCE.—

23 “(A) IN GENERAL.—For each qualifying international energy
24 deployment project selected by the Secretary to participate in the
25 pilot program, the Secretary shall make available a loan or loan
26 guarantee for not more than 50 percent of the total cost of the
27 project, to be repaid at an interest rate equal to the rate for Treasury

1 obligations then issued for periods of comparable maturities.

2 “(B) DEVELOPED COUNTRIES.—Loans or loan guarantees
3 made available for projects to be located in a developed country, as
4 listed in Annex I of the United Nations Framework Convention on
5 Climate Change, shall require at least a 50 percent contribution
6 towards the total cost of the loan or loan guarantee by the host
7 country.

8 “(C) DEVELOPING COUNTRIES.— Loans or loan guarantees
9 made for projects to be located in a developing country (those
10 countries not listed in Annex I of the United Nations Framework
11 Convention on Climate Change) shall require at least a 10 percent
12 contribution towards the total cost of the loan or loan guarantee by
13 the host country.

14 “(D) CAPACITY BUILDING RESEARCH.— Proposals made for
15 projects to be located in a developing country may include a research
16 component intended to build technological capacity within the host
17 country. Such research must be related to the technologies being
18 deployed and must involve both an institution in the host country
19 and an industry, university or national laboratory participant from
20 the United States. The host institution shall contribute at least 50
21 percent of funds provided for the capacity building research.

22 “(3) COORDINATION WITH OTHER PROGRAMS.—A qualifying
23 international energy deployment project funded under this section shall not
24 be eligible as a qualifying clean coal technology under section 415 of the
25 Clean Air Act (42 U.S.C. 7651n).

26 “(4) REPORT AND RECOMMENDATION.—Not later than 5 years after
27 the date of enactment of this subsection, the Secretary shall submit to the
28 President a report on the results of the pilot projects. Not later than 60 days

1 after receiving such report, the President shall submit to Congress a
2 recommendation, based on the results of the pilot projects as reported by the
3 Secretary of Energy, concerning whether the financial assistance program
4 under this section should be continued, expanded, reduced, or eliminated.

5 “(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
6 appropriated to the Secretary to carry out this section \$100,000,000 for each of
7 fiscal years 2005 through 2014, to remain available until expended.”.

8 **TITLE XII — ELECTRICITY**

9 **Subtitle A — Amendments to the Federal Power Act**

10 **SEC. 1201. DEFINITIONS**

11 (a) DEFINITION OF ELECTRIC UTILITY—Section 3(23) of the Federal Power Act (16
12 U.S.C. 796(22)) is amended to read as follows:

13 “(22) ‘electric utility’ means any person or Federal or State agency (including any
14 municipality) that sells electric energy; such term includes the Tennessee Valley Authority
15 and each Federal power marketing agency.”.

16 (b) DEFINITION OF TRANSMITTING UTILITY.—Section 3(23) of the Federal Power
17 Act (16 U.S.C. 796(23)) is amended to read as follows:

18 “(23) TRANSMITTING UTILITY—The term ‘transmitting utility’ means an entity
19 (including any entity described in section 201(f)) that owns or operates facilities used for
20 the transmission of electric energy—

21 “(A) in interstate commerce; or

22 “(B) for the sale of electric energy at wholesale.”.

23 (c) DEFINITION OF TRANSMISSION SERVICES.—Section 3(24) of the Federal Power
24 Act (16 U.S.C. 796(24)) is amended by adding at the end the following:

25 “(24) ‘TRANSMISSION SERVICES’ means the transmission of electric energy sold or

1 to be sold.”.

2 (d) DEFINITION OF TRANSMISSION ORGANIZATION.—Section 3 of the Federal Power
3 Act (16 U.S.C. 796(26)) is added to read as follows:

4 “(26) TRANSMISSION ORGANIZATION.—The term ‘Transmission Organization’
5 means a regional transmission organization, independent system operator, independent
6 transmission provider, or other transmission organization finally approved by the
7 Commission or a Regional Energy Services Commission for the operation of transmission
8 facilities.”.

9 (e) DEFINITION OF REGIONAL ENERGY SERVICES COMMISSION.—Section 3 of the
10 Federal Power Act (16 U.S.C. 796(27)) is amended by adding at the end the following:

11 “(25) REGIONAL ENERGY SERVICES COMMISSION.—The term ‘Regional Energy
12 Services Commission’ or ‘RESC’ means a voluntary multi-state entity designed to develop
13 and promote energy policies on regional levels.”.

14 **Subtitle B—State Coordination**

15 **SEC. 1211. REGIONAL ENERGY SERVICES COMMISSIONS.**

16 The Federal Power Act is amended by adding at the end the following:

17 **“PART IV - REGIONAL ENERGY SERVICES COMMISSIONS**

18 **“ESTABLISHMENT OF REGIONAL ENERGY SERVICES COMMISSIONS**

19 **“SEC 401.** States are authorized to enter into agreements to establish Regional Energy
20 Services Commissions (RESC).

21 **“REGIONAL ENERGY SERVICES COMMISSIONS REQUIREMENTS**

22 **“SEC. 402.** (a) In order for States to form a Regional Energy Services Commission, the
23 following requirements must be satisfied:

24 “(1) A region for RESC purposes requires a geographic range that
25 encompasses a regional market that includes an electric load equal to at least [5]

1 percent of the nation's total electric load, based on the calculation by the Energy
2 Information Administration (EIA) Annual Report of electricity end use from utility
3 and nonutility sales for the most recent calendar year for which the EIA has
4 information.

5 “(2) A region for RESC purposes requires that each member of a RESC
6 (Member State) share a border with at least one other Member State.

7 “(3) A RESC shall be composed of one member from each State, appointed
8 by the Governor as provided by state law. A State may be a voting member of only
9 one RESC.

10 “(4) A RESC shall develop a program to coordinate the review, certification
11 and permitting of interstate transmission infrastructure to be developed in the
12 region and may exercise authority for siting transmission of electric facilities to the
13 extent the affected Member State of the RESC vests in the RESC its transmission
14 siting authority.

15 “(5) A RESC shall seek to ensure that there is no undue discrimination in
16 the provision of transmission service and encourage the development of
17 independent entities to operate transmission systems.

18 “(6) A RESC shall have the capability to address rate requirements for or in
19 connection with the transmission or sale of electric energy at wholesale within that
20 RESC's region.

21 “(7) Unless a contract provides otherwise, a RESC may not modify,
22 abrogate or order refunds with respect to a contractual transaction subject to the
23 jurisdiction of the RESC, except upon a finding that such action is necessary to
24 protect the public interest.

25 “(8) A RESC shall adopt a charter setting forth decisionmaking procedures,
26 and the specific authorities set forth in section 403 that the RESC would exercise.

27 “(b) A RESC shall file a copy of its charter, along with all protocols, rules, by-laws

1 and other administrative and substantive provisions and any amendment to, with the
2 Secretary of Energy within 30 days of completion.

3 “(c) CERTIFICATION.—The Secretary of Energy shall review any filing to confirm
4 that it is consistent with the requirements of section 402. The Secretary of Energy shall
5 approve or disapprove the filing within 60 days from the date of the filing. If the Secretary
6 of Energy disapproves a filing, the Secretary shall notify each of the Member States of the
7 reasons for the disapproval and the specific actions required for approval. After the
8 expiration of the 60-day period, the RESC filing will be deemed approved and certified.

9 **“REGIONAL ENERGY SERVICES COMMISSION JURISDICTION**

10 **“SEC.403.** (a) A RESC shall have primary jurisdiction over energy services to the extent
11 agreed to in a RESC charter.

12 (b) Energy services for Part IV purposes may include:

13 “(1) transmission infrastructure planning, certification and siting in the
14 RESC region;

15 “(2) identification of resource needs, supply and interconnection in the
16 RESC region;

17 “(3) rate design and revenue requirements for transmission and wholesale
18 sales in the RESC region;

19 “(4) market power review and market monitoring efforts in the RESC
20 region;

21 “(5) encouragement of cost-effective and environmentally advanced
22 infrastructure solutions, including demand response and load management, energy
23 efficiency and distributed generation, and increased fuel diversity in the RESC
24 region;

25 “(6) cooperation with Federal agencies which manage Federal Land and
26 natural resources within a State or States that are members of a RESC to ensure

1 timely and coordinated completion of environmental and other regulatory reviews;

2 “(7) formation and approval of Transmission Organizations pursuant to
3 section 407 in the RESC region;

4 “(8) promoting reliability standards and rules; and

5 “(9) developing adequate enforcement mechanisms.

6 **“REGIONAL ENERGY SERVICES COMMISSION REVIEW**

7 **“SEC. 404.** (a) A RESC may offer recommendations, findings, and advice to the State
8 regulatory authorities in the region. If a State regulatory authority issues an order or ruling
9 that conflicts with a recommendation or finding by the RESC for energy services that
10 affect transmission of electric energy in interstate commerce or wholesale sale of electric
11 energy in interstate commerce, the RESC may petition the Commission for review of the
12 order or ruling, or the State regulatory authority may certify such an issue to the
13 Commission for its review. Such a request for review must be filed within 30 days after
14 the issuance of such order.

15 “(b) A request for review or certification shall set forth specifically the ground or
16 grounds upon which such request or certification is based. A copy of such request for
17 review or certification shall be transmitted to the appropriate RESC or State regulatory
18 authority on the same day it is filed with the Commission. Upon the filing of such a
19 request for review or certification, the Commission shall have jurisdiction to affirm,
20 modify, or set aside such State regulatory order or ruling in whole or in part if the
21 Commission finds that the State regulatory authority’s order or ruling would result in
22 undue discrimination in the provision of the transmission of electric energy or sale of such
23 energy at wholesale within the relevant RESC region or results in unjust and unreasonable
24 rates, charges or classifications within the relevant RESC region.

25 **“TRANSMISSION ORGANIZATIONS**

26 **“SEC. 405.** (a) To be approved by a RESC, a Transmission Organization must meet the
27 following requirements:

1 “(1) A Transmission Organization is independent of all market participants.

2 “(2) A Transmission Organization will oversee or control interstate
3 transmission facilities within a specific region to remove opportunities for unduly
4 discriminatory or preferential transmission practices. The Transmission
5 Organization shall own transmission assets, operate assets owned by other entities,
6 or oversee the operation of assets owned by other entities.

7 “(3) A Transmission Organization has the exclusive authority for
8 maintaining the short-term reliability of the transmission grid it operates or
9 oversees.

10 “(4) A Transmission Organization is the sole provider of transmission
11 service and the sole administrator of a non-discriminatory open access tariff for the
12 facilities under its control or oversight.

13 “(5) A Transmission Organization will develop market mechanisms for
14 identifying and managing congestion but such mechanisms need not be based upon
15 locational marginal pricing.

16 “(6) Each Transmission Organization will implement procedures to address
17 parallel path flows.

18 “(7) A Transmission Organization will operate a single open access same
19 time information system for all transmission facilities under its control or oversight
20 and shall calculate total transmission capacity and available transmission capacity
21 and will identify for the RESC the transmission capacity necessary to ensure that
22 native load requirements of load serving entities within the region managed by the
23 Transmission Organization are met.

24 “(8) A Transmission Organization will provide for a qualified, independent
25 market monitor to report directly to the Transmission Organization and RESC, and
26 who shall provide appropriate reports to interested States, and other appropriate
27 entities.

1 electric energy between adjacent regions. The Commission shall exercise its authority
2 under the Federal Power Act to resolve any such conflicts.

3 **“SAVINGS CLAUSE**

4 **“SEC. 408.** Nothing in Part IV shall change the Commission’s exercise of its Federal
5 Power Act authority granted pursuant to sections 202(c - g), 204, and 209(b) and (c).
6 Nothing in this Part shall limit the Commission’s Federal Power Act authority over States
7 that are not members of a RESC.

8 **“SEC. 409.** Nothing in Part IV shall apply to Alaska or Hawaii.”

9 **Subtitle C —Improving Transmission Infrastructure**

10 **SEC. 1221. CONGESTION ZONE DESIGNATION.**

11 Within one year after enactment of this section, and every 3 years thereafter, the
12 Secretary of Energy shall conduct a study of our nation’s transmission infrastructure to
13 identify areas of congestion and inefficiency in the transmission of electric power over
14 both private and publicly owned land. Any networks that the Secretary finds to be
15 congested to a level that affects reliability or economic security, shall be listed in a report
16 as Potential Congestion Zones. The Secretary shall inform the Governor of the States of
17 the progress of the study and established procedures to obtain public comment on the
18 designation of a Potential Congestion Zone and offer solutions. After considering
19 alternatives and recommendations from all interested parties, the Secretary may designate a
20 transmission system as a ‘Congestion Zone.’

21 **SEC. 1222. TRANSMISSION DEVELOPMENT CERTIFICATE.**

22 (a) The Commission may, after notice and an opportunity for hearing, issue a
23 certificate of public convenience and necessity (transmission development certificate) to an
24 entity for the construction or modification of transmission facilities if such proposed
25 transmission facilities are located in a Congestion Zone designated by the Secretary of
26 Energy and such proposed transmission facilities are in the public interest.

1 (b) Applications for a transmission development certificate shall be submitted to the
2 Commission under oath.

3 (c) The Commission shall issue rules setting forth the form of application, the
4 information it is to contain, and the manner of service of notice of the transmission
5 development certificate application upon interested parties.

6 (d) In any proceeding before the Commission under this section, the Commission
7 shall afford each State and Regional Energy Services Commission in which a transmission
8 facility covered by the transmission development certificate is or will be located as well as
9 each affected Federal agency and Indian tribe, private property owners and other interested
10 persons, a reasonable opportunity to present their views and recommendations with respect
11 to the need for and impact of a facility covered by the transmission development
12 certificate.

13 (e) Subject to subsection (f), in the case of a transmission development certificate
14 issued for transmission facilities to be located on property other than property owned by
15 the United States or a State, if a holder of a transmission development certificate issued by
16 the Commission pursuant to paragraph (a) cannot acquire by contract, or is unable to agree
17 with the owner of the land to the compensation, at fair market value, to be paid for, the
18 necessary lands or interests therein to construct, operate, and maintain the transmission
19 facility that is the subject of the permit, it may acquire the right-of-way by the exercise of
20 the right of eminent domain in the district court of the United States for the district in
21 which the land to be subject to the right-of-way is located, or in the appropriate court of the
22 State in which the land is located. The practice and procedure in any action or proceeding
23 for that purpose in the district court of the United States shall conform as nearly as
24 practicable to the practice and procedures in similar action or proceeding in the courts of
25 the State where the property is situated, except that the United States district courts shall
26 only have jurisdiction of cases when the amount claimed by the owner of the property to be
27 condemned exceeds \$3000.

28 (f) If a State is a member of a Regional Energy Services Commission (RESC) and

1 pursuant to its RESC charter vests its transmission siting authority in the RESC, the
 2 Commission shall have no authority to issue a transmission development certificate for
 3 facilities that are (1) proposed to be located on property not owned by the United States or
 4 a State and (2) within the geographic boundary of a RESC Member State. If a Member
 5 State has not vested its transmission siting authority in its RESC, the Commission may
 6 issue a transmission development certificate for facilities that are (1) proposed to be
 7 located on property not owned by the United States or a State and (2) within the geographic
 8 boundary of a RESC Member State if that State has failed to initiate action on an
 9 application for transmission development within 60 days of the filing of such an
 10 application or if that State fails to complete and finalize action within 18 months of the
 11 filing of such an application.

12 **Subtitle D —Reliability**

13 **SEC. 1231. ELECTRIC RELIABILITY STANDARDS.**

14 (a) Part II of the Federal Power Act (16 U.S.C 824, et seq.) is adding the following:

15 **“SEC. 215. ELECTRIC RELIABILITY.**

16 **“(a) DEFINITIONS.—**For purposes of this section—

17 **“(1) The term ‘bulk-power system’ means—**

18 **“(A) facilities, including control systems, necessary for operating**
 19 **interconnected electric energy transmission networks (or any portion**
 20 **thereof); and**

21 **“(B) electric energy from generation facilities needed to maintain the**
 22 **reliability of interconnected electric energy transmission networks.**

23 The term does not include facilities used in the local distribution of electric energy.

24 **“(2) The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the**
 25 **organization certified by the Commission under subsection (c) the purpose of which**
 26 **is to establish and enforce reliability standards for the bulk-power system, subject**

1 to Commission review.

2 “(3) The term ‘reliability standard’ means a requirement, approved by the
3 Commission under this section, to provide for reliable operation of the bulk-power
4 system. The term includes requirements for the operation of existing bulk-power
5 system facilities and the design of planned additions or modifications to such
6 facilities to the extent necessary to provide for reliable operation of the bulk-power
7 system, but the term does not include any requirement to enlarge such facilities or
8 to construct new transmission capacity or generation capacity.

9 “(4) The term ‘reliable operation’ means operating the facilities of the
10 bulk-power system within equipment and electric system thermal, voltage, and
11 stability limits so that instability, uncontrolled separation, or cascading failures of
12 such system will not occur as a result of a sudden disturbance or unanticipated
13 failure of system facilities.

14 “(5) The term ‘Interconnection’ means a geographic area in which the
15 operation of bulk-power system facilities is synchronized such that the failure of
16 one or more of such facilities may adversely affect the ability of the operators of
17 other facilities within the system to maintain reliable operation of the facilities
18 within their control.

19 “(6) The term ‘regional entity’ means an entity having enforcement
20 authority pursuant to subsection (e)(4).

21 “(b) JURISDICTION AND APPLICABILITY.—

22 “(1) The Commission shall have jurisdiction, within the United States, over
23 the ERO certified by the Commission under subsection (c), any regional entities,
24 and all users, owners and operators of the bulk-power system, including the entities
25 described in section 201(f), for purposes of approving reliability standards
26 established under this section and enforcing compliance with this section. All users,
27 owners and operators of the bulk-power system shall comply with reliability

1 standards that take effect under this section.

2 “(2) The Commission shall issue a final rule to implement the requirements
3 of this section not later than 180 days after the date of enactment of this section.

4 “(c) CERTIFICATION.—Following the issuance of a Commission rule under
5 subsection (b)(2), any person may submit an application to the Commission for
6 certification as the Electric Reliability Organization (ERO). The Commission may certify
7 one such ERO if the Commission determines that such ERO—

8 “(1) has the ability to develop and enforce, subject to subsection (e)(2),
9 reliability standards that provide for an adequate level of reliability of the
10 bulk-power system;

11 “(2) has established rules that—

12 “(A) assure its independence of the users and owners and operators
13 of the bulk-power system, while assuring fair stakeholder representation in
14 the selection of its directors and balanced decisionmaking in any ERO
15 committee or subordinate organizational structure;

16 “(B) allocate equitably reasonable dues, fees, and other charges
17 among end users for all activities under this section;

18 “(C) provide fair and impartial procedures for enforcement of
19 reliability standards through the imposition of penalties in accordance with
20 subsection (e) (including limitations on activities, functions, or operations,
21 or other appropriate sanctions);

22 “(D) provide for reasonable notice and opportunity for public
23 comment, due process, openness, and balance of interests in developing
24 reliability standards and otherwise exercising its duties; and

25 “(E) provide for taking, after certification, appropriate steps to gain
26 recognition in Canada and Mexico.

1 “(d) RELIABILITY STANDARDS.—

2 “(1) The Electric Reliability Organization shall file each reliability standard
3 or modification to a reliability standard that it proposes to be made effective under
4 this section with the Commission.

5 “(2) The Commission may approve by rule or order a proposed reliability
6 standard or modification to a reliability standard if it determines that the standard is
7 just, reasonable, not unduly discriminatory or preferential, and in the public
8 interest. The Commission shall give due weight to the technical expertise of the
9 Electric Reliability Organization with respect to the content of a proposed standard
10 or modification to a reliability standard and to the technical expertise of a regional
11 entity organized on an Interconnection-wide basis with respect to a reliability
12 standard to be applicable within that Interconnection, but shall not defer with
13 respect to the effect of a standard on competition. A proposed standard or
14 modification shall take effect upon approval by the Commission.

15 “(3) The Electric Reliability Organization shall rebuttably presume that a
16 proposal from a regional entity organized on an Interconnection-wide basis for a
17 reliability standard or modification to a reliability standard to be applicable on an
18 Interconnection-wide basis is just, reasonable, and not unduly discriminatory or
19 preferential, and in the public interest.

20 “(4) The Commission shall remand to the Electric Reliability Organization
21 for further consideration a proposed reliability standard or a modification to a
22 reliability standard that the Commission disapproves in whole or in part.

23 “(5) The Commission, upon its own motion or upon complaint, may order
24 the Electric Reliability Organization to submit to the Commission a proposed
25 reliability standard or a modification to a reliability standard that addresses a
26 specific matter if the Commission considers such a new or modified reliability
27 standard appropriate to carry out this section.

1 “(6) The final rule adopted under subsection (b)(2) shall include fair
2 processes for the identification and timely resolution of any conflict between a
3 reliability standard and any function, rule, order, tariff, rate schedule, or agreement
4 accepted, approved, or ordered by the Commission applicable to a Transmission
5 Organization. Such Transmission Organization shall continue to comply with such
6 function, rule, order, tariff, rate schedule or agreement accepted approved, or
7 ordered by the Commission until—

8 “(A) the Commission finds a conflict exists between a reliability
9 standard and any such provision;

10 “(B) the Commission orders a change to such provision pursuant to
11 section 206 of this part; and

12 “(C) the ordered change becomes effective under this part.

13 If the Commission determines that a reliability standard needs to be changed as a
14 result of such a conflict, it shall order the ERO to develop and file with the
15 Commission a modified reliability standard under paragraph (4) or (5) of this
16 subsection.

17 “(e) ENFORCEMENT.—

18 (1) The ERO may impose, subject to paragraph (2), a penalty on a user or
19 owner or operator of the bulk-power system for a violation of a reliability standard
20 approved by the Commission under subsection (d) if the ERO, after notice and an
21 opportunity for a hearing—

22 “(A) finds that the user or owner or operator has violated a reliability
23 standard approved by the Commission under subsection (d); and

24 “(B) files notice and the record of the proceeding with the
25 Commission.

26 “(2) A penalty imposed under paragraph (1) may take effect not earlier than
27 the 31st day after the Electric Reliability Organization files with the Commission

1 notice of the penalty and the record of proceedings. Such penalty shall be subject to
2 review by the Commission, on its own motion or upon application by the user,
3 owner or operator that is the subject of the penalty filed within 30 days after the
4 date such notice is filed with the Commission. Application to the Commission for
5 review, or the initiation of review by the Commission on its own motion, shall not
6 operate as a stay of such penalty unless the Commission otherwise orders upon its
7 own motion or upon application by the user, owner or operator that is the subject of
8 such penalty. In any proceeding to review a penalty imposed under paragraph (1),
9 the Commission, after notice and opportunity for hearing (which hearing may
10 consist solely of the record before the Electric Reliability Organization and
11 opportunity for the presentation of supporting reasons to affirm, modify, or set
12 aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty,
13 and, if appropriate, remand to the Electric Reliability Organization for further
14 proceedings. The Commission shall implement expedited procedures for such
15 hearings.

16 “(3) On its own motion or upon complaint, the Commission may order
17 compliance with a reliability standard and may impose a penalty against a user or
18 owner or operator of the bulk-power system, if the Commission finds, after notice
19 and opportunity for a hearing, that the user or owner or operator of the bulk-power
20 system has engaged or is about to engage in any acts or practices that constitute or
21 will constitute a violation of a reliability standard.

22 “(4) The Commission shall establish regulations directing the ERO to enter
23 into an agreement to delegate authority to a regional entity for the purpose of
24 proposing reliability standards to the ERO and enforcing reliability standards under
25 paragraph (1) if—

26 “(A) the regional entity is

27 “(i) a Regional Energy Services Commission; or

28 “(ii) governed by an independent board, a balanced

1 stakeholder board, or a combination independent and balanced stakeholder
2 board;

3 “(B) the regional entity otherwise satisfies the provisions of
4 subsection (c)(1) and (2); and

5 “(C) the agreement promotes effective and efficient administration
6 of bulk-power system reliability.

7 “The Commission may modify such delegation. The ERO and the Commission
8 shall rebuttably presume that a proposal for delegation to a regional entity
9 organized on an Interconnection-wide basis promotes effective and efficient
10 administration of bulk-power system reliability and should be approved. Such
11 regulation may provide that the Commission may assign the ERO’s authority to
12 enforce reliability standards under paragraph (1) directly to a regional entity
13 consistent with the requirements of this paragraph.

14 “(5) The Commission may take such action as is necessary or appropriate
15 against the ERO or a regional entity to ensure compliance with a reliability standard
16 or any Commission order affecting the ERO or a regional entity.

17 “(6) Any penalty imposed under this section shall bear a reasonable relation
18 to the seriousness of the violation and shall take into consideration the efforts of
19 such user, owner, or operator to remedy the violation in a timely manner.

20 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—The Electric
21 Reliability Organization shall file with the Commission for approval any proposed rule or
22 proposed rule change, accompanied by an explanation of its basis and purpose. The
23 Commission, upon its own motion or complaint, may propose a change to the rules of the
24 Electric Reliability Organization. A proposed rule or proposed rule change shall take effect
25 upon a finding by the Commission, after notice and opportunity for comment, that the
26 change is just, reasonable, not unduly discriminatory or preferential, is in the public
27 interest, and satisfies the requirements of subsection (c).

1 “(g) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct
2 periodic assessments of the reliability and adequacy of the bulk-power system in North
3 America.

4 “(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to
5 negotiate international agreements with the governments of Canada and Mexico to provide
6 for effective compliance with reliability standards and the effectiveness of the Electric
7 Reliability Organization in the United States and Canada or Mexico.

8 “(i) SAVINGS PROVISIONS.—

9 “(1) The Electric Reliability Organization shall have authority to develop
10 and enforce compliance with reliability standards for only the bulk-power system.

11 “(2) This section does not authorize the Electric Reliability Organization or
12 the Commission to order the construction of additional generation or transmission
13 capacity or to set and enforce compliance with standards for adequacy or safety of
14 electric facilities or services.

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

19 “(4) Within 90 days of the application of the Electric Reliability
20 Organization or other affected party, and after notice and opportunity for comment,
21 the Commission shall issue a final order determining whether a State action is
22 inconsistent with a reliability standard, taking into consideration any
23 recommendation of the Electric Reliability Organization.

24 “(5) The Commission, after consultation with the Electric Reliability
25 Organization, may stay the effectiveness of any State action, pending the
26 Commission’s issuance of a final order.

27 “(j) REGIONAL ENERGY SERVICES COMMISSIONS.—Any Regional Energy Service

1 Commissions (RESC) may provide advice to the Electric Reliability Organization, a
 2 regional entity, or the Commission regarding the governance of an existing or proposed
 3 regional entity within the same region, whether a standard proposed to apply within the
 4 region is just, reasonable, not unduly discriminatory or preferential, and in the public
 5 interest, whether related reliability fees proposed to be assessed within the region are just,
 6 reasonable, not unduly discriminatory or preferential, and in the public interest and any
 7 other responsibilities requested by the Commission. The Commission may give deference
 8 to the advice of any such RESC if that body is organized on an Interconnection-wide basis.

9 “(k) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not
 10 apply to Alaska or Hawaii.”

11 (b) Section 211(b) of the Federal Power Act (16 U.S.C. 824j(b)) is amended by
 12 striking “consistently applied regional or national reliability standards, guidelines, or
 13 criteria” and inserting “reliability standards established under section 215.”

14 **Subtitle E—Fair Access to the Transmission System**

15 **SEC. 1241. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.**

16 Part II of the Federal Power Act is further amended by inserting after section 211
 17 the following:

18 **“OPEN ACCESS BY CERTAIN UTILITIES**

19 **“SEC. 211A. (a) IN GENERAL.—** Subject to section 212(h), the Commission may,
 20 by rule or order, require an unregulated transmitting utility to provide transmission
 21 services—

22 “(1) at rates that are comparable to those that the unregulated transmitting
 23 utility charges itself, and

24 “(2) on terms and conditions (not relating to rates) that are comparable to
 25 those under Commission rules that require public utilities to offer open access
 26 transmission services and that are not unduly discriminatory or preferential.

1 “(b) EXEMPTIONS.—The Commission shall exempt from any rule or order under
2 this subsection any unregulated transmitting utility that—

3 “(1) sells no more than 4,000,000 megawatt hours of electricity per year;
4 and

5 “(2) does not own or operate any transmission facilities that are necessary
6 for operating an interconnected transmission system (or any portion thereof); or

7 “(3) meets other criteria the Commission determines to be in the public
8 interest.

9 “(c) RATE CHANGING PROCEDURES.—The rate changing procedures applicable to
10 public utilities under subsections (c) and (d) of section 205 are applicable to unregulated
11 transmitting utilities for purposes of this section.

12 “(d) REMAND.—In exercising its authority under subsection(a)(1), the Commission
13 may remand transmission rates to an unregulated transmitting utility for review and
14 revision where necessary to meet the requirements of subsection (a)(1).

15 “(e) SECTION 211 REQUESTS.—The provision of transmission services under
16 subsection (a) does not preclude a request for transmission services under section 211.

17 “(f) PRIVATE USE.—The Commission may not require a State or municipality to
18 take action under this section that constitutes a private business use for purposes of section
19 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

20 “(g) DEFINITION.—For purposes of this subsection, the term ‘unregulated
21 transmitting utility’ means an entity that—

22 “(1) owns or operates facilities used for the transmission of electric energy
23 in interstate commerce, and

24 “(2) is either an entity described in section 201(f) or a rural electric
25 cooperative.”.

26 **SEC. 1242. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

1 Part II of the Federal Power Act is amended by adding by adding at the end the
2 following:

3 **“SEC. __. TRANSMISSION INVESTMENT INCENTIVES**

4 “Within 1 year after the enactment of this section, the Commission shall establish,
5 by rule, transmission pricing policies to support interstate wholesale markets for electric
6 power and expanded transmission capacity needed to sustain the growth of wholesale
7 competition. Policies and standards established under the section shall specifically—

8 “(1) promote economically efficient enlargement of transmission networks,
9 including the provision of proper price signals so that new generation and
10 transmission is built where it provides the lowest overall cost to consumers;

11 “(2) encourage deployment of transmission technologies to increase
12 capacity and efficiency of existing networks;

13 “(3) provide an adequate return on equity; and

14 “(4) reduce congestion on transmission networks.”

15 **SEC. 1243. INFRASTRUCTURE COST ALLOCATION PRINCIPLE.**

16 (a) Within one year after the enactment of this Act, the Commission shall issue a
17 final rule regarding the allocation of costs associated with the interconnection of new
18 transmission facilities as well as the modification, expansion or upgrade of existing
19 transmission facilities (hereinafter “transmission expansion”).

20 (b) The final rule shall ensure that the costs of any transmission expansion are
21 allocated in such a way that all users of the transmission expansion bear the appropriate
22 share of its costs.

23 (c) In its rulemaking, the Commission shall consider system-wide benefits as
24 benefits that include, but are not limited to projects that—

25 (1) provide reliability and adequacy for regional needs;

26 (2) accommodate load growth on a regional level;

1 (3) increase transmission capability into congested areas;

2 (4) facilitate major regional and inter-regional power transfers (seams).

3 (d) The cost of transmission expansion projects that do not provide sufficient
4 system-wide benefits but rather primarily benefit only a subset of users or market
5 participants shall be recovered from that subset on an incremental basis.

6 **Subtitle F—Market Transparency,**
7 **Anti-Manipulation and Enforcement**

8 **SEC. 1251. MARKET TRANSPARENCY RULES.**

9 Part II of the Federal Power Act is amended by adding after section 215 as added
10 by this Act the following:

11 **“SEC. 216. MARKET TRANSPARENCY RULES.**

12 “(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of
13 this section, the Commission shall issue rules establishing an electronic information system
14 to provide the Commission and the public with access to such information as is necessary
15 or appropriate to facilitate price transparency and participation in markets subject to the
16 Commission’s jurisdiction. Such systems shall provide statistical information about the
17 availability and market price of wholesale electric energy and transmission services to the
18 Commission, State commissions, buyers and sellers of wholesale electric energy, users of
19 transmission services, and the public on a timely basis.

20 “(b) INFORMATION REQUIRED.—The Commission shall require—

21 “(1) each Transmission Organization or, where no Transmission
22 Organization is operating, each transmitting utility to provide information about the
23 available capacity of transmission facilities operated by the organization or
24 transmitting utility; and

25 “(2) each Transmission Organization or broker or exchange to provide

1 aggregate information about the amount and price of physical sales of electric
2 energy at wholesale in interstate commerce it transacts.

3 “(c) DEFINITION.—For purposes of this section, the term ‘broker or exchange’
4 means an entity that matches offers to sell and offers to buy physical sales of wholesale
5 electric energy in interstate commerce.

6 “(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt
7 from disclosure information it determines would, if disclosed, be detrimental to the
8 operation of an effective market.”.

9 **SEC. 1252. MARKET MANIPULATION.**

10 Part II of the Federal Power Act is amended by adding after section 216 as added
11 by this Act the following:

12 **“SEC. __. PROHIBITION ON FILING FALSE INFORMATION.**

13 “It shall be a violation of this Act for any person willfully and knowingly to report
14 any information relating to the price of electricity sold at wholesale, which information the
15 person knew to be false at the time of the reporting, to any governmental entity with the
16 intent to manipulate the data being compiled by such entity.

17 **“SEC. __. PROHIBITION ON ROUND TRIP TRADING.**

18 “(a) PROHIBITION.—It shall be a violation of this Act for any person willfully and
19 knowingly to enter into any contract or other arrangement to execute a “round-trip trade”
20 for the purchase or sale of electric energy at wholesale.

21 “(b) DEFINITION OF ROUND-TRIP TRADE.—For the purposes of this section, the
22 term ‘round trip trade’ means a transaction, or combination of transactions, in which a
23 person or other entity—

24 “(1) enters into a contract or other arrangement to purchase from, or sell to,
25 any other person or other entity electric energy at wholesale;

26 “(2) simultaneously with entering into the contract or arrangement described

1 in paragraph (1), arranges a financially offsetting trade with such other person or
2 entity for the same amount of electric energy, at the same location, price, quantity
3 and terms so that, collectively, the purchase and sale transactions in themselves
4 result in no financial gain or loss; and

5 “(3) enters into the contract or arrangement with the intent to deceptively
6 affect reported revenues, trading volumes, or prices.”.

7 **SEC. 1253. ENFORCEMENT.**

8 (a) **CRIMINAL PENALTIES.**—Section 316 of the Federal Power Act (16 U.S.C. 825o)
9 is amended—

10 (1) in subsection (a), by striking “\$5,000” and inserting “\$1,000,000”, and
11 by striking “two years” and inserting “five years”;

12 (2) in subsection (b), by striking “\$500” and inserting “\$25,000”; and

13 (3) by striking subsection (c).

14 (b) **CIVIL PENALTIES.**—Section 316A of the Federal Power Act (16 U.S.C. 825-1) is
15 amended—

16 (1) in subsections (a) and (b), by striking “section 211, 212, 213, or 214”
17 each place it appears and inserting “Part II”; and

18 (2) in subsection (b) by striking “\$10,000” and inserting “\$1,000,000.”

19 **SEC. 1254. REFUND EFFECTIVE DATE.**

20 Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

21 (1) striking “the date 60 days after the filing of such complaint nor later than
22 5 months after the expiration of such 60-day period” in the second sentence and
23 inserting “the date of the filing of such complaint nor later than 5 months after the
24 filing of such complaint”;

25 (2) striking “60 days after” in the third sentence and inserting “of”;

26 (3) striking “expiration of such 60-day period” in the third sentence and

1 inserting “publication date”; and

2 (4) striking the fifth sentence and inserting: “If no final decision is rendered
3 by the conclusion of the 180-day period commencing upon initiation of a
4 proceeding pursuant to this section, the Commission shall state the reasons why it
5 has failed to do so and shall state its best estimate as to when it reasonably expects
6 to make such decision.”.

7 **Subtitle G— Elimination of Competitive Barriers**

8 **SEC. 1261. SHORT TITLE.**

9 This subtitle may be cited as the ‘Public Utility Holding Company Act of 2003’.

10 **SEC. 1262. DEFINITIONS.**

11 For purposes of this subtitle:

12 (1) The term “affiliate” of a company means any company 5 percent or
13 more of the outstanding voting securities of which are owned, controlled, or held
14 with power to vote, directly or indirectly, by such company.

15 (2) The term “associate company” of a company means any company in the
16 same holding company system with such company.

17 (3) The term “Commission” means the Federal Energy Regulatory
18 Commission.

19 (4) The term “company” means a corporation, partnership, association, joint
20 stock company, business trust, or any organized group of persons, whether
21 incorporated or not, or a receiver, trustee, or other liquidating agent of any of the
22 foregoing.

23 (5) The term “electric utility company” means any company that owns or
24 operates facilities used for the generation, transmission, or distribution of electric
25 energy for sale.

26 (6) The terms “exempt wholesale generator” and “foreign utility company”

1 have the same meanings as in sections 32 and 33, respectively, of the Public Utility
2 Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections
3 existed on the day before the effective date of this subtitle.

4 (7) The term “gas utility company” means any company that owns or
5 operates facilities used for distribution at retail (other than the distribution only in
6 enclosed portable containers or distribution to tenants or employees of the company
7 operating such facilities for their own use and not for resale) of natural or
8 manufactured gas for heat, light, or power.

9 (8) The term “holding company” means—

10 (A) any company that directly or indirectly owns, controls, or holds,
11 with power to vote, 10 percent or more of the outstanding voting securities
12 of a public utility company or of a holding company of any public utility
13 company; and

14 (B) any person, determined by the Commission, after notice and
15 opportunity for hearing, to exercise directly or indirectly (either alone or
16 pursuant to an arrangement or understanding with one or more persons)
17 such a controlling influence over the management or policies of any public
18 utility company or holding company as to make it necessary or appropriate
19 for the protection of utility customers with respect to rates that such person
20 be subject to the obligations, duties, and liabilities imposed by this subtitle
21 upon holding companies.

22 (9) The term “holding company system” means a holding company, together
23 with its subsidiary companies.

24 (10) The term “jurisdictional rates” means rates established by the
25 Commission for the transmission of electric energy in interstate commerce, the sale
26 of electric energy at wholesale in interstate commerce, the transportation of natural
27 gas in interstate commerce, and the sale in interstate commerce of natural gas for

1 resale for ultimate public consumption for domestic, commercial, industrial, or any
2 other use.

3 (11) The term “natural gas company” means a person engaged in the
4 transportation of natural gas in interstate commerce or the sale of such gas in
5 interstate commerce for resale.

6 (12) The term “person” means an individual or company.

7 (13) The term “public utility” means any person who owns or operates
8 facilities used for transmission of electric energy in interstate commerce or sales of
9 electric energy at wholesale in interstate commerce.

10 (14) The term “public utility company” means an electric utility company or
11 a gas utility company.

12 (15) The term “State commission” means any commission, board, agency,
13 or officer, by whatever name designated, of a State, municipality, or other political
14 subdivision of a State that, under the laws of such State, has jurisdiction to regulate
15 public utility companies.

16 (16) The term “subsidiary company” of a holding company means—

17 (A) any company, 10 percent or more of the outstanding voting
18 securities of which are directly or indirectly owned, controlled, or held with
19 power to vote, by such holding company; and

20 (B) any person, the management or policies of which the
21 Commission, after notice and opportunity for hearing, determines to be
22 subject to a controlling influence, directly or indirectly, by such holding
23 company (either alone or pursuant to an arrangement or understanding with
24 one or more other persons) so as to make it necessary for the protection of
25 utility customers with respect to rates that such person be subject to the
26 obligations, duties, and liabilities imposed by this subtitle upon subsidiary
27 companies of holding companies.

1 (17) The term “voting security” means any security presently entitling the
2 owner or holder thereof to vote in the direction or management of the affairs of a
3 company.

4 **SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

5 The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a, et seq.) is
6 repealed.

7 **SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.**

8 (a) IN GENERAL.—Each holding company and each associate company thereof shall
9 maintain, and shall make available to the Commission, such books, accounts, memoranda,
10 and other records as the Commission determines are necessary to identify costs incurred by
11 a public utility or natural gas company that is an associate company of such holding
12 company and necessary or appropriate for the protection of utility customers with respect
13 to jurisdictional rates.

14 (b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any
15 subsidiary company of a holding company shall maintain, and make available to the
16 Commission, such books, accounts, memoranda, and other records with respect to any
17 transaction with another affiliate, as the Commission determines are necessary to identify
18 costs incurred by a public utility or natural gas company that is an associate company of
19 such holding company and necessary or appropriate for the protection of utility customers
20 with respect to jurisdictional rates.

21 (c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books,
22 accounts, memoranda, and other records of any company in a holding company system, or
23 any affiliate thereof, as the Commission determines are necessary to identify costs incurred
24 by a public utility or natural gas company within such holding company system and
25 necessary or appropriate for the protection of utility customers with respect to jurisdictional
26 rates.

27 (d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall

1 divulge any fact or information that may come to his or her knowledge during the course of
2 examination of books, accounts, memoranda, or other records as provided in this section,
3 except as may be directed by the Commission or by a court of competent jurisdiction.

4 **SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.**

5 (a) IN GENERAL.—Upon the written request of a State commission having
6 jurisdiction to regulate a public utility company in a holding company system, and subject
7 to such terms and conditions as may be necessary and appropriate to safeguard against
8 unwarranted disclosure to the public of any trade secrets or sensitive commercial
9 information, a holding company or its associate company or affiliate thereof, wherever
10 located, shall produce for inspection books, accounts, memoranda, and other records that—

11 (1) have been identified in reasonable detail in a proceeding before the State
12 commission;

13 (2) the State commission determines are necessary to identify costs incurred
14 by such public utility company; and

15 (3) are necessary for the effective discharge of the responsibilities of the
16 State commission with respect to such proceeding.

17 (b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State
18 law concerning the provision of books, accounts, memoranda, or other records, or in any
19 way limit the rights of any State to obtain books, accounts, memoranda, or other records
20 under Federal law, contract, or otherwise.

21 (c) COURT JURISDICTION.—Any United States district court located in the State in
22 which the State commission referred to in subsection (a) is located shall have jurisdiction
23 to enforce compliance with this section.

24 (d) LIMITATION.—Subsection (a) does not apply to any person that is a holding
25 company solely by reason of ownership of one or more qualifying facilities under the
26 Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601, et seq.).

27 **SEC. 1266. EXEMPTION AUTHORITY.**

1 (a) RULEMAKING.—Not later than 90 days after the date of enactment of this
2 subtitle, the Commission shall promulgate a final rule to exempt from the requirements of
3 section 1264 any person that is a holding company, solely with respect to one or more—

4 (1) qualifying facilities under the Public Utility Regulatory Policies Act of
5 1978;

6 (2) exempt wholesale generators; or

7 (3) foreign utility companies.

8 (b) OTHER AUTHORITY.—If, upon application or upon its own motion, the
9 Commission finds that the books, accounts, memoranda, and other records of any person
10 are not relevant to the jurisdictional rates of a public utility company or natural gas
11 company, or if the Commission finds that any class of transactions is not relevant to the
12 jurisdictional rates of a public utility company, the Commission shall exempt such person
13 or transaction from the requirements of section 1264.

14 **SEC. 1267. AFFILIATE TRANSACTIONS.**

15 (a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the
16 authority of the Commission under the Federal Power Act (16 U.S.C. 791a, et seq.) to
17 require that jurisdictional rates are just and reasonable, including the ability to deny or
18 approve the pass through of costs, the prevention of cross-subsidization, and the
19 promulgation of such rules and regulations as are necessary or appropriate for the
20 protection of utility consumers.

21 (b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission
22 or a State commission from exercising its jurisdiction under otherwise applicable law to
23 determine whether a public utility company, public utility, or natural gas company may
24 recover in rates any costs of an activity performed by an associate company, or any costs of
25 goods or services acquired by such public utility company, public utility, or natural gas
26 company from an associate company.

27 **SEC. 1268. APPLICABILITY.**

1 Except as otherwise specifically provided in this subtitle shall apply to, or be
2 deemed to include—

3 (1) the United States;

4 (2) a State or any political subdivision of a State;

5 (3) any foreign governmental authority not operating in the United States;

6 (4) any agency, authority, or instrumentality of any entity referred to in
7 paragraph (1), (2), or (3); or

8 (5) any officer, agent, or employee of any entity referred to in paragraph (1),
9 (2), or (3) acting as such in the course of such officer, agent, or employee's official
10 duty.

11 **SEC. 1269. EFFECT ON OTHER REGULATIONS.**

12 Nothing in this subtitle precludes the Commission or a State commission from
13 exercising its jurisdiction under otherwise applicable law to protect utility customers.

14 **SEC. 1270. ENFORCEMENT.**

15 The Commission shall have the same powers as set forth in sections 306 through
16 317 of the Federal Power Act (16 U.S.C. 825e-825p) to enforce the provisions of this
17 subtitle.

18 **SEC. 1271. SAVINGS PROVISIONS.**

19 (a) **IN GENERAL.**—Nothing in this subtitle prohibits a person from engaging in or
20 continuing to engage in activities or transactions in which it is legally engaged or
21 authorized to engage on the date of enactment of this Act.

22 (b) **EFFECT ON OTHER COMMISSION AUTHORITY.**—Nothing in this subtitle limits
23 the authority of the Commission under the Federal Power Act (16 U.S.C. 791a, et seq.)
24 (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717, et seq.)
25 (including section 8 of that Act).

26 **SEC. 1272. IMPLEMENTATION.**

1 Not later than 12 months after the date of enactment of this Act, the Commission
2 shall—

3 (1) promulgate such regulations as may be necessary or appropriate to
4 implement this subtitle; and

5 (2) submit to the Congress detailed recommendations on technical and
6 conforming amendments to Federal law necessary to carry out this subtitle and the
7 amendments made by this subtitle.

8 **SEC. 1273. TRANSFER OF RESOURCES.**

9 All books and records that relate primarily to the functions transferred to the
10 Commission under this subtitle shall be transferred from the Securities and Exchange
11 Commission to the Commission.

12 **SEC. 1274. EFFECTIVE DATE.**

13 This subtitle shall take effect 12 months after the date of enactment of this Act.

14 **SEC. 1275. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.**

15 (a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C.
16 825q) is repealed.

17 (b) DEFINITIONS.—

18 (1) Section 201(g) of the Federal Power Act (16 U.S.C. 824(g)) is amended
19 by striking “1935” and inserting “2003”.

20 (2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by
21 striking “1935” and inserting “2003”.

22 **Subtitle H—Public Utility Regulatory Policies**

23 **Act of 1978**

24 **SEC. 1281. PROSPECTIVE REPEAL AND RECOVERY OF COSTS.**

25 (a) PROSPECTIVE REPEAL AND RECOVERY OF COSTS.—Title II of the Public Utility

1 Regulatory Policies Act of 1978 (16 U.S.C. 2601, et seq.) is amended by inserting the
2 following after section 214 as added by this Act:

3 **“SEC. 215. PROSPECTIVE REPEAL AND RECOVERY OF COSTS.**

4 **“(a) TERMINATION OF MANDATORY PURCHASE AND SALE**
5 **REQUIREMENTS.—**Section 210 of the Public Utility Regulatory Policies Act of 1978 (16
6 U.S.C. 824a-3) is amended by adding at the end the following:

7 **“(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—**

8 **“(1) OBLIGATION TO PURCHASE.—**After the date of enactment of this
9 subsection, no electric utility shall be required to enter into a new contract or
10 obligation to purchase electric energy from a qualifying cogeneration facility or a
11 qualifying small power production facility under this section if the Commission or a
12 Regional Energy Services Commission finds that the qualifying cogeneration
13 facility or qualifying small power production facility has access to competitive
14 wholesale markets for the sale of electric energy.

15 **“(2) OBLIGATION TO SELL.—**After the date of enactment of this subsection,
16 no electric utility shall be required to enter into a new contract or obligation to sell
17 electric energy to a qualifying cogeneration facility or a qualifying small power
18 production facility under this section if competing retail electric suppliers are able
19 to provide electric energy to the qualifying cogeneration facility or qualifying small
20 power production facility.

21 **“(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—**Nothing in this
22 subsection affects the rights or remedies of any party under any contract or
23 obligation, in effect on the date of enactment of this subsection, to purchase electric
24 energy or capacity from or to sell electric energy or capacity to a facility under this
25 Act (including the right to recover costs of purchasing electric energy or capacity).

26 **(b) OWNERSHIP LIMITS.—**

27 (1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is

1 amended to read as follows:

2 “(C) ‘qualifying small power production facility’ means a small power
3 production facility which the Commission determines, by rule, meets requirements
4 (including requirements respecting minimum size, fuel use, and fuel efficiency) that
5 the Commission, by rule, may prescribe;”.

6 (2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is
7 amended to read as follows:

8 “(B) ‘qualifying cogeneration facility’ means a cogeneration facility which
9 the Commission determines, by rule, meets requirements (including requirements
10 respecting minimum size, fuel use, and fuel efficiency) the Commission, by rule,
11 may prescribe;”.

12 (c) RECOVERY OF COSTS.—The Commission shall issue and enforce regulations to
13 ensure that an electric utility recovers all costs associated with its purchases of electric
14 energy or capacity from a qualifying facility under a legally enforceable obligation entered
15 into or imposed under section 210 before the date of enactment of this section. These
16 regulations shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C.
17 791a-825r).”.

18 (d) TABLE OF CONTENTS.—The table of contents for Title II of the Public Utility
19 Regulatory Policies Act of 1978 (16 U.S.C. 2601, et. seq) is amended by inserting the
20 following after the heading for Section 214:

21 “SEC. 215. PROSPECTIVE REPEAL AND RECOVERY OF COSTS.”

22 **SEC. 1282. NET METERING.**

23 (a) ADOPTION OF STANDARD—Section 111(d) of the Public Utility Regulatory
24 Policies Act of 1978 (16 U.S.C. 2621(d)) is further amended by adding at the end the
25 following:

26 “(11) NET METERING.—

27 “(A) Each electric utility shall make available upon request net metering

1 service to any electric consumer that the electric utility serves.

2 “(B) For purposes of implementing this paragraph, any reference contained
3 in this section to the date of enactment of the Public Utility Regulatory Policies Act
4 of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

5 “(C) Notwithstanding subsections (b) and (c) of section 112, each State
6 regulatory authority shall consider and make a determination concerning whether it
7 is appropriate to implement the standard set out in subparagraph (A) not later than 1
8 year after the date of enactment of this paragraph.”.

9 (b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility
10 Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end
11 the following:

12 “(k) NET METERING.—In undertaking the consideration and making the
13 determination under section 111 with respect to the standard concerning net metering
14 established by section 111(d)(13), the term net metering service shall mean a service
15 provided in accordance with the following standards:

16 “(1) RATES AND CHARGES.—An electric utility—

17 “(A) shall charge the owner or operator of an on-site generating
18 facility rates and charges that are identical to those that would be charged
19 other electric consumers of the electric utility in the same rate class; and

20 “(B) shall not charge the owner or operator of an on-site generating
21 facility any additional standby, capacity, interconnection, or other rate or
22 charge.

23 “(2) MEASUREMENT.—An electric utility that sells electric energy to the
24 owner or operator of an on-site generating facility shall measure the quantity of
25 electric energy produced by the on-site facility and the quantity of electric energy
26 consumed by the owner or operator of an on-site generating facility during a billing
27 period in accordance with normal metering practices.

1 “(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY
2 GENERATED.—If the quantity of electric energy sold by the electric utility to an
3 on-site generating facility exceeds the quantity of electric energy supplied by the
4 on-site generating facility to the electric utility during the billing period, the electric
5 utility may bill the owner or operator for the net quantity of electric energy sold, in
6 accordance with normal metering practices.

7 “(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY
8 SUPPLIED.—If the quantity of electric energy supplied by the on-site generating
9 facility to the electric utility exceeds the quantity of electric energy sold by the
10 electric utility to the on-site generating facility during the billing period—

11 “(A) the electric utility may bill the owner or operator of the on-site
12 generating facility for the appropriate charges for the billing period in
13 accordance with paragraph (2); and

14 “(B) the owner or operator of the on-site generating facility shall be
15 credited for the excess kilowatt-hours generated during the billing period,
16 with the kilowatt-hour credit appearing on the bill for the following billing
17 period.

18 “(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site
19 generating facility and net metering system used by an electric consumer shall meet
20 all applicable safety, performance, reliability, and interconnection standards
21 established by the National Electrical Code, the Institute of Electrical and
22 Electronics Engineers, and Underwriters Laboratories.

23 “(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The
24 Commission, after consultation with State regulatory authorities and nonregulated
25 electric utilities and after notice and opportunity for comment, may adopt, by rule,
26 additional control and testing requirements for on-site generating facilities and net
27 metering systems that the Commission determines are necessary to protect public
28 safety and system reliability.

1 “(7) DEFINITIONS.—For purposes of this subsection—

2 “(A) The term ‘eligible on-site generating facility’ means—

3 “(i) a facility on the site of a residential electric consumer
4 with a maximum generating capacity of 10 kilowatts or less that is
5 fueled by solar energy, wind energy, or fuel cells; or

6 “(ii) a facility on the site of a commercial electric consumer
7 with a maximum generating capacity of 500 kilowatts or less that is
8 fueled solely by a renewable energy resource, landfill gas, or a high
9 efficiency system.

10 “(B) The term ‘renewable energy resource’ means solar, wind,
11 biomass, or geothermal energy.

12 “(C) The term ‘high efficiency system’ means fuel cells or combined
13 heat and power.

14 “(D) The term ‘net metering service’ means service to an electric
15 consumer under which electric energy generated by that electric consumer
16 from an eligible on-site generating facility and delivered to the local
17 distribution facilities may be used to offset electric energy provided by the
18 electric utility to the electric consumer during the applicable billing period.”.

19 **SEC. 1283. REAL-TIME PRICING AND TIME-OF-USE METERING STANDARDS.**

20 (a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory
21 Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

22 “(12) REAL-TIME PRICING.—

23 “(A) Each electric utility shall, at the request of an electric consumer, provide
24 electric service under a real-time rate schedule, under which the rate charged by the
25 electric utility varies by the hour (or smaller time interval) according to changes in
26 the electric utility’s wholesale power and transmission and distribution costs. The

1 real-time pricing service shall enable the electric consumer to manage energy use
2 and cost through real-time metering and communications technology.

3 “(B) For purposes of implementing this paragraph, any reference contained
4 in this section to the date of enactment of the Public Utility Regulatory Policies Act
5 of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

6 “(C) Notwithstanding subsections (b) and (c) of section 112, each State
7 regulatory authority shall consider and make a determination concerning whether it
8 is appropriate to implement the standard set out in subparagraph (A) not later than 1
9 year after the date of enactment of this paragraph.

10 “(13) TIME-OF-USE METERING.—

11 “(A) Each electric utility shall, at the request of an electric consumer, provide
12 electric service under a time-of-use rate schedule which enables the electric
13 consumer to manage energy use and cost through time-of-use metering and
14 technology.

15 “(B) For purposes of implementing this paragraph, any reference contained
16 in this section to the date of enactment of the Public Utility Regulatory Policies Act
17 of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

18 “(C) Notwithstanding subsections (b) and (c) of [section 112], each State
19 regulatory authority shall consider and make a determination concerning whether it
20 is appropriate to implement the standards set out in subparagraph (A) not later than 1
21 year after the date of enactment of this paragraph.”.

22 (b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of
23 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

24 “(i) REAL-TIME PRICING.—In a State that permits third-party marketers to sell
25 electric energy to retail electric consumers, the electric consumer shall be entitled to receive
26 the same real-time metering and communication service as a direct retail electric consumer
27 of the electric utility.

1 “(j) TIME-OF-USE METERING.—In a State that permits third-party marketers to sell
2 electric energy to retail electric consumers, the electric consumer shall be entitled to receive
3 the same time-of-use metering and communication service as a direct retail electric
4 consumer of the electric utility.”.

5 **SEC. 1284. ADOPTION OF ADDITIONAL STANDARDS.**

6 (a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory
7 Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

8 “(6) DISTRIBUTED GENERATION.—Each electric utility shall provide distributed
9 generation, combined heat and power, and district heating and cooling systems competitive
10 access to the local distribution grid and competitive pricing of service, and shall use
11 simplified standard contracts for the interconnection of generating facilities that have a
12 power production capacity of 250 kilowatts or less.

13 “(7) DISTRIBUTION INTERCONNECTIONS.—No electric utility may refuse to
14 interconnect a generating facility with the distribution facilities of the electric utility if the
15 owner or operator of the generating facility complies with technical standards adopted by
16 the State regulatory authority and agrees to pay the costs established by such State
17 regulatory authority.

18 “(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY STANDARD.—Each electric
19 utility shall develop a plan to minimize dependence on one fuel source and to ensure that the
20 electric energy it sells to consumers is generated using a diverse range of fuels and
21 technologies, including renewable technologies.

22 “(9) FOSSIL FUEL EFFICIENCY.—Each electric utility shall develop and implement a
23 ten-year plan to increase the efficiency of its fossil fuel generation.”.

24 (b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory
25 Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the
26 following:

27 “(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9)

1 of subsection (b), any reference contained in this section to the date of enactment of the
2 Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date
3 of enactment of this subsection.”.

4 **SEC. 1285. TECHNICAL ASSISTANCE.**

5 Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
6 2642(c)) is amended to read as follows:

7 “(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may
8 provide such technical assistance as determined appropriate to assist State regulatory
9 authorities and electric utilities in carrying out their responsibilities under section
10 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).”.

11 **Subtitle I—Consumer Protections**

12 **SEC. 1291. INFORMATION DISCLOSURE.**

13 (a) DISCLOSURE RULES.—Not later than 180 days after the date of enactment of this
14 Act, the Federal Trade Commission shall issue rules prescribing the form, content,
15 placement, and timing of the disclosure required under subsections (b) and (c) of this
16 section. The rules shall be issued in accordance with section 553 of title 5, United States
17 Code, after consultation with the Federal Energy Regulatory Commission, the Secretary of
18 Energy, and the Administrator of the Environmental Protection Agency.

19 (b) DISCLOSURE TO ELECTRIC CONSUMERS.—In order to assist electric consumers in
20 making informed purchasing decisions, an electric utility that sells or makes an offer to sell
21 electric energy, or solicits electric consumers to purchase electric energy, shall provide the
22 electric consumer, in accordance with rules issued under subsection (a), a statement
23 containing the following information:

24 (1) the nature of the service being offered, including information about
25 interruptibility of service;

26 (2) the price of the electric energy, including a description of any variable

1 charges;

2 (3) a description of all other charges associated with the service being
3 offered, including access charges, exit charges, back-up service charges, stranded
4 cost recovery charges, and customer service charges; and

5 (4) information the Federal Trade Commission determines is technologically
6 and economically feasible to provide, is of assistance to electric consumers in
7 making purchasing decisions, and concerns—

8 (A) the product or its price,

9 (B) the share of electric energy that is generated by each type of
10 electric generation resource, and

11 (C) the generation emissions characteristics of the electric energy.

12 (c) DISCLOSURE TO WHOLESAL PURCHASERS.—In every sale of electric energy for
13 resale, the seller shall provide to the purchaser the information respecting generation source
14 and emissions characteristics required by rules issued under subsection (a).

15 (d) FEDERAL TRADE COMMISSION ENFORCEMENT.—Violation of a rule issued under
16 this section shall be treated as a violation of a rule under section 18 of the Federal Trade
17 Commission Act (15 U.S.C. 57a). All functions and powers of the Federal Trade
18 Commission under the Federal Trade Commission Act are available to the Federal Trade
19 Commission to enforce compliance with this section notwithstanding any jurisdictional
20 limitations in the Federal Trade Commission Act.

21 (e) STATE AUTHORITY.—This section does not preclude a State regulatory authority
22 from issuing and enforcing additional laws, regulations, or procedures regarding the
23 practices that are the subject of this section.

24 **SEC. 1292. CONSUMER PRIVACY.**

25 The Federal Trade Commission shall issue rules protecting the privacy of electric
26 consumers from the disclosure of consumer information in connection with the sale or

1 delivery of electric energy to a retail electric consumer. The Federal Trade Commissions
2 shall proceed in accordance with section 553 of title 5 of the United States Code, when
3 prescribing a rule under this section.

4 **SEC. 1293. UNFAIR TRADE PRACTICES.**

5 (a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the
6 change of selection of an electric utility except with the informed consent of the electric
7 consumer or if determined by the appropriate State regulatory authority to be necessary to
8 prevent loss of service.

9 (b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the
10 sale of goods and services to an electric consumer unless expressly authorized by law or the
11 electric consumer.

12 (c) RULEMAKING.—The Federal Trade Commission shall proceed in accordance
13 with section 553 of title 5, United States Code, when prescribing a rule under this section.

14 **SEC. 1294. DEFINITIONS.**

15 For purposes of this subtitle—

16 (1) “State commission” has the meaning given that term in section 3(15) of
17 the Federal Power Act (16 U.S.C. 796(15)),

18 (2) “electric consumer” and “electric utility” have the meanings given those
19 terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
20 2602), and

21 (3) “local distribution company” means any entity that owns, controls, or
22 operates local distribution facilities.

23 **SEC. 1295. TECHNICAL AMENDMENTS.**

24 (a) Section 201(a) of the Federal Power Act (16 U.S.C. § 824(a)) is amended by
25 striking “States.” and inserting “States or a Regional Energy Services Commission.”

26 (b) Section 201(b)(1) of the Federal Power Act (16 U.S.C. § 824(b)(1)) is amended

1 by striking “state line.” and inserting “state line and except as provided in Part IV shall not
2 apply to the transmission of electric energy within the borders of a Regional Energy
3 Services Commission and to the sale of electric energy at wholesale within the borders of a
4 Regional Energy Services Commission.”

5 (c) Section 204(f) of the Federal Power Act is amended by striking “State
6 commission” and adding “State commission or Regional Energy Services Commission.”

7 (d) Section 211(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

8 (1) striking “(2)”;

9 (2) striking “(A)” and inserting “(1)”

10 (3) striking “(B)” and inserting “(2)”;

11 (4) striking “termination of modification” and inserting “termination or
12 modification”.

13 (e) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by
14 striking “electric utility” the second time it appears and inserting “transmitting utility”.

15 (f) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is
16 amended by—

17 (1) inserting “electric utility,” after “Any person,”; and

18 (2) inserting “transmitting utility,” after “licensee” each place it appears.

19 (g) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a))
20 is amended by inserting “or transmitting utility” after “any person” in the first sentence.

21 (h) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16
22 U.S.C. 8251) is amended by inserting “electric utility, State regulatory authority or
23 Regional Energy Services Commission” after “State Commission,” in the first sentence.

24 (i) Section 315 of the Federal Power Act (16 U.S.C. 825n) is amended by striking
25 “subsection” and inserting “section”.

TITLE XIII— STATE ENERGY PROGRAMS

SEC. 1301. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking “each of fiscal years 2002 through 2004” and inserting “fiscal years 2002 and 2003, and \$3,400,000,000 for each of fiscal years 2004 through 2006.”.

SEC. 1302. WEATHERIZATION ASSISTANCE PROGRAM.

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

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

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting “, \$325,000,000 for fiscal year 2004, \$400,000,000 for fiscal year 2005, and \$500,000,000 for fiscal year 2006.”.

SEC. 1303. STATE ENERGY PLANS.

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

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

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

“STATE ENERGY EFFICIENCY GOALS

1
2 **“SEC. 364.** Each State energy conservation plan with respect to which assistance is
3 made available under this part on or after the date of enactment of this title shall contain a
4 goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy
5 in the State concerned in calendar year 2010 as compared to calendar year 1990, and may
6 contain interim goals.”.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and
8 Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and
9 inserting “, \$100,000,000 for each of fiscal years 2004 and 2005 and \$125,000,000 for fiscal
10 year 2006.”.

11