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September 27, 1975

A BILL

To establish the Energy Independence Authority, a government corporation with authority to provide financing and economic assistance for those sectors of the national economy which are important to the development of domestic sources of energy and the attainment of energy independence for the United States; to improve Federal government operations so as to assist in the expediting of regulatory procedures which affect energy development; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Independence Authority Act of 1975".

Title I. Findings and Purposes

Section 101. Findings. The Congress finds and declares that:

(a) The achievement of energy independence for the United States by 1985 and the long-term security of energy sources and supplies are essential to the health of the national economy, the well being of our citizens and the maintenance of national security.

(b) Energy independence for the United States is not likely to be achieved without financial commitments beyond those likely to be forthcoming from traditional capital sources in the traditional manner.

(c) Energy independence for the United States can be accomplished by reducing imports of energy resources and increasing domestic supply of energy resources so that the political and economic vulnerability of the United States to disruptions in oil imports is reduced.

(d) Achieving the goal of energy independence in an expeditious manner which takes due regard for the need to protect the environment can be facilitated by establishing an independent entity of limited duration which will provide additional capital, where possible in conjunction with private sources of capital, to assist the development of domestic energy resources and by encouraging the prompt resolution of questions coming before federal regulatory or licensing entities.

Section 102. Purposes. It is the purpose of this Act:

(a) To encourage and assure the flow of capital funds to those sectors of the national economy which are important to the development of domestic sources of energy or which are otherwise important to the attainment of energy independence for the United States by 1985 or the long-term security of energy sources and supplies, and to facilitate regulatory and licensing decision-making;

(b) To provide financial assistance, where possible by the making or guaranteeing of loans in conjunction with private sector financing, for those activities which show

the greatest potential of contributing to the development of domestic energy resources in a manner which preserves economically sound and competitive industry sectors, within which such financial assistance is provided while minimizing any economic distortion or disruption of competitive forces;

(c) To hasten the commercial operation of new energy technologies subsequent to the research and development phase;

(d) To develop domestic sources of energy in a manner which takes due regard for the need to protect the environment;

(e) To supplement and encourage, and not compete with, private capital investment and activities in the development of domestic sources of energy, recognizing that the private sector must play the primary role in such development; and

(f) To assist in carrying out the foregoing purposes through the creation of the Energy Independence Authority, a self-liquidating corporate entity of limited duration which will exert its best efforts to realize profits or minimize losses on an aggregate basis; and by providing for the timely and orderly liquidation of the Authority's investments and undertakings.

Title II. Corporate Status, General Powers,
Subsidiaries and Tax Status

Section 201. Establishment.

(a) There is hereby created a body corporate, to be known as the Energy Independence Authority (hereafter referred to as the "Authority").

(b) The principal office of the Authority shall be located in the District of Columbia, but there may be established agencies or branch offices in such other places as may be determined by the Board of Directors of the Authority.

Section 202. General Powers.

In carrying out the purposes of this Act, the Authority shall have the power:

(a) To adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(b) To make contracts with private or governmental entities;

(c) To lease or purchase and to dispose of such real property as may be necessary for the transaction of its business;

(d) To acquire and dispose of personal and intangible property (including money);

(e) To sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction, State or Federal;

(f) To represent itself or to contract for representation in all judicial and other legal proceedings notwithstanding the provisions of Title 28 of the United States Code or any other provision of law;

(g) Subject to the provisions of Section 502 of this Act, to select employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Authority and to define their authorities and duties, require bonds of them and fix the penalties thereof;

(h) To make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(i) To determine and prescribe the manner in which obligations of the Authority shall be incurred and its expenses allowed and paid;

(j) To exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a corporate entity, to the achievement of its purposes and the exercise of its powers, purposes, functions, duties and authorized activities;

(k) To use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(1) With the consent of any board, commission, independent establishment, or executive department of the executive branch to make use of services and facilities thereof, with or without reimbursement, in carrying out the provisions of this Act.

Section 203. Subsidiaries.

(a) In accordance with the procedure set forth in subsection (e) of this section, the Authority may create or cause to be created one or more subsidiary corporations to carry out one or more of the functions in which the Authority is authorized to engage pursuant to this Act. Each such corporation so created is hereafter referred to as a "Subsidiary".

(b) Each Subsidiary shall have and enjoy the same privileges and immunities under the laws of the United States and the several States and their political subdivisions as the Authority, and shall have such functions and powers as shall be provided in its charter, provided that no charter shall grant authority for a Subsidiary to engage in a function or to exercise a power which would be beyond the functions or powers of the Authority under this Act.

(c) Any provision of this Act which limits or restricts the functions or powers of the Authority shall be deemed to apply to each Subsidiary.

(d) For the purposes of any provision of this Act which relates to the financial condition of the Authority, the Authority and the Subsidiaries shall be treated on a consolidated basis in accordance with generally accepted accounting principles. All reports, including audits, relating to the Authority which are required under this Act shall include all Subsidiaries.

(e) The functions and powers of every Subsidiary shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charters shall be valid only when similarly filed and published. No Subsidiary shall have a term of existence beyond the authorized life of the Authority.

(f) The Directors of the Authority shall serve as the Directors of each Subsidiary and the Chairman of the Board of the Authority shall serve as the Chairman of the Board of each Subsidiary and neither the Chairman nor the Directors shall be entitled to compensation for their services to a Subsidiary. The provisions of subsections (b)-(f) of section 502 of this Act shall be deemed to apply to each Subsidiary, except that any provision of such subsections which limits the number of any category of officers or employees shall be deemed to apply to the

Authority and all Subsidiaries taken collectively. Officers and employees of a Subsidiary shall have the same rights and liabilities as employees of the Authority under this Act.

(g) Nothing in this section shall be deemed to prevent the Authority from investing funds of the Authority in corporations other than Subsidiaries.

Section 204. Tax Status.

The Authority, its franchise, capital, reserves, surplus, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, local taxing authority; except that: (i) any real property owned in fee by the Authority shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the valuation, classification or assessment thereof, and (ii) any entity acquired or established, or activity undertaken, by the Authority (except financial assistance as that term is defined in Section 301(a) of this Act) which engages directly in the development, production, distribution, transmission, transportation or sale of energy, fuels or energy-related commodities, facilities or products, shall be subject to taxes imposed by the United States or any State or subdivision thereof in the same manner as if such entity or activity were not acquired, established or undertaken by the Authority.

Title III. Functions of the Authority

Section 301. Financial Assistance.

(a) As used in this Act: (i) the term "business concern" shall mean any individual, corporation, company, association, firm, partnership, joint venture, society, or other private entity which is engaged in the development, manufacture, supply, transportation by pipeline, procurement or production of goods or services in the United States and the current or proposed projects of which are deemed by the Board of Directors to be of substantial significance to the achievement of energy independence by the United States or the long-term security of energy sources and supplies for the United States, and (ii) the term "financial assistance" shall mean any form of advance, extension of credit, investment, participation or guarantee, including, without limitation, loans, guarantees of obligations, guarantees of price, purchase and leaseback of facilities, and the purchase of convertible or equity securities.

(b) Subject to the limitations set forth in this section, the Authority is authorized and empowered, in its sole discretion and upon such terms and conditions as it may determine, to provide financial assistance to any business concern which is engaged, or proposes to engage, in

a project described in subsection (d)(2) in order to enable such business concern to finance the ownership, construction, conversion, or expansion of productive facilities, or the acquisition of equipment, plant, machinery, supplies, or materials or the acquisition or development of land, mineral rights and process services; or to provide such business concern with working capital needed to carry out the project.

(c) No financial assistance may be provided under this section unless an application therefor has been submitted to the Authority in such manner and containing such information as the Authority may require, and the Authority has reviewed such application, taking into account applications for financial assistance to similar projects which it has received. Nothing herein shall preclude the Authority from providing financial assistance to two or more similar projects if it determines such assistance is appropriate and consistent with the purposes of this Act.

(d)(1) The Authority is empowered to provide financial assistance for any project, described in paragraph (2) below, if, in the judgment of the Board of Directors, such project will make a significant contribution to the achievement of energy independence by the United States and would not receive sufficient financing upon commercially reasonable terms from other sources to make the project commercially feasible; provided, however, that the maximum amount of financing from sources other than the Authority shall be sought in connection with any project.

(2) The Authority shall provide financial assistance for only those projects which in the judgment of the Board of Directors:

(A) employ, or would stimulate the application of, technologies, processes or techniques which are essential to energy development, production, or transportation by pipeline and which are not in widespread domestic commercial use at the time of the Authority's commitment of financial assistance; or

(B) employ, or would stimulate the application of, technologies, processes or techniques which are essential to the production or use of nuclear power; or

(C) employ, or would stimulate the application of, technologies, processes or techniques for generating electricity which utilize fuel sources other than oil or high Btu gas; or

(D) employ technologies, processes or techniques which at the time of the Authority's commitment of financial assistance are in widespread domestic commercial use, provided that any such project is: (i) directly related to energy development, production, or transportation by pipeline, and (ii) either of such size or scope that it would not be undertaken without the assistance of the Authority or involves an institutional or regulatory arrangement not in widespread domestic

commercial use (the success of which would lead to improvements in energy development, production, or transportation by pipeline and would assist in achieving the purposes of this Act).

(3) The Authority may provide financial assistance for a project conducted by a business concern whose rates are regulated by any state or local regulatory body only if: (i) the state or local regulatory body regulating such rates has issued a certificate of necessity for the project as prescribed by the Authority and (ii) such state or local regulatory body, the business concern so regulated and the Authority have entered into a three party agreement which shall require the state or local regulatory body to permit, without prior hearing, quarterly rate adjustments on a basis such that had such adjustment been in effect for the twelve preceding months the net earnings of the business concern would have provided a minimum level of coverage of annualized interest charges. The Authority by regulation, shall establish a uniform level of coverage of annualized interest charges which shall, in the judgment of the Board of Directors, be sufficient to restore the credit rating of the business concern so regulated to a level capable of attaining conventional capital at favorable interest rates without additional financial assistance from the Authority. For the purposes of this paragraph: (i) the term "net earnings"

shall mean actual earnings before total interest charges and taxes on income adjusted for the annualization of any rate changes during the preceding twelve months, and (ii) the term "annualized interest charges" shall mean the annualized amount of total interest charges, including interest components of leases and rents, but excluding any effect of future debt issues.

(4) The Authority shall not provide financial assistance to a project which would otherwise qualify for such financial assistance if, in the judgment of the Board of Directors:

(i) such project involves technology which is in the research and development phase; or (ii) the project applicant does not display satisfactory levels of efficiency, management capacity or similar factors which are customarily considered by private sources of financing before making an investment decision.

(e) Financial assistance provided by the Authority shall be made upon such terms, and subject to such conditions and restrictions, as shall be deemed by the Board of Directors to be commensurate with the purposes of this Act and the needs of the recipient, and may be renewed, modified, or extended by the Board of Directors as it may determine. No provision of this Act shall be deemed or construed so as to require or obligate the Authority to provide financial assistance to any individual project or particular type of project. Adequate provision shall be made by the Authority

to insure that, where financial assistance provided by the Authority results in the successful financial operation of a project, the Authority benefits from such success on a basis commensurate with the degree of risk assumed by the Authority. Financial assistance will be provided in a manner which, to the extent possible, does not enhance unduly the recipient's competitive position in relationship to other private sector businesses.

(f) To the extent practicable, in the judgment of the Board of Directors, financial assistance provided under this section shall be in the form of loans and loan guarantees, rather than equity investment or guarantees of price. In no case shall the aggregate amount of financial assistance made or committed under this section to any one business concern or affiliated business concerns exceed at any one time 10 per centum of (i) the authorized capital stock of the Authority plus (ii) the aggregate principal sum of the obligations of the Authority authorized to be outstanding.

(g) Each loan made under this section shall bear interest at such rate as the Board of Directors of the Authority may determine, giving consideration to the needs and capacities of the recipient, the prevailing rates of interest (public and private) and the need of the Authority to sustain continuing operations out of returns on investment, provided, however, that with respect to transactions

made under subparagraph (B), (C) and (D) of paragraph (2) of subsection (d) of this section, the Authority shall charge an interest rate not less than the greater of: (i) the then current borrowing costs of the Authority plus a reasonable amount to cover administrative expenses, or (ii) the interest rate paid by other borrowers, of comparable size and situation, for borrowings of comparable maturities made from private lenders as determined in any generally accepted index of such rate or by any other reasonable means, taking into account the purpose and effect of any three party agreement as provided in Section 301(d)(3). Except as provided in subsection (j) hereof, all loans provided by the Authority shall, in the opinion of the Board of Directors, be made upon such terms as to reasonably assure retirement or repayment, and may be made or effected either directly or in cooperation with banks or other lending institutions. Loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose. The Authority under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loans.

(h) The Authority is authorized, on such terms and conditions as the Board of Directors may prescribe, to guarantee any lender against loss of principal and interest

on securities, obligations, or loans (including refinancings thereof) issued to provide funds to any business concern where such funds substantially contribute to accomplishment of the purposes of this Act. All guarantees entered into by the Authority under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America. Any guarantee made by the Authority under this section shall not be terminated, canceled or otherwise revoked, except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder. Prior to issuing any such guarantee, the Authority shall obtain the concurrence of the Secretary of the Treasury as to the timing and substantial terms and conditions of such guarantee. The Authority shall be subrogated to the rights of any third party receiving payments of interest or principal out of funds provided by the Authority under a guarantee arrangement authorized hereunder.

(i) The total amount of financial assistance by the Authority outstanding at any time, computed to include the sum of: (i) the full amount of the Authority's potential liability under all guarantees, (ii) reserves for all other contingent liabilities, and (iii) all loans and other forms of financial assistance authorized under this section, shall not exceed the sum of: (i) the authorized capital of the Authority, (ii) the amount the Authority is authorized to borrow under Section 402 of this Act, (iii) all unrealized gains on the Authority's investments, and (iv) the earned surplus of the Authority, all as determined under generally accepted accounting principles.

(j) The Authority may make high-risk loans or direct investments, or provide product price guarantees or other direct financial assistance, which in the judgment of the Board of Directors will further the purposes of this Act. The Board of Directors shall create such reserves as may be necessary to meet contingent liabilities which may be created under this subsection (j); provided, however, that notwithstanding any other provision of this Act, the Authority may not provide any financial assistance (except pursuant to previously made binding commitments) or make any further commitments for financial assistance if, after audit, the Authority is required under generally accepted accounting principles to establish a reserve or reserves for bad debts, price support

commitments, contingent liabilities, or other unrealized losses, which reserves in the aggregate exceed the sum of the Authority's paid-in-equity capital plus its earned surplus, both of which shall be determined in accordance with generally accepted accounting principles.

(k) The Authority may charge reasonable fees for issuing guarantees, and reasonable fees for making commitments for other forms of financial assistance pursuant to this section.

(l) The Authority may sell in public or private transactions all or any part of the common or preferred stock, capital notes, bonds or any other evidences of indebtedness or ownership acquired by the Authority pursuant to this section.

(m) (1) As used in this subsection, (A) the term "operating asset" shall mean any real or personal property used in the production, transportation or distribution of fuel or electric power, and (B) the term "control" shall mean the power to direct the use or disposition of operating assets, through direct ownership or through ownership of a majority of voting securities of a corporation or other entity owning or leasing operating assets; provided, however, that the term shall not include the power to direct the use or disposition of operating assets resulting from covenants included in a financing agreement which are designed to protect

repayment of a loan or other obligation and which are of a type routinely required by responsible institutional lenders as a condition to extending credit.

(2) The Authority shall not acquire or retain control of operating assets, except:

(A) When control is acquired by foreclosure of a security interest which is collateral for financial assistance.

(B) When control is acquired prior to the commencement of commercial use of the operating assets and is retained for no more than 2 years after commencement of commercial use.

(C) When control is acquired in providing financial assistance involving lease-purchases and sale-leasebacks, provided that no such sale or lease agreement provides for reversion to the Authority of the operating asset sold or leased.

(n) The President of the United States may appoint a panel, of such duration, organization and membership as he may deem appropriate, to study and report to the President and the Congress concerning the effects of issuance of obligations and provision of financial assistance by the Authority on the functioning of the nation's capital markets, including effects upon the volume and distribution of capital flows to and within the energy development sector of the economy.

Section 302. Access to Information.

Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations as the Authority may require for the purposes of this Act, and shall further consent that any reports of examinations of the applicant by constituted authorities may be furnished by such authorities to the Authority upon request therefor. The Authority shall require such reports as it deems necessary from any business concern receiving financial assistance under this Act regarding activities carried out pursuant to this Act. The Authority is authorized to prescribe the keeping of records with respect to all financial assistance and shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

Title IV. Capitalization and Finance

Section 401. Capital Stock and Dividends.

The Authority shall have capital stock of \$25,000,000,000, subscribed by the United States of America acting by and through the Secretary of the Treasury, payment for which shall be subject to call in whole or in part by the Board of Directors of the Authority and subject to the availability of appropriations therefor. There is hereby authorized to be appropriated to the Secretary of the Treasury \$25,000,000,000 for this purpose. On the date that is 180 days after the close of each fiscal year of the Authority, the Authority shall declare and shall thereafter pay a dividend on its outstanding capital stock, in an amount determined in the discretion of the Board of Directors, taking into account the current annual yield on marketable obligations of the United States at the time the dividend is declared; provided, however, that the Authority may waive or defer payment of any such dividend if the Authority has no earned surplus on the date on which the dividend would otherwise be declared or the Board of Directors determines that the funds otherwise available for payment of the dividend should, in furtherance of the purposes of this Act, be used to provide financial assistance pursuant to Section 301 of this Act.

Section 402. Obligations of the Authority

(a) The Authority is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in the aggregate principal amount of \$75,000,000,000; provided, however, that the Authority shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the method, source, interest rate, timing and other terms and conditions of such obligation. The Secretary of the Treasury may direct that any such issuance by the Authority be sold to the Department of Treasury for its own account or to the Federal Financing Bank.

(b) For purposes of purchasing the obligations of the Authority pursuant to this section 402, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United

States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(c) All obligations of the Authority issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

Section 403. Budgetary Treatment

The receipts and disbursements of the Secretary of the Treasury in connection with the purchase or repurchase of, and income from, capital stock of the Authority shall be included in the totals of the budget of the United States Government. The receipts and disbursements of the Authority in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

Section 404. Lawful Investment

Obligations of the Authority issued pursuant to this Act shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

Section 405. Forms of Notes, Bonds and Other Obligations.

In order that the Authority may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Authority, to be held in the Treasury subject to delivery, upon order of the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

Section 406. Moneys of the Authority

All moneys of the Authority not otherwise employed may be:

- (a) deposited with the Treasury of the United

States subject to check by authority of the Authority, drawn on the Treasury of the United States by a Treasury disbursing officer, or

(b) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(c) with the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Authority, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Authority.

Title V. Management

Section 501. Board of Directors.

(a) The authority of the Authority shall be vested in the Board of Directors, except as to those functions, powers and duties assigned to the Chairman of the Board as provided in this Act and such matters as may be delegated to officers of the Authority pursuant to Section 504 of this Title. The Board of Directors shall consist of five voting members appointed by the President by and with the advice and consent of the Senate, who shall hold office at the pleasure of the President. The President shall designate one of such members as Chairman of the Board, and shall have the power at any time and from time to time to designate a new Chairman of the Board from among the members of the Board. Of the five members of the Board, not more than three shall be members of any one political party. The Chairman shall devote his full working time to the affairs of the Authority (and its Subsidiaries) and shall hold no other salaried position.

(b) With respect to each Director, other than the Director who shall serve as Chairman of the Board, the President shall determine whether such Director shall serve in a full-time or part-time capacity (including service as a Director of the Subsidiaries). Directors who are serving part-time may hold other positions but shall devote such time to the affairs of the Authority as is necessary to

discharge their duties. Directors who are serving full-time shall devote their full working time to the affairs of the Authority (and its Subsidiaries) including such responsibilities as may be assigned by the Chairman of the Board, and shall hold no other salaried position. Directors of the Authority, whether serving full-time or part-time, shall be compensated at an annual or daily rate to be determined by the President of the United States. Directors shall be reimbursed for reasonable expenses which are incurred in connection with their services as Directors of the Authority and its Subsidiaries.

(c) Before entering upon the duties of his office, each Director shall take an oath faithfully to discharge the duties thereof. Whenever a vacancy shall occur on the Board of Directors, the President shall, with the advice and consent of the Senate, appoint a person to fill such vacancy. All Directors shall be citizens of the United States.

(d) The Board shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Authority. A majority of the duly appointed and serving Directors shall constitute a quorum, and any action by the Board shall be effected by majority vote of a quorum. The Board of Directors shall adopt, and from time to time amend, such bylaws as are necessary for the proper management and functioning of the Authority.

Section 502. Officers, Employees, Attorneys and Agents.

(a) The Chairman of the Board shall be the chief executive officer of the Authority, and as such shall be responsible for the management and direction of the Authority (including the making of expenditures associated with administration of the Authority). The President of the United States shall fix the compensation of the Chairman of the Board.

(b) The Chairman of the Board may appoint and fix the compensation of all such personnel as may be necessary for the transaction of the Authority's business in accordance, except as otherwise authorized in subsections (c) and (d), with the provisions of Title 5 of the United States Code governing classification, appointment and compensation in the competitive service.

(c) In addition to the number of positions which may be placed in GS-16, 17 and 18 under existing law, not to exceed 100 positions may be placed in GS-16, 17 and 18. The provisions of Title 5 of the United States Code governing classification and appointment in the competitive service shall not apply to twenty-five of such positions, as designated by the Chairman of the Board.

(d) In addition to personnel authorized to be employed under other provisions of this section, a reasonable number of executive officers may be employed by the Authority

under contracts not exceeding five years and without regard to the provisions of Title 5 of the United States Code governing classification and appointments in the competitive service and without regard to the laws, including Title 5 of the United States Code, which fix compensation for officers and employees of the United States. Without prejudice to contract rights, any person appointed by the Chairman pursuant to this subsection may be removed in the discretion of the Chairman.

(e) The Chairman shall define the duties of the officers and employees of the Authority, and provide a system of organization to fix responsibility and promote efficiency.

(f) The Chairman of the Board shall have authority to obtain the services and fix the compensation of experts and consultants in accordance with the provisions of Section 3109 of Title 5 of the United States Code.

(g) The Chairman of the Board may require, during the first two years of the Authority's existence, the detail of employees from any executive agency to carry out the purposes of this Act.

(h) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break in service, to any position for carrying out functions under this Act are entitled, upon separation from such position within three years of employment, to reemployment

in the position occupied at the time of appointment or in a position of comparable grade and salary to that held with Authority.

Section 503. Conflicts of Interest.

(a) The provisions of Chapter 11 of Title 18, United States Code, shall apply to the directors and all officers and employees of the Authority.

(b) No officer or director of the Authority shall, during the period of his service as such with the Authority, maintain any interest in a project for which financial assistance is committed or provided under this Act.

Section 504. Delegation.

The Board of Directors may, by resolution, delegate to the Chairman of the Board or other officers of the Authority, such of its functions, powers and duties assigned to the Board under this Act as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers and duties as are assigned to the Chairman by the provisions of this Act to such officers or employees of the Authority as he deems appropriate.

Section 505. Fiscal Year, Reviews and Audits.

(a) The fiscal year of the Authority shall coincide with the fiscal year of the United States Government.

(b) On or before June 30 in any year, the Authority shall submit to the Director of the Office of Management and Budget a financial and management plan, in such detail as the Director may prescribe, for the succeeding fiscal year.

(c) The Authority shall retain a firm or firms of nationally recognized public accountants who shall prepare and report an annual audit of the accounts of the Authority including the statements identified in 31 U.S.C. 851. The General Accounting Office is authorized to conduct such audits of the accounts, and to report upon the same to Congress, as such Office shall deem necessary or as Congress may request. All books, accounts, financial records, reports, files, papers and property belonging to or in use by the Authority and necessary to facilitate an audit shall be made available to the person or persons conducting the audit and facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Section 506. Reports.

(a) The Authority shall submit a quarterly report to the Congress and the President. The report will state the aggregate sums then outstanding or committed as loans, loan guarantees or other financial assistance and a listing of the business concerns so involved with the Authority. The

quarterly report in which any expenditure or commitment to a business concern or project is first noted shall contain a brief description of the factors considered by the Board of Directors in making such expenditure or commitment. The report shall also show, on an unaudited basis, the assets and liabilities of the Authority as of the end of the authority's fiscal quarter preceding the date of the report and the number, functions and compensation of persons employed or under contract by the Authority at salary rates exceeding \$2,500 per month.

(b) The Authority shall submit to the Congress and the President an annual report containing the audited financial statements and report prepared by the independent public accountants pursuant to Section 505. The annual report shall also contain, in addition to the information required in the quarterly report, a general description of the Authority's operations during the year, a specific description of each project or activity in which the Authority is involved, a status report on each such project or activity, and an evaluation of the contribution which the project or activity has made and is expected to make in fulfilling the purposes of this Act (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(c) On or before June 30, 1983, the Authority shall submit to the Congress and the President a report evaluating

the overall impact made by the Authority and describing the status of each then current activity or program of financial assistance. This report shall contain a Liquidation Plan. The Liquidation Plan shall describe in the greatest detail practicable how each activity, project or obligation involving financial assistance, and every substantial asset or liability of the Authority will be liquidated, terminated, satisfied, sold, transferred or otherwise disposed of. Each annual report thereafter made by the Authority will describe what progress is being made in effecting such Liquidation Plan.

(d) On or before January 31, 1986, the Authority shall submit to the President a report setting forth the recommendation as to whether or not the existence of the Authority's should be extended for the limited period and purpose described in Section 803(c).

Section 507. Records of Outside Contacts.

The Authority shall develop and publish procedures for recording communications received (in writing or otherwise) expressing an opinion or viewpoint on the merits or terms of any proposal that the Authority extend financial assistance pursuant to Section 301 of this Act. The Authority shall establish procedures for making such records available to the public upon request.

Title VI. Federal Agency Proceedings

Section 601. Definitions. As used in this title:

(a) The term "Federal agency" means an "Executive agency" as defined in 5 U.S.C. 105, including an independent regulatory commission.

(b) The term "energy project" means any activity in connection with the planning, initiation, construction or operation of facilities involving the production, distribution, transmission or transportation of energy.

(c) The term "license" means "license" as defined in 5 U.S.C. 551(8) and the term "licensing" means "licensing" as defined in 5 U.S.C. 551(9).

(d) The term "proceedings" means any action taken by a Federal agency in initiating or carrying out the process leading to granting or denying a license for an energy project.

(e) The term "Administration" means the Federal Energy Administration or any successor entity thereto.

Section 602. Expediting Functions of the Federal Energy Administration.

(a) The Administration shall have the following duties and authorities in the energy project licensing process:

(1) The Administration shall keep apprised of the processing of energy project licensing proceedings at the Federal, local, state and regional levels and, where appropriate and consistent with applicable Federal, state and local law,

may suggest procedures for expediting such Federal proceedings and similar local, state or regional review and for consolidating Federal, local, state and regional applications and actions to reduce duplication of effort and expedite the overall licensing process.

(2) When a Federal agency has rendered any preliminary or final decision in the course of proceedings, the Administration may, where the applicable law or rules and regulations of the Federal agency permit reconsideration, (i) request such Federal agency to reconsider its decision or (ii) join in any petition for reconsideration by the applicant. Any petition brought by the Administration or in which the Administration joins shall be granted or denied within 30 days of receipt by the Federal agency to which the petition is addressed.

(b) The Administration may, if it deems it desirable and in the interest of expediting proceedings, develop and promulgate a composite form of license application which shall be the sole application required for all or a portion of, as the form may specify, the Federal approval of an energy project. In such event, the Administration may also provide that such composite license applications be filed only with the Administration, in which case the Administration shall promptly forward the license applications, or relevant portions thereof, to the Federal agencies required by law to consider them. Such a composite license application may be

composed of removable and insertable sections in order to accommodate the information necessary for different energy project licensing decisions. The Administration may consult with all other Federal agencies with licensing authority over any aspect of energy projects, and such agencies shall cooperate with the Administration, in developing such a license application.

Section 603. Certification by the Federal Energy Administration.

(a) The Administration may certify that an energy project is of critical importance to the achievement of the purposes of this Act (hereafter referred to as "certification"). In determining whether or not an energy project is critical to the achievement of such purposes, the Administration shall consider, among other factors, the contribution that the energy project itself would make to the achievement of energy independence and the stimulative effect that its successful and expeditious completion and operation would have on additional similar projects. The Administration shall state, in any certification it issues, the facts and reasoning supporting its finding that the energy project in question is of such critical importance. The action of the Administration in granting or denying such certification shall be final and conclusive for all purposes with respect to all questions of law and fact and not subject to review by a court by mandamus or otherwise.

(b) Certification shall be made by the Administration only pursuant to application therefor in form and substance satisfactory to the Administration. The application shall state the reasons why the applicant believes such certification is appropriate.

(c) The Administration, within 40 days of receiving and accepting an application for certification, shall publish in the Federal Register a notice of the requested certification, including pertinent parts of the application therefor, inviting written comments from the public on such requested certification for a period of 20 days. The Administration shall consider such comments and act on the application within 20 days of the closing of the public comment period.

(d) The recipient of a certification may submit it to any Federal agency which is authorized by law to license or review any part or any phase of the energy project to which the certification relates, including the initiation, development, completion or operation of the energy project.

(e) Any Federal agency which receives a certification shall forthwith commence all necessary proceedings which may be required for licensing of any aspect of the energy project, giving such proceedings preference over all other questions pending before it except other proceedings involving similar certifications. Diligent efforts shall be made to complete all such proceedings and render a decision within 12 months

(or such shorter period as the Administration may for good cause specify) from the date of submission of the certification to such Federal agency.

(f) In order to achieve the purpose of this section, the orderly but expedited review by Federal agencies of critical energy projects, all Federal agencies which conduct proceedings related to energy projects shall, within 90 days of the enactment of this Act and in cooperation with the Administration, promulgate regulations describing procedures to implement the expedited treatment required by this section. Such procedures shall include reports from the Federal agency to the Administration, in such form as they shall agree, on the progress of proceedings.

(g) Each Federal agency which fails to complete any proceeding and render a decision in any certified matter within 12 months (or such shorter period as the Administration may have for good cause specified) shall report to the Congress and to the President with respect to each such failure (i) the reasons therefor; (ii) actions being taken to complete the proceedings as expeditiously as possible; (iii) the measures being taken to prevent such delays in the future; and (iv) any recommendations for further legislation which such Federal agency deems advisable for the purpose of avoiding such delays.

(h) Certification by the Administration as contemplated by this section shall not be considered a major Federal action significantly affecting the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Section 604. Judicial Review. Any judicial review of a Federal agency's final action concerning an energy project which has been certified under Section 603 of this Act shall be given priority over all matters pending on the court's docket.

Title VII. Unlawful Acts and Penalties

Section 701. False Statements.

Whoever makes any statement, knowing it to be false, or willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Authority or a Subsidiary, or for the purpose of obtaining money, property, contract rights or anything of value, under this Act, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

Section 702. Forgery.

Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, coupon or thing of value issued by the Authority or a Subsidiary, or (2) passes, utters or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, coupon or thing of value purporting to have been issued by the Authority or a Subsidiary, knowing the same to be false, forged or counterfeited, or (3) falsely alters any note,

debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Authority or a Subsidiary, or (4) passes, utters or publishes, or attempts to pass, utter or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation coupon or thing of value issued or purporting to have been issued by the Authority or a Subsidiary, knowing the same to be falsely altered or spurious, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 703. Misappropriation of Funds and Unauthorized Activities.

Whoever, being connected in any capacity with the Authority or a Subsidiary, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Authority or such Subsidiary, or (2) with intent to defraud the Authority and Subsidiary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Authority or such Subsidiary, makes any false entry in any book, report, or statement of or to the Authority or such Subsidiary, or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange,

mortgage, judgment, or decree thereof, or (3) with intent to defraud, participates, shares, or receives directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the Authority or such Subsidiary, or (4) gives any unauthorized information concerning any future action or plan of the Authority or such Subsidiary which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Authority or such Subsidiary shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

Section 704. Infringement on Name.

No individual, association, partnership, corporation or business entity shall use the words "Energy Independence Authority" or a combination of these words which a court of competent jurisdiction shall find reasonably likely to mislead or deceive, as the name or a part thereof under which he or it shall do business.

Section 705. Unlawful Contracts.

The provisions of Sections 431 through 433, inclusive, of Title 18, United States Code, shall apply to contracts or agreements with the Authority or Subsidiary pursuant to this

Act. Such contracts or agreements include, but are not limited to loans, loan guarantees, purchase agreements, advances, discounts and rediscounts, acceptances, releases, and substitutions of security, together with extensions or renewals thereof.

Section 706. Additional Penalties.

In addition to any other penalties provided in this title, the defendant in any action brought pursuant thereto shall, on conviction, be liable to the Authority or Subsidiary for any loss by the Authority or such Subsidiary and any profit or gain acquired by him as a result of the conduct constituting the offense for which he was convicted.

Section 707. Suit by the Attorney General.

No suit shall be brought alleging that the Authority (or any director, officer, employee or agent thereof) has engaged in any action, practice or policy inconsistent with this Act; has violated any provision thereof; has obstructed or interfered with any activities authorized thereby; or has refused, failed or neglected to discharge duties or responsibilities mandated by the Act except by the Attorney General of the United States or his delegate. The Attorney General may, by petition in any federal District Court in any state where the Authority is transacting business or where any such individual resides (or in the District of Columbia)

seek such equitable relief as may be necessary or appropriate to prevent or terminate such conduct. Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this title by appropriate officials of the United States, nor to preclude the application of the Federal Tort Claims Act against the Authority nor to prohibit suits by private parties against the Authority based on breach of contract.

Title VIII. General Provisions

Section 801. Coordination with other Entities.

The Authority shall seek the advice and recommendations of the members of the Energy Resources Council and such other Federal agencies as the President may designate in determining whether the provision of financial assistance to a particular business concern or to promote a particular activity will further the purposes of this Act. Any such advice or recommendation shall be provided to the Authority within 30 days of its request.

Section 802. Severability.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Section 803. Termination and Liquidation of the Authority.

Notwithstanding any other provision of this Act:

(a) The Authority shall make no new commitments for financial assistance after June 30, 1983, and shall furnish no new financial assistance after June 30, 1986.

(b) From and after June 30, 1983, the Board of Directors of the Authority shall diligently commence all practical and reasonable steps to achieve an orderly liquidation of the Authority's affairs on or prior to June 30, 1986. Such steps may include the sale or transfer to any agency of the United States, or the sale directly to the public, including any business concern, of all or any portion of the Authority's assets.

(c) The Authority shall terminate on June 30, 1986, or at such earlier date as the President of the United States shall determine, provided, however, that if the President shall determine that the orderly liquidation of the Authority's affairs requires the continuation of the Authority beyond June 30, 1986, the President may, by Executive Order, extend the authorized life of the Authority for not more than three years after such date.

(d) If, on the date of termination of the Authority, its Board of Directors shall not have completed the liquidation of its assets and the winding up of its affairs, the duty of completing such liquidation and winding up of its affairs shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers and duties of the Board of Directors and Chairman of the Board of the Authority under this Act, and nothing herein shall be

construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein provided in connection with the liquidation of the remaining assets and the winding up of the affairs of the Authority. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under his general supervision and direction, of any such powers and duties until the Secretary of the Treasury shall find that such liquidation will no longer be advantageous to the United States and that all of its legal obligations have been provided for, whereupon he shall retire any capital stock then outstanding, pay into the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Authority, and make the final report of the Authority to the Congress. Thereupon the Authority shall be deemed to be dissolved.

Section 804. Relationship to Other Laws.

(a) The provision of financial assistance for a project pursuant to section 301 of this Act shall be deemed to be a "major federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended

("NEPA") where (i) no other agency of the federal government is required to prepare an environmental impact statement pursuant to section 10(2)(C) of NEPA with respect to the project, and (ii) the provision of financial assistance does, in fact, constitute a major action significantly affecting the quality of the human environment. In any instance where another agency of the Federal government is required to prepare an environmental impact statement pursuant to section 102(2)(C) of NEPA with respect to a project to which financial assistance has been committed or extended, the Authority shall provide the agency with such information as may be reasonably requested by the agency in order to prepare such statement.

(b) Except as may be provided elsewhere in this Act, the Authority shall not for any purpose be considered an "Executive agency" as defined in 5 U.S.C. 105 or an "agency" as defined in 5 U.S.C. 551.

(c) The provisions of the United States Code relating to public contracts and public buildings and works, including the Federal Property and Administrative Services Act of 1949, but excluding the Davis-Bacon Act (40 U.S.C. 276a.), shall not apply to the operations of the Authority.

(d) The securities laws of the United States, including but not limited to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility

Holding Company Act of 1935, the Federal Power Act of 1935 and the Investment Company Act of 1940, all as amended, shall not apply to any sale or purchase of securities by the Authority, securities issued by the Authority, the issuance of securities by third parties which are guaranteed by the Authority or the operations of the Authority.

(e) Nothing in this Act shall be deemed or construed to make the Government Corporation Control Act, 31 U.S.C. 841, et seq., applicable to the Authority.

(f) Nothing in this Act shall be deemed to change the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 181-287), the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) nor any other law governing the ownership, management, and disposition of Federal minerals or lands, provided however that the Authority may acquire Federal minerals or lands in accordance with such laws.

Section 805. Reservation of Right to Amend or Repeal.

The right to alter, amend, or repeal this Act is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Corporation under any power conferred by this Act.