

111TH CONGRESS  
1ST SESSION

# H. R. 2300

To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Mr. BISHOP of Utah (for himself, Mr. PRICE of Georgia, Mr. LAMBORN, Mr. SCALISE, Mr. CONAWAY, Mr. SULLIVAN, Mr. BROUN of Georgia, Mr. CHAFFETZ, Ms. FALLIN, Mr. FLEMING, Mr. YOUNG of Alaska, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mrs. LUMMIS, Mr. MARCHANT, Mr. McKEON, Mr. NEUGEBAUER, Mr. PITTS, Mr. SIMPSON, Mr. HELLER, Mr. POE of Texas, Mr. LEE of New York, Mr. WESTMORELAND, Mr. BURTON of Indiana, Mr. REHBERG, Mr. ALEXANDER, Mr. GOODLATTE, Mr. CASSIDY, Mr. RADANOVICH, Mr. LATTA, Mr. McCAUL, Mr. SESSIONS, Mr. BOOZMAN, and Mr. THORNBERRY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Natural Resources, Energy and Commerce, Science and Technology, Rules, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “American Energy Innovation Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—INNOVATION**

**Subtitle A—Energy Independence**

Sec. 1001. Sense of Congress.

**Subtitle B—Tax Exempt Financing for Qualified Renewable Energy Facilities**

Sec. 1101. Special depreciation allowance for cellulosic biomass ethanol plant property.

Sec. 1102. Coal-to-liquid facilities.

Sec. 1103. Dedicated ethanol pipelines treated as 15-year property.

Sec. 1104. Credit for pollution abatement equipment.

Sec. 1105. Modifications relating to clean renewable energy bonds.

Sec. 1106. Extension of renewable energy production tax credit.

**Subtitle C—Repeal of Federal Purchasing Requirement**

Sec. 1201. Repeal of Federal purchasing requirement.

**Subtitle D—Renewable Technologies**

Sec. 1301. Pilot project for developing solar energy on Federal lands.

Sec. 1302. Three-year depreciation for solar and fuel cell property.

Sec. 1303. Extension of credit for electricity produced from wind and biomass.

Sec. 1304. Nuclear, hydropower, and biomass defined as renewable.

Sec. 1305. Permanent extension of the credit for nonbusiness energy property and the credit for gas produced from biomass and for synthetic fuels produced from coal.

Sec. 1306. Algae-based fuels parity.

**Subtitle A—Rewarding Innovation in Technology**

Sec. 1401. Increase in Alternative Simplified Research Credit.

Sec. 1402. Research and Experimentation Credit permanent.

Sec. 1403. Alternative Fuel Vehicle Innovation Prize.

**Subtitle B—Improve National Grid Efficiency**

Sec. 1501. Income and gains from electricity transmission systems treated as qualifying income for publicly traded partnerships.

Sec. 1502. Five-year applicable recovery period for depreciation of qualified smart electric meters.

**Subtitle C—Regulatory Burdens**

- Sec. 1601. Greenhouse gas regulation under Clean Air Act.
- Sec. 1602. NEPA judicial review.
- Sec. 1603. Repeal of 2007 amendments to renewable fuel standard.
- Sec. 1604. Repeal of requirement to consult regarding impacts on global warming and polar bear population.
- Sec. 1605. Light bulb choice.
- Sec. 1606. Repeal of deduction for income attributable to domestic production activities.
- Sec. 1607. Hydraulic fracturing.

#### Subtitle D—Judicial Review Regarding Energy Projects

##### PART 1—JUDICIAL REVIEW REGARDING ENERGY PROJECTS

- Sec. 1701. Exclusive jurisdiction over causes and claims relating to covered energy projects.
- Sec. 1702. Time for filing complaint.
- Sec. 1703. District Court for the District of Columbia deadline.
- Sec. 1704. Ability to seek appellate review.
- Sec. 1705. Deadline for appeal to the Supreme Court.
- Sec. 1706. Covered energy project defined.
- Sec. 1707. Limitation on application.

##### PART 2—PERMITTING REFORM

- Sec. 1711. Purposes.
- Sec. 1712. Federal Coordinator.
- Sec. 1713. Regional Offices and Regional Permit Coordinators.
- Sec. 1714. Reviews and actions of Federal agencies.
- Sec. 1715. State coordination.
- Sec. 1716. Savings provision.
- Sec. 1717. Administrative and Judicial Review.
- Sec. 1718. Amendments to publication process.
- Sec. 1719. Alaska Offshore Continental Shelf Coordination Office.

#### Subtitle E—Innovation in Carbon Capture and Clean Coal Technology

- Sec. 1801. Coal-to-liquid fuel loan guarantee program.
- Sec. 1802. Coal-to-liquid facilities loan program.
- Sec. 1803. Allows for 7-year depreciation for power-plants that install clean coal technology or retro-fit plants for carbon sequestration technology.
- Sec. 1804. Extension of 50 cent per gallon alternative fuels excise tax credit.
- Sec. 1805. Provides a 20 percent investment tax credit capped at \$200 million total per CTL plant placed in service before 2016.
- Sec. 1806. Reduces recovery period for certain energy production and distribution facilities.
- Sec. 1807. DOE clean coal technology loan guarantees and direct loans.

#### Subtitle F—Natural Gas

- Sec. 1901. Natural gas vehicle research, development, and demonstration projects.
- Sec. 1902. Modification of alternative fuel credit.
- Sec. 1903. Extension and modification of alternative fuel vehicle credit.
- Sec. 1904. Allowance of vehicle and infrastructure credits against regular and minimum tax and transferability of credits.

Sec. 1905. Credit for producing vehicles fueled by natural gas or liquified natural gas.

## TITLE II—CONSERVATION

### Subtitle A—Conservation

- Sec. 2001. Permanent extension of the credit for nonbusiness energy property, the credit for gas produced from biomass and for synthetic fuels produced from coal, and the credit for energy efficient appliances.
- Sec. 2002. Extension and clarification of new energy efficient home credit.
- Sec. 2003. Extension and modification of deduction for energy efficient commercial buildings.
- Sec. 2004. Deduction for energy efficient low-rise buildings.

### Subtitle B—Clean Coal Alternative Transition

- Sec. 2101. Carbon dioxide storage capacity assessment.
- Sec. 2102. Efficiency audit and quantification.

### Subtitle C—Natural Gas Transition

- Sec. 2201. Extension of alternative vehicle credit purchase of natural gas powered vehicle from 2010 till 2020; increase in amount of credit for cars.
- Sec. 2202. Extension of credit of 50 percent of the auto conversion cost to a natural gas powered automobile from gasoline or diesel powered engine and the CNG home filling station cost.

### Subtitle D—Carbon Capture and Storage Credit

- Sec. 2301. Increase in carbon capture and storage tax credit.

## TITLE III—PRODUCTION

### Subtitle A—Outer Continental Shelf

- Sec. 3001. End moratorium of oil and gas leasing in certain areas of the Gulf of Mexico.
- Sec. 3002. Outer Continental Shelf directed lease sales.
- Sec. 3003. Leasing program considered approved.
- Sec. 3004. Outer Continental Shelf lease sales.
- Sec. 3005. Restrictions on leasing of the outer Continental Shelf.
- Sec. 3006. Sharing of OCS receipts with States and local governments.

### Subtitle B—Arctic Coastal Plain

- Sec. 3101. Definitions.
- Sec. 3102. Leasing program for land within the Coastal Plain.
- Sec. 3103. Lease sales.
- Sec. 3104. Grant of leases by the Secretary.
- Sec. 3105. Lease terms and conditions.
- Sec. 3106. Coastal plain environmental protection.
- Sec. 3107. Expedited judicial review.
- Sec. 3108. Federal and State distribution of revenues.
- Sec. 3109. Rights-of-way across the Coastal Plain.
- Sec. 3110. Conveyance.

### Subtitle C—Nuclear Energy Reforms

- Sec. 3201. Amendments to title XVII of the Energy Policy Act 2005.
- Sec. 3202. Amendments to section 638 of the Energy Policy Act of 2005.
- Sec. 3203. Amendments to section 952(c) of the Energy Policy Act 2005.
- Sec. 3204. Domestic manufacturing base for nuclear components and equipment.
- Sec. 3205. Use of funds for recycling.
- Sec. 3206. Licensing of new nuclear power plants.
- Sec. 3207. Investment tax credit for investments in nuclear power facilities.
- Sec. 3208. National nuclear energy council.
- Sec. 3209. Temporary spent nuclear fuel storage agreements.
- Sec. 3210. Implementation of temporary spent nuclear fuel storage agreements.
- Sec. 3211. Expedited procedures for congressional review of temporary spent nuclear fuel storage agreements.
- Sec. 3212. Contracting and nuclear waste fund.
- Sec. 3213. Confidence in availability of waste disposal.
- Sec. 3214. Limitation on use of funds.

### Subtitle D—Expedited Oil, Gas, and Oil Shale Leasing of Federal Lands

- Sec. 3301. Expedited permitting of covered energy projects.
- Sec. 3302. Waiver of laws applicable to covered energy projects.
- Sec. 3303. Permitting for year-round conduct of covered energy projects.

### Subtitle E—Refining Capacity and Efficiency

- Sec. 3401. Refinery revitalization repeal.
- Sec. 3402. Reduction in number of boutique fuels.
- Sec. 3403. Refinery permitting process.
- Sec. 3404. Existing refinery permit application deadline.
- Sec. 3405. Removal of additional fee for new applications for permits to drill.

### Subtitle F—Alternative Sources of Fuel

- Sec. 3501. Year extension of election to expense certain refineries.
- Sec. 3502. Opening of lands to oil shale leasing.
- Sec. 3503. Oil shale and tar sands amendments.
- Sec. 3504. Tax credit for carbon dioxide captured from industrial sources and used in enhanced oil and natural gas recovery.

### Subtitle G—Domestic Energy Impact Statements

- Sec. 3601. Committee reports in House of Representatives required to include domestic energy impact statements.
- Sec. 3602. Domestic energy impact statements.

### Subtitle H—Deficit Reduction

- Sec. 3701. Deficit Reduction Trust Fund.

## TITLE IV—JOB CREATION

- Sec. 4001. Sense of Congress.

1                   **TITLE I—INNOVATION**  
2    **Subtitle A—Energy Independence**

3 **SEC. 1001. SENSE OF CONGRESS.**

4       It is the sense of Congress that the fastest way to  
5 reach energy independence and effectively address climate  
6 change is through innovation, conservation, and respon-  
7 sible production. Imposing a carbon tax or artificial regu-  
8 latory mandates which promise no reduction in global car-  
9 bon emissions will lead to the loss of millions of jobs for  
10 Americans. Congress must rely on the most sound and  
11 complete scientific evidence in order to tackle these chal-  
12 lenges.

13 **Subtitle B—Tax Exempt Financing**  
14       **for Qualified Renewable Energy**  
15       **Facilities**

16 **SEC. 1101. SPECIAL DEPRECIATION ALLOWANCE FOR CEL-**  
17                   **LULOSIC BIOMASS ETHANOL PLANT PROP-**  
18                   **ERTY.**

19       (a) IN GENERAL.—Section 168 of the Internal Rev-  
20 enue Code of 1986 (relating to accelerated cost recovery  
21 system) is amended by adding at the end the following:

22       “(o) SPECIAL ALLOWANCE FOR CELLULOSIC BIO-  
23 MASS ETHANOL PLANT PROPERTY.—

1           “(1) ADDITIONAL ALLOWANCE.—In the case of  
2 any qualified cellulosic biomass ethanol plant prop-  
3 erty—

4           “(A) the depreciation deduction provided  
5 by section 167(a) for the taxable year in which  
6 such property is placed in service shall include  
7 an allowance equal to 50 percent of the ad-  
8 justed basis of such property, and

9           “(B) the adjusted basis of such property  
10 shall be reduced by the amount of such deduc-  
11 tion before computing the amount otherwise al-  
12 lowable as a depreciation deduction under this  
13 chapter for such taxable year and any subse-  
14 quent taxable year.

15           “(2) QUALIFIED CELLULOSIC BIOMASS ETH-  
16 ANOL PLANT PROPERTY.—

17           “(A) IN GENERAL.—The term ‘qualified  
18 cellulosic biomass ethanol plant property’ means  
19 property of a character subject to the allowance  
20 for depreciation—

21           “(i) which is used in the United  
22 States solely to produce cellulosic biomass  
23 ethanol,

1           “(ii) the original use of which com-  
2 mences with the taxpayer after the date of  
3 the enactment of this subsection,

4           “(iii) which has a nameplate capacity  
5 of 100,000,000 gallons per year of cellu-  
6 losic biomass ethanol,

7           “(iv) which is acquired by the tax-  
8 payer by purchase (as defined in section  
9 179(d)) after the date of the enactment of  
10 this subsection, but only if no written bind-  
11 ing contract for the acquisition was in ef-  
12 fect on or before the date of the enactment  
13 of this subsection, and

14           “(v) which is placed in service by the  
15 taxpayer before January 1, 2013.

16       “(B) EXCEPTIONS.—

17           “(i) ALTERNATIVE DEPRECIATION  
18 PROPERTY.—Such term shall not include  
19 any property described in section  
20 168(k)(2)(D)(i).

21           “(ii) TAX-EXEMPT BOND-FINANCED  
22 PROPERTY.—Such term shall not include  
23 any property any portion of which is fi-  
24 nanced with the proceeds of any obligation



1 the interest on which is exempt from tax  
2 under section 103.

3 “(iii) ELECTION OUT.—If a taxpayer  
4 makes an election under this subparagraph  
5 with respect to any class of property for  
6 any taxable year, this subsection shall not  
7 apply to all property in such class placed  
8 in service during such taxable year.

9 “(3) CELLULOSIC BIOMASS ETHANOL.—For  
10 purposes of this subsection, the term ‘cellulosic bio-  
11 mass ethanol’—

12 “(A) means ethanol derived from any  
13 lignocellulosic or hemicellulosic matter that is  
14 available on a renewable or recurring basis, in-  
15 cluding—

16 “(i) dedicated energy crops and trees,

17 “(ii) wood and wood residues,

18 “(iii) plants,

19 “(iv) grasses,

20 “(v) agricultural residues,

21 “(vi) fibers,

22 “(vii) animal wastes and other waste  
23 materials, and

24 “(viii) municipal and solid waste, and

1           “(B) includes any ethanol produced in fa-  
2           cilities where animal wastes or other waste ma-  
3           terials are digested or otherwise used to dis-  
4           place 90 percent or more of the fossil fuel nor-  
5           mally used in the production of ethanol.

6           “(4) SPECIAL RULES.—For purposes of this  
7           subsection, rules similar to the rules of subpara-  
8           graph (E) of section 168(k)(2) shall apply, except  
9           that such subparagraph shall be applied—

10           “(A) by substituting ‘the date of the enact-  
11           ment of subsection (o)’ for ‘December 31, 2007’  
12           each place it appears therein,

13           “(B) by substituting ‘January 1, 2013’ for  
14           ‘January 1, 2010’ in clause (i) thereof, and

15           “(C) by substituting ‘qualified cellulosic  
16           biomass ethanol plant property’ for ‘qualified  
17           property’ in clause (iv) thereof.

18           “(5) ALLOWANCE AGAINST ALTERNATIVE MIN-  
19           IMUM TAX.—For purposes of this subsection, rules  
20           similar to the rules of section 168(k)(2)(G) shall  
21           apply.

22           “(6) RECAPTURE.—For purposes of this sub-  
23           section, rules similar to the rules under section  
24           179(d)(10) shall apply with respect to any qualified  
25           cellulosic biomass ethanol plant property which

1 ceases to be qualified cellulosic biomass ethanol  
2 plant property.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act, in taxable years  
6 ending after such date.

7 **SEC. 1102. COAL-TO-LIQUID FACILITIES.**

8 (a) **IN GENERAL.**—Section 168 of the Internal Rev-  
9 enue Code of 1986 (relating to accelerated cost recovery  
10 system), as amended by this Act, is amended by adding  
11 at the end the following:

12 “(p) **SPECIAL ALLOWANCE FOR COAL-TO-LIQUID**  
13 **PLANT PROPERTY.**—

14 “(1) **ADDITIONAL ALLOWANCE.**—In the case of  
15 any qualified coal-to-liquid plant property—

16 “(A) the depreciation deduction provided  
17 by section 167(a) for the taxable year in which  
18 such property is placed in service shall include  
19 an allowance equal to 50 percent of the ad-  
20 justed basis of such property, and

21 “(B) the adjusted basis of such property  
22 shall be reduced by the amount of such deduc-  
23 tion before computing the amount otherwise al-  
24 lowable as a depreciation deduction under this

1 chapter for such taxable year and any subse-  
2 quent taxable year.

3 “(2) QUALIFIED COAL-TO-LIQUID PLANT PROP-  
4 ERTY.—

5 “(A) IN GENERAL.—The term ‘qualified  
6 coal-to-liquid plant property’ means property of  
7 a character subject to the allowance for depre-  
8 ciation—

9 “(i) which is part of a commercial-  
10 scale project that converts coal to 1 or  
11 more liquid or gaseous transportation fuel  
12 that demonstrates the capture, and seques-  
13 tration or disposal or use of, the carbon di-  
14 oxide produced in the conversion process,  
15 and that, on the basis of carbon dioxide se-  
16 questration plan prepared by the applicant,  
17 is certified by the Administrator of the En-  
18 vironmental Protection Agency, in con-  
19 sultation with the Secretary of Energy, as  
20 producing fuel with life cycle carbon diox-  
21 ide emissions at or below the average life-  
22 cycle carbon dioxide emissions for the same  
23 type of fuel produced at traditional petro-  
24 leum based facilities with similar annual  
25 capacities,

1           “(ii) which is used in the United  
2 States solely to produce coal-to-liquid fuels,

3           “(iii) the original use of which com-  
4 mences with the taxpayer after the date of  
5 the enactment of this subsection,

6           “(iv) which has a nameplate capacity  
7 of 30,000 barrels per day production of  
8 coal-to-liquid fuels,

9           “(v) which is acquired by the taxpayer  
10 by purchase (as defined in section 179(d))  
11 after the date of the enactment of this sub-  
12 section, but only if no written binding con-  
13 tract for the acquisition was in effect on or  
14 before the date of the enactment of this  
15 subsection, and

16           “(vi) which is placed in service by the  
17 taxpayer before January 1, 2013.

18           “(B) EXCEPTIONS.—

19           “(i) ALTERNATIVE DEPRECIATION  
20 PROPERTY.—Such term shall not include  
21 any property described in section  
22 168(k)(2)(D)(i).

23           “(ii) TAX-EXEMPT BOND-FINANCED  
24 PROPERTY.—Such term shall not include  
25 any property any portion of which is fi-

1           nanced with the proceeds of any obligation  
2           the interest on which is exempt from tax  
3           under section 103.

4           “(iii) ELECTION OUT.—If a taxpayer  
5           makes an election under this subparagraph  
6           with respect to any class of property for  
7           any taxable year, this subsection shall not  
8           apply to all property in such class placed  
9           in service during such taxable year.

10          “(3) SPECIAL RULES.—For purposes of this  
11          subsection, rules similar to the rules of subpara-  
12          graph (E) of section 168(k)(2) shall apply, except  
13          that such subparagraph shall be applied—

14                 “(A) by substituting ‘the date of the enact-  
15                 ment of subsection (l)’ for ‘December 31, 2007’  
16                 each place it appears therein,

17                 “(B) by substituting ‘January 1, 2013’ for  
18                 ‘January 1, 2010’ in clause (i) thereof, and

19                 “(C) by substituting ‘qualified coal-to-liq-  
20                 uid plant property’ for ‘qualified property’ in  
21                 clause (iv) thereof.

22          “(4) ALLOWANCE AGAINST ALTERNATIVE MIN-  
23          IMUM TAX.—For purposes of this subsection, rules  
24          similar to the rules of section 168(k)(2)(G) shall  
25          apply.

1           “(5) RECAPTURE.—For purposes of this sub-  
2           section, rules similar to the rules under section  
3           179(d)(10) shall apply with respect to any qualified  
4           coal-to-liquid plant property which ceases to be  
5           qualified coal-to-liquid plant property.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7           this subsection shall apply to property placed in service  
8           after the date of the enactment of this Act, in taxable  
9           years ending after such date.

10   **SEC. 1103. DEDICATED ETHANOL PIPELINES TREATED AS**  
11                           **15-YEAR PROPERTY.**

12           (a) IN GENERAL.—Section 168(e)(3)(E) of the Inter-  
13           nal Revenue Code of 1986 (defining 15-year property), is  
14           amended by striking “and” at the end of clause (viii), by  
15           striking the period at the end of clause (ix) and by insert-  
16           ing “, and”, and by adding at the end the following new  
17           clause:

18                           “(x) any dedicated ethanol distribu-  
19                           tion line the original use of which com-  
20                           mences with the taxpayer after August 1,  
21                           2007, and which is placed in service before  
22                           January 1, 2013.”.

23           (b) ALTERNATIVE SYSTEM.—The table contained in  
24           section 168(g)(3)(B) of such Code (relating to special rule  
25           for certain property assigned to classes) is amended by

1 inserting after the item relating to subparagraph (E)(ix)  
 2 the following new item:

“(E)(x) ..... 35”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by  
 5 this section shall apply to property placed in service  
 6 after August 1, 2008.

7 (2) EXCEPTION.—The amendments made by  
 8 this section shall not apply to any property with re-  
 9 spect to which the taxpayer or related party has en-  
 10 tered into a binding contract for the construction  
 11 thereof on or before August 1, 2009, or, in the case  
 12 of self-constructed property, has started construction  
 13 on or before such date.

14 **SEC. 1104. CREDIT FOR POLLUTION ABATEMENT EQUIP-**  
 15 **MENT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-  
 17 chapter A of chapter 1 of the Internal Revenue Code of  
 18 1986 is amended by inserting after section 45Q the fol-  
 19 lowing new section:

20 **“SEC. 45R. CREDIT FOR POLLUTION ABATEMENT EQUIP-**  
 21 **MENT.**

22 “(a) GENERAL RULE.—For purposes of section 38,  
 23 the pollution abatement equipment credit for any taxable  
 24 year is an amount equal to 30 percent of the costs of any



1 qualified pollution abatement equipment property placed  
2 in service by the taxpayer during the taxable year.

3 “(b) LIMITATION.—The credit allowed under sub-  
4 section (a) for any taxable year with respect to any quali-  
5 fied pollution abatement equipment property shall not ex-  
6 ceed—

7 “(1) \$50,000,000 in the case of a property of  
8 a character subject an allowance for depreciation  
9 provided in section 167, and

10 “(2) \$30,000,000 in any other case.

11 “(c) QUALIFIED POLLUTION ABATEMENT EQUIP-  
12 MENT PROPERTY.—For purposes of this section, the term  
13 ‘qualified pollution abatement equipment property’ means  
14 pollution abatement equipment—

15 “(1) which is part of a unit or facility which ei-  
16 ther—

17 “(A) utilizes technologies that meet rel-  
18 evant Federal and State clean air requirements  
19 applicable to the unit or facility, including being  
20 adequately demonstrated for purposes of section  
21 111 of the Clean Air Act (42 U.S.C. 7411),  
22 achievable for purposes of section 169 of that  
23 Act (42 U.S.C. 7479), or achievable in practice  
24 for purposes of section 171 of that Act (42  
25 U.S.C. 7501), or

1           “(B) utilizes equipment or processes that  
2           exceed relevant Federal or State clean air re-  
3           quirements applicable to the unit or facility by  
4           achieving greater efficiency or environmental  
5           performance,

6           “(2) which is installed on a voluntary basis and  
7           not as a result of an agreement with a Federal or  
8           State agency or required as a decree from a judicial  
9           decision, and

10           “(3) with respect to which an election under  
11           section 169 is not in effect.”.

12           (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
13           NESS CREDIT.—Section 38(b) of such Code is amended  
14           by striking “plus” at the end of paragraph (34), by strik-  
15           ing the period at the end of paragraph (35) and inserting  
16           “, plus”, and by adding at the end the following new para-  
17           graph:

18           “(36) the pollution abatement equipment credit  
19           determined under section 45R(a).”.

20           (c) CLERICAL AMENDMENT.—The table of sections  
21           for subpart D of part IV of subchapter A of chapter 1  
22           of such Code is amended by inserting after the item relat-  
23           ing to section 45Q the following new item:

          “Sec. 45R. Credit for pollution abatement equipment.”.

24           (d) EFFECTIVE DATE.—The amendments made by  
25           this section shall apply to expenditures made after the

1 date of the enactment of this Act, in taxable years ending  
2 after such date.

3 **SEC. 1105. MODIFICATIONS RELATING TO CLEAN RENEW-**  
4 **ABLE ENERGY BONDS.**

5 (a) CLEAN RENEWABLE ENERGY BOND.—Paragraph  
6 (1) of section 54(d) of the Internal Revenue Code of 1986  
7 (defining clean renewable energy bond) is amended—

8 (1) in subparagraph (A), by striking “pursu-

9 ant” and all that follows through “subsection

10 (f)(2)”,

11 (2) in subparagraph (B), by striking “95 per-

12 cent or more of the proceeds” and inserting “90 per-

13 cent or more of the net proceeds”, and

14 (3) in subparagraph (D), by striking “sub-

15 section (h)” and inserting “subsection (g)”.

16 (b) QUALIFIED PROJECT.—Subparagraph (A) of sec-

17 tion 54(d)(2) of such Code (defining qualified project) is

18 amended to read as follows:

19 “(A) IN GENERAL.—The term ‘qualified

20 project’ means any qualified facility (as deter-

21 mined under section 45(d) without regard to

22 paragraphs (8) and (10) thereof and to any

23 placed in service requirement) owned by a

24 qualified borrower and also without regard to

25 the following:

1           “(i) In the case of a qualified facility  
2           described in section 45(d)(9) (regarding in-  
3           cremental hydropower production), any de-  
4           termination of incremental hydropower  
5           production and related calculations shall be  
6           determined by the qualified borrower based  
7           on a methodology that meets Federal En-  
8           ergy Regulatory Commission standards.

9           “(ii) In the case of a qualified facility  
10          described in section 45(d)(9) (regarding  
11          hydropower production), the facility need  
12          not be licensed by the Federal Energy  
13          Regulation Commission if the facility,  
14          when constructed, will meet Federal En-  
15          ergy Regulatory Commission licensing re-  
16          quirements and other applicable environ-  
17          mental, licensing, and regulatory require-  
18          ments.”.

19          (c) REIMBURSEMENT.—Subparagraph (C) of section  
20          54(d)(2) of such Code (relating to reimbursement) is  
21          amended to read as follows:

22                 “(C) REIMBURSEMENT.—For purposes of  
23                 paragraph (1)(B), proceeds of a clean renew-  
24                 able energy bond may be issued to reimburse a  
25                 qualified borrower for amounts paid after the

1           date of the enactment of this subparagraph in  
2           the same manner as proceeds of State and local  
3           government obligations the interest upon which  
4           is exempt from tax under section 103.”.

5           (d) CHANGE IN USE.—Subparagraph (D) of section  
6 54(d)(2) of such Code (relating to treatment of changes  
7 in use) is amended by striking “or qualified issuer”.

8           (e) MAXIMUM TERM.—Paragraph (2) of section  
9 54(e) of such Code (relating to maximum term) is amend-  
10 ed by striking “without regard to the requirements of sub-  
11 section (1)(6) and”.

12          (f) REPEAL OF LIMITATION ON AMOUNT OF BONDS  
13 DESIGNATED.—Section 54 of such Code is amended by  
14 striking subsection (f) (relating to repeal of limitation on  
15 amount of bonds designated).

16          (g) SPECIAL RULES RELATING TO EXPENDI-  
17 TURES.—Subsection (h) of section 54 of such Code (relat-  
18 ing to special rules relating to expenditures) is amended—

19           (1) in paragraph (1)(A), by striking “95 per-  
20 cent of the proceeds” and inserting “90 percent of  
21 the net proceeds”,

22           (2) in paragraph (1)(B)—

23                (A) by striking “10 percent of the pro-  
24 ceeds” and inserting “5 percent of the net pro-  
25 ceeds”, and

1 (B) by striking “the 6-month period begin-  
2 ning on” both places it appears and inserting  
3 “1 year of”,

4 (3) in paragraph (1)(C), by inserting “net” be-  
5 fore “proceeds”, and

6 (4) in paragraph (3), by striking “95 percent of  
7 the proceeds” and inserting “90 percent of the net  
8 proceeds”.

9 (h) REPEAL OF SPECIAL RULES RELATING TO ARBI-  
10 TRAGE.—Section 54 of such Code is amended by striking  
11 subsection (i) (relating to repeal of special rules relating  
12 to arbitration).

13 (i) PUBLIC POWER ENTITY.—Subsection (j) of sec-  
14 tion 54 of such Code (defining cooperative electric com-  
15 pany; qualified energy tax credit bond lender; govern-  
16 mental body; qualified borrower) is amended—

17 (1) by redesignating paragraphs (4) and (5) as  
18 paragraphs (5) and (6), respectively,

19 (2) by inserting after paragraph (3) the fol-  
20 lowing new paragraph:

21 “(4) PUBLIC POWER ENTITY.—The term ‘public  
22 power entity’ means a State utility with a service ob-  
23 ligation, as such terms are defined in section 217 of  
24 the Federal Power Act (as in effect on the date of  
25 enactment of this paragraph).”

1 (3) in paragraph (5), as so redesignated—

2 (A) by striking “or” at the end of subpara-  
3 graph (B),

4 (B) by striking the period at the end of  
5 subparagraph (C) and inserting “, or”, and

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

8 “(D) a public power entity.”, and

9 (4) in paragraph (6), as so redesignated—

10 (A) by striking “or” at the end of subpara-  
11 graph (A),

12 (B) by striking the period at the end of  
13 subparagraph (B) and inserting “, or”, and

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

16 “(C) a public power entity.”.

17 (j) REPEAL OF RATABLE PRINCIPAL AMORTIZATION  
18 REQUIREMENT.—Subsection (l) of section 54 of such  
19 Code (relating to other definitions and special rules) is  
20 amended by striking paragraph (5) and redesignating  
21 paragraph (6) as paragraph (5).

22 (k) NET PROCEEDS.—Subsection (l) of section 54 of  
23 such Code (relating to other definitions and special rules),  
24 as amended by subsection (j), is amended by redesignating  
25 paragraphs (2), (3), (4), and (5) as paragraphs (4), (5),

1 (6), and (7), respectively, and by inserting after paragraph  
2 (1) the following new paragraphs:

3           “(2) NET PROCEEDS.—The term ‘net proceeds’  
4           means, with respect to an issue, the proceeds of such  
5           issue reduced by amounts in a reasonably required  
6           reserve or replacement fund.

7           “(3) LIMITATION ON AMOUNT IN RESERVE OR  
8           REPLACEMENT FUND WHICH MAY BE FINANCED BY  
9           ISSUE.—A bond issued as part of an issue shall not  
10          be treated as a clean renewable energy bond if the  
11          amount of the proceeds from the sale of such issue  
12          which is part of any reserve or replacement fund ex-  
13          ceeds 10 percent of the proceeds of the issue (or  
14          such higher amount which the issuer establishes is  
15          necessary to the satisfaction of the Secretary).”.

16          (l) OTHER SPECIAL RULES.—Subsection (l) of sec-  
17          tion 54 of such Code (relating to other definitions and spe-  
18          cial rules), as amended by subsections (j) and (k), is  
19          amended by adding at the end the following new para-  
20          graphs:

21               “(8) CREDITS MAY BE SEPARATED.—There  
22               may be a separation (including at issuance) of the  
23               ownership of a clean renewable energy bond and the  
24               entitlement to the credit under this section with re-  
25               spect to such bond. In case of any such separation,



1 the credit under this section shall be allowed to the  
2 person who on the credit allowance date holds the  
3 instrument evidencing the entitlement to the credit  
4 and not to the holder of the bond.

5 “(9) TREATMENT FOR ESTIMATED TAX PUR-  
6 POSES.—Solely for the purposes of sections 6654  
7 and 6655, the credit allowed by this section to a tax-  
8 payer by reason of holding a qualified energy tax  
9 credit bond on a credit allowance date (or the credit  
10 in the case of a separation as provided in paragraph  
11 (8)) shall be treated as if it were a payment of esti-  
12 mated tax made by the taxpayer on such date.

13 “(10) CARRYBACK AND CARRYFORWARD OF UN-  
14 USED CREDITS.—If the sum of the credit exceeds  
15 the limitation imposed by subsection (c) for any tax-  
16 able year, any credits may be applied in a manner  
17 similar to the rules set forth in section 39.”.

18 (m) TERMINATION.—Subsection (m) of section 54 of  
19 such Code (relating to termination) is amended by striking  
20 “2008” and inserting “2013”.

21 (n) CLERICAL REDESIGNATIONS.—Section 54 of such  
22 Code, as amended by the preceding provisions of this sec-  
23 tion, is amended by redesignating subsections (g), (h), (j),  
24 (k), (l), and (m) as subsections (f), (g), (h), (i), (j), and  
25 (k), respectively.

1 (o) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued after the date  
3 of the enactment of this Act.

4 **SEC. 1106. EXTENSION OF RENEWABLE ENERGY PRODUC-**  
5 **TION TAX CREDIT.**

6 (a) IN GENERAL.—Section 45 of the Internal Rev-  
7 enue Code of 1986 is amended—

8 (1) by striking “10-year period beginning on  
9 the date the facility was originally placed in service,”  
10 in subsection (a)(2)(A)(ii) and inserting “5-year pe-  
11 riod beginning on the date the facility was originally  
12 placed in service,”,

13 (2) by striking “in subsection (a)(2)(A)(ii).” in  
14 subsection (b)(4)(B)(i) and inserting “beginning on  
15 the date the facility was originally placed in serv-  
16 ice.”,

17 (3) by striking “in subsection (a)(2)(A)(ii).” in  
18 subsection (b)(4)(B)(ii) and inserting “beginning on  
19 the date the facility was originally placed in serv-  
20 ice.”, and

21 (4) by striking “January 1, 2009” each place  
22 it appears in subsection (d) and inserting “January  
23 1, 2020”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 the date of the enactment of this Act.

## 4 **Subtitle C—Repeal of Federal** 5 **Purchasing Requirement**

### 6 **SEC. 1201. REPEAL OF FEDERAL PURCHASING REQUIRE-** 7 **MENT.**

8 Section 526 of the Energy Independence and Security  
9 Act of 2007 is repealed.

## 10 **Subtitle D—Renewable** 11 **Technologies**

### 12 **SEC. 1301. PILOT PROJECT FOR DEVELOPING SOLAR EN-** 13 **ERGY ON FEDERAL LANDS.**

14 (a) IN GENERAL.—The Secretary of the Interior shall  
15 carry out in accordance with this section a pilot project  
16 for the leasing of Federal lands for the advancement, de-  
17 velopment, assessment, installation, and operation of com-  
18 mercial photovoltaic and concentrating solar power energy  
19 systems.

20 (b) IDENTIFICATION OF LANDS FOR LEASING.—

21 (1) LANDS SELECTION.—For purposes of this  
22 section, the Secretary of the Interior, acting through  
23 the Director of the Bureau of Land Management  
24 and in consultation with the Secretary of Energy,  
25 shall—

1 (A) identify lease sites of Federal lands  
2 under the jurisdiction of the Bureau of Land  
3 Management in the States of Arizona, Cali-  
4 fornia, New Mexico, Nevada, and Utah, that  
5 are suitable and feasible for the installation and  
6 operation of photovoltaic and concentrating  
7 solar power energy systems under the pilot  
8 project, subject to valid existing rights; and

9 (B) incorporate solar energy development  
10 under the pilot project into the relevant agency  
11 land use and resource management plans or  
12 equivalent plans for the lands identified under  
13 subparagraph (A).

14 (2) MINIMUM AND MAXIMUM ACREAGE OF  
15 SITES.—Each individual lease site identified under  
16 paragraph (1)(A) shall be a minimum of 1280 acres  
17 and shall not exceed 12,800 acres.

18 (3) LANDS RELEASED FOR LEASING.—The Sec-  
19 retary shall release for leasing under the pilot  
20 project lease sites identified under paragraph (1), in  
21 acreages that meet the following annual milestones:

22 (A) By 2010, 79,012 acres.

23 (B) By 2011, 316,049 acres.

1           (4) LANDS NOT INCLUDED.—The following  
2 Federal lands shall not be included within the pilot  
3 project:

4           (A) Components of the National Land-  
5 scape Conservation System.

6           (B) Wilderness and Wilderness Study  
7 Areas.

8           (C) Wild and Scenic Rivers.

9           (D) National Scenic and Historic Trails.

10          (E) Monuments.

11          (F) Resource Natural Areas.

12          (c) REPORT.—The Secretary shall report to the Con-  
13 gress by not later than December 31, 2013, regarding the  
14 results of the pilot project and the viability of leasing Bu-  
15 reau of Land Management lands for solar power energy  
16 production.

17 **SEC. 1302. THREE-YEAR DEPRECIATION FOR SOLAR AND**  
18 **FUEL CELL PROPERTY.**

19          (a) IN GENERAL.—Subparagraph (A) of section  
20 168(e)(3) of the Internal Revenue Code of 1986 (defining  
21 3-year property) is amended by striking “and” at the end  
22 of clause (ii), by striking the period at the end of clause  
23 (iii) and inserting a comma, and by inserting after clause  
24 (iii) the following:

1 “(iv) any property which is described  
2 in clause (i) or (ii) of section 48(a)(3)(A)  
3 (relating to solar), or would be so de-  
4 scribed if the last sentence of such section  
5 did not apply to such clauses, and

6 “(v) any property which is described  
7 in paragraph (1) of section 48(c) (defining  
8 qualified fuel cell property).”.

9 (b) CONFORMING AMENDMENT.—Section  
10 168(e)(3)(B)(vi)(I) of such Code is amended by inserting  
11 “(other than (i) or (ii) thereof and so much of clause (iv)  
12 thereof as relates to qualified fuel cell property)” after  
13 “subparagraph (A)”.

14 (c) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to property placed in service on  
16 or after December 31, 2009.

17 **SEC. 1303. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**  
18 **DUCED FROM WIND AND BIOMASS.**

19 (a) WIND.—Paragraph (1) of section 45(d) of the In-  
20 ternal Revenue Code of 1986 is amended by striking “Jan-  
21 uary 1, 2013” and inserting “January 1, 2018”.

22 (b) BIOMASS.—Paragraphs (2) and (3) of section  
23 45(d) of such Code is amended by striking “January 1,  
24 2014” each place it appears and inserting “January 1,  
25 2019”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 the date of the enactment of this Act.

4 **SEC. 1304. NUCLEAR, HYDROPOWER, AND BIOMASS DE-**  
5 **FINED AS RENEWABLE.**

6 For any public law after the enactment of the Amer-  
7 ican Energy Innovation Act, any requirement that a per-  
8 centage our total electrical supply must come from renew-  
9 able sources, or if a Renewable Energy Portfolio is en-  
10 acted, for purposes of that law, nuclear energy, biomass,  
11 hydrokinetic, and hydroelectirecty shall be defined as re-  
12 newable.

13 **SEC. 1305. PERMANENT EXTENSION OF THE CREDIT FOR**  
14 **NONBUSINESS ENERGY PROPERTY AND THE**  
15 **CREDIT FOR GAS PRODUCED FROM BIOMASS**  
16 **AND FOR SYNTHETIC FUELS PRODUCED**  
17 **FROM COAL.**

18 (a) CREDIT FOR NONBUSINESS ENERGY PROPERTY  
19 MADE PERMANENT.—

20 (1) IN GENERAL.—Section 25C of the Internal  
21 Revenue Code of 1986 is amended by striking sub-  
22 section (g).

23 (2) EFFECTIVE DATE.—The amendment made  
24 by this subsection shall apply to property placed in  
25 service after December 31, 2008.

1 (b) CREDIT FOR GAS PRODUCED FROM BIOMASS  
2 AND FOR SYNTHETIC FUELS PRODUCED FROM COAL  
3 MADE PERMANENT.—

4 (1) IN GENERAL.—Subparagraph (B) of section  
5 45K(f)(1) of such Code is amended to read as fol-  
6 lows:

7 “(B) if such facility is originally placed in  
8 service after December 31, 1992, paragraph (2)  
9 of subsection (e) shall not apply.”.

10 (2) EFFECTIVE DATE.—The amendment made  
11 by this subsection shall apply to fuel sold after De-  
12 cember 31, 2008.

13 **SEC. 1306. ALGAE-BASED FUELS PARITY.**

14 (a) WITH ALCOHOL, ETC, USED AS FUEL.—Section  
15 40(b) of the Internal Revenue Code is amended by insert-  
16 ing after paragraph (6) the following:

17 “(7) ALGAE-BASED BIOFUEL CREDIT.—

18 “(A) IN GENERAL.—For the purpose of  
19 this section, algae-based biofuels shall be treat-  
20 ed in the same manner as cellulosic biofuel.

21 “(B) DEFINITIONS.—For purposes of sub-  
22 paragraph (A)—

23 “(i) the term ‘algae-based fuel’ means  
24 a liquid fuel derived from the biomass of



1           algal organisms that can replace fuel de-  
2           rived from petroleum, and

3                   “(ii) the term ‘algal organisms’ means  
4           single or multi-cellular organisms which  
5           are inherently aquatic and classified as  
6           non-vascular plants, which include (i)  
7           microalgae, (ii) blue-green algae  
8           (cyanobacteria), and (iii) macroalgae (sea-  
9           weeds).”.

10       (b) WITH RENEWABLE DIESEL.—Section 40A of  
11 such Code is amended by inserting after paragraph (4)  
12 the following:

13           “(5) ALGAE-BASED BIOFUEL.—

14                   “(A) IN GENERAL.—Except as provided in  
15           the last 3 sentences of paragraph (3), the term  
16           ‘renewable diesel’ shall include algae-based  
17           biofuels.

18                   “(B) DEFINITIONS.—For purposes of this  
19           paragraph—

20                   “(i) the term ‘algae-based fuel’ means  
21           a liquid fuel derived from the biomass of  
22           algal organisms that can replace fuel de-  
23           rived from petroleum, and

24                   “(ii) the term ‘algal organisms’ means  
25           single or multi-cellular organisms which

1           are inherently aquatic and classified as  
2           non-vascular plants, which include (i)  
3           microalgae, (ii) blue-green algae  
4           (cyanobacteria), and (iii) macroalgae (sea-  
5           weeds).”.

6           (c) BONUS DEPRECIATION FOR ALGAE-BASED FUEL  
7 EQUIPMENT.—Subsection (l) of section 168 of such Code  
8 is amended by inserting after paragraph (8) the following:

9           “(9) ALGAE-BASED FUEL PLANT PROPERTY.—

10           “(A) IN GENERAL.—For the purpose of  
11 this section, qualified algae-based fuel plant  
12 property equipment shall be treated in the same  
13 manner as qualified cellulosic biofuel plant  
14 property.

15           “(B) DEFINITIONS.—For purposes of sub-  
16 paragraph (A)—

17           “(i) QUALIFIED ALGAE-BASED FUEL  
18 PLANT PROPERTY.—The term ‘qualified  
19 algae-based fuel plant property’ means  
20 property of a character subject to the al-  
21 lowance for depreciation—

22           “(I) which is used in the United  
23 States solely to produce algae-based  
24 fuel,

1                   “(II) the original use of which  
2                   commences with the taxpayer after  
3                   the date of the enactment of this  
4                   paragraph,

5                   “(III) which is acquired by the  
6                   taxpayer by purchase after the date of  
7                   the enactment of this paragraph, but  
8                   only if no written binding contract for  
9                   the acquisition was in effect on or be-  
10                  fore the date of the enactment of this  
11                  paragraph, and

12                  “(IV) which is placed in service  
13                  by the taxpayer before January 1,  
14                  2017.

15                  “(ii) ALGAE-BASED FUEL.—The term  
16                  ‘algae-based fuel’ means a liquid fuel de-  
17                  rived from the biomass of algal organisms  
18                  that can replace fuel derived from petro-  
19                  leum.

20                  “(iii) ALGAL ORGANISMS.—The term  
21                  ‘algal organisms’ means single or multi-cel-  
22                  lular organisms which are inherently  
23                  aquatic and classified as non-vascular  
24                  plants, which include (i) microalgae, (ii)

1 blue-green algae (cyanobacteria), and (iii)  
2 macroalgae (seaweeds).”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 the date of the enactment of this Act.

6 **Subtitle A—Rewarding Innovation**  
7 **in Technology**

8 **SEC. 1401. INCREASE IN ALTERNATIVE SIMPLIFIED RE-**  
9 **SEARCH CREDIT.**

10 Subparagraph (A) of section 41(e)(5) of the Internal  
11 Revenue Code of 1986 (relating to election of alternative  
12 simplified credit) is amended by striking “14 percent (12  
13 percent in the case of taxable years ending before January  
14 1, 2009)” and inserting “20 percent”.

15 **SEC. 1402. RESEARCH AND EXPERIMENTATION CREDIT**  
16 **PERMANENT.**

17 (a) IN GENERAL.—Section 41 of the Internal Rev-  
18 enue Code of 1986 is amended by striking subsection (h).

19 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
20 section 45C(b) of such Code is amended by striking sub-  
21 paragraph (D).

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to amounts paid or incurred after  
24 December 31, 2009.

1 **SEC. 1403. ALTERNATIVE FUEL VEHICLE INNOVATION**  
2 **PRIZE.**

3 (a) **IN GENERAL.**—The Secretary shall carry out a  
4 program to be referred to as the “Alternative Fuel Vehicle  
5 Innovation Prize” to competitively award cash prizes to  
6 eligible contestants in conformity with this Act to advance  
7 the research, development, demonstration, and commercial  
8 application of alterative fuel vehicles.

9 (b) **ADVERTISING AND SOLICITATION OF COMPETI-**  
10 **TORS.**—

11 (1) **ADVERTISING.**—The Secretary shall widely  
12 advertise prize competitions to encourage broad par-  
13 ticipation in the program carried out under sub-  
14 section (a).

15 (2) **ANNOUNCEMENT THROUGH FEDERAL REG-**  
16 **ISTER NOTICE.**—The Secretary shall announce each  
17 prize competition by publishing a notice in the Fed-  
18 eral Register. This notice shall include the subject of  
19 the competition, the duration of the competition, the  
20 eligibility requirements for participation in the com-  
21 petition, the process for participants to register for  
22 the competition, the amount of the prize, and the  
23 criteria for awarding the prize.

24 (c) **PRIZES; SELECTION CRITERIA.**—

25 (1) **GRAND PRIZE.**—

1 (A) IN GENERAL.—There shall be one  
2 grand prize of \$10,000,000,000.

3 (B) PROTOTYPE REQUIREMENT.—In order  
4 to be eligible to receive the grand prize under  
5 this section, an eligible contestant must produce  
6 a prototype of an alternative fuel vehicle.

7 (C) SELECTION CRITERIA.—The Secretary  
8 shall develop, in consultation with the Secretary  
9 of Transportation and the Director of the Na-  
10 tional Science Foundation, criteria on which to  
11 select the grand prize winner. Such criteria  
12 shall include, at a minimum, the following fac-  
13 tors:

14 (i) The extent to which the prototype  
15 will reduce the reliance of the United  
16 States on foreign sources of energy.

17 (ii) The reduction in fuel costs of op-  
18 erating the prototype compared to a simi-  
19 lar non-alternative fuel vehicle.

20 (iii) The extent to which the prototype  
21 meets or exceeds Federal safety standards.

22 (iv) Whether the prototype has a fuel  
23 economy of at least 100 miles per gallon.

1 (v) The extent to which the prototype  
2 limits hazardous emissions compared to a  
3 comparable non-alternative fuel vehicle.

4 (vi) The possibility of wide commercial  
5 application, including the production of ve-  
6 hicles that are not hindered by lack of re-  
7 fueling infrastructure.

8 (vii) The estimated cost of the proto-  
9 type, if it were mass-produced, and wheth-  
10 er such cost is equivalent to the cost of a  
11 comparable non-alternative fuel vehicle.

12 (viii) Whether the prototype could be  
13 mass-produced in the United States.

14 (D) DEADLINE FOR AWARDING GRAND  
15 PRIZE.—The Secretary shall set a deadline of  
16 not later than 5 years after the date of the en-  
17 actment of this Act for awarding the grand  
18 prize.

19 (2) ADDITIONAL PRIZES.—

20 (A) IN GENERAL.—The Secretary may  
21 choose to award no more than 5 additional  
22 prizes, with such additional prizes having a  
23 total combined value of no more than  
24 \$100,000,000.

1 (B) SELECTION CRITERIA.—Winners of  
2 additional prizes shall be selected based on their  
3 demonstration of—

4 (i) Substantial advancements in spe-  
5 cific areas of alternative vehicle tech-  
6 nologies, components, or systems; or

7 (ii) transformational changes in tech-  
8 nology.

9 (C) DEADLINE FOR AWARDING ADDI-  
10 TIONAL PRIZES.—The Secretary shall set a  
11 deadline of not later than 5 years after the date  
12 of the enactment of this Act for awarding any  
13 additional prizes.

14 (d) JUDGING.—

15 (1) IN GENERAL.—The Secretary shall appoint  
16 5 individuals to serve as judges for the purpose of  
17 selecting the prize winners under this section. The  
18 judges shall select the grand prize winner based on  
19 the criteria developed under subsection (c)(1)(C) and  
20 shall select any additional prize winners based on  
21 the criteria described under subsection (c)(2)(B).

22 (2) JUDGE REQUIREMENTS.—In order to be ap-  
23 pointed as a judge, an individual may not have a fi-  
24 nancial interest in any contestant and may not be an



1 employee, officer, director, agent, or family member  
2 of any contestant.

3 (e) REPORT.—Not later than 60 days after all prizes  
4 are awarded under this section, the Secretary shall trans-  
5 mit a report to the Congress containing—

6 (1) a list of award recipients;

7 (2) a description of the technologies developed  
8 by the award recipients; and

9 (3) a description of the actions being taken to-  
10 ward the commercial application of the technologies  
11 developed by the award recipients.

12 (f) INTELLECTUAL PROPERTY.—The Federal Gov-  
13 ernment shall not, by virtue of offering or awarding a  
14 prize under this section, be entitled to any intellectual  
15 property rights derived as a consequence of, or in direct  
16 relation to, the participation by a participant in a competi-  
17 tion authorized by this section. This subsection shall not  
18 be construed to prevent the Federal Government from ne-  
19 gotiating a license for the use of intellectual property de-  
20 veloped for a prize competition under this section. The  
21 Federal Government may seek assurances that tech-  
22 nologies for which prizes are awarded under this section  
23 are offered for commercialization in the event an award  
24 recipient does not take, or is not expected to take within

1 a reasonable time, effective steps to achieve practical ap-  
 2 plication of the technology.

3 (g) WAIVER OF LIABILITY.—The Secretary may re-  
 4 quire participants to waive claims against the Federal  
 5 Government for any injury, death, damage, or loss of  
 6 property, revenue, or profits arising from the participants’  
 7 participation in a competition under this section. The Sec-  
 8 retary shall give notice of any waiver required under this  
 9 section in the notice required by subsection (b)(2).

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
 11 are authorized such sums as may be necessary to carry  
 12 out the provisions of this section.

## 13 **Subtitle B—Improve National Grid** 14 **Efficiency**

### 15 **SEC. 1501. INCOME AND GAINS FROM ELECTRICITY TRANS-** 16 **MISSION SYSTEMS TREATED AS QUALIFYING** 17 **INCOME FOR PUBLICLY TRADED PARTNER-** 18 **SHIPS.**

19 (a) IN GENERAL.—Section 7704(d)(1) of the Inter-  
 20 nal Revenue Code of 1986 (defining qualifying income) is  
 21 amended by redesignating subparagraphs (F) and (G) as  
 22 subparagraphs (G) and (H), respectively, and by inserting  
 23 after subparagraph (E) the following new subparagraph:

24 “(F) income and gains from the trans-  
 25 mission of electricity at 69 or more kilovolts

1 through any property the original use of which  
2 commences after December 31, 2006,”.

3 (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act, in taxable years ending after such date.

6 **SEC. 1502. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR**  
7 **DEPRECIATION OF QUALIFIED SMART ELEC-**  
8 **TRIC METERS.**

9 (a) **IN GENERAL.**—Section 168(e)(3)(B) of the Inter-  
10 nal Revenue Code of 1986 (defining 5-year property) is  
11 amended by striking “and” at the end of clause (vi), by  
12 striking the period at the end of clause (vii) and inserting  
13 “, and”, and by inserting after clause (vii) the following  
14 new clause:

15 “(viii) any qualified smart electric  
16 meter.”.

17 (b) **CONFORMING AMENDMENT.**—Section  
18 168(e)(3)(D) of such Code is amended by striking clause  
19 (iii) and redesignating clause (iv) as clause (iii).

20 (c) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply to property placed in service in  
22 taxable years ending after the date of the enactment of  
23 this Act.

## 1     **Subtitle C—Regulatory Burdens**

### 2     **SEC. 1601. GREENHOUSE GAS REGULATION UNDER CLEAN** 3                     **AIR ACT.**

4             (a) DEFINITION OF AIR POLLUTANT.—Section  
5 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is  
6 amended by adding the following at the end thereof: “The  
7 term ‘air pollutant’ shall not include carbon dioxide, water  
8 vapor, methane, nitrous oxide, hydrofluorocarbons,  
9 perfluorocarbons, or sulfur hexafluoride.”.

10            (b) CLIMATE CHANGE NOT REGULATED BY CLEAN  
11 AIR ACT.—Nothing in the Clean Air Act shall be treated  
12 as authorizing or requiring the regulation of climate  
13 change or global warming.

### 14     **SEC. 1602. NEPA JUDICIAL REVIEW.**

15            Title I of the National Environmental Policy Act of  
16 1969 (42 U.S.C. 4331 et seq.) is amended by adding at  
17 the end the following new section:

#### 18     **“SEC. 106. JUDICIAL REVIEW.**

19            “(a) IN GENERAL.—Review of a Federal agency’s  
20 compliance with section 102 of the Act may be filed in  
21 the circuit in which the petitioner resides or transacts  
22 business which is directly affected by the action. Any such  
23 application for review shall be made within ninety days  
24 from the date of promulgation of the Federal agency’s de-  
25 cision.

1 “(b) PROCEDURES FOR REVIEW.—

2 “(1) LIMITATION.—In any judicial action under  
3 this Act, judicial review of any issues concerning a  
4 Federal agency’s compliance with section 102 shall  
5 be limited to the administrative record. Otherwise  
6 applicable principles of administrative law shall gov-  
7 ern whether any supplemental materials may be con-  
8 sidered by the court.

9 “(2) STANDARD.—In considering objections  
10 raised in any judicial action under this Act, the  
11 court shall uphold the Federal agency’s decision,  
12 whether in is the first instance, a revocation, reces-  
13 sion or other action, unless the objecting party can  
14 demonstrate, on the administrative record, that the  
15 decision was arbitrary and capricious or otherwise  
16 not in accordance with law.

17 “(3) REMEDY.—If the court finds that the se-  
18 lection of the response action was arbitrary and ca-  
19 pricious or otherwise not in accordance with law, the  
20 court shall award such relief as the court deems ap-  
21 propriate.

22 “(4) PROCEDURAL ERRORS.—In reviewing al-  
23 leged procedural errors, the court may disallow costs  
24 or damages only if the errors were so serious and re-  
25 lated to matters of such central relevance to the ac-

1           tion that the action would have been significantly  
2           changed had such errors not been made.

3           “(c) NOTICE OF ACTIONS.—Whenever any action is  
4 brought under this Act in a court of the United States  
5 by a plaintiff other than the United States, the plaintiff  
6 shall provide a copy of the complaint to the Attorney Gen-  
7 eral of the United States and to the Secretary or Adminis-  
8 trator of the affected Federal agency.

9           “(d) INTERVENTION.—In any action commenced  
10 under this Act, any person may intervene as a matter of  
11 right when such person claims an interest relating to the  
12 subject of the action and is so situated that the disposition  
13 of the action may, as a practical matter, impair or impede  
14 the person’s ability to protect that interest, unless the Sec-  
15 retary or Administrator shows that the person’s interest  
16 is adequately represented by existing parties.”.

17 **SEC. 1603. REPEAL OF 2007 AMENDMENTS TO RENEWABLE**  
18 **FUEL STANDARD.**

19           Section 211(o) of the Clean Air Act (42 U.S.C.  
20 7545(o)) is amended to read as provided in section  
21 1501(a)(2) of the Energy Policy Act of 2005 (Public Law  
22 109–58; 119 Stat. 594, 1067).

1 **SEC. 1604. REPEAL OF REQUIREMENT TO CONSULT RE-**  
2 **GARDING IMPACTS ON GLOBAL WARMING**  
3 **AND POLAR BEAR POPULATION.**

4 Section 429 of the Department of the Interior, Envi-  
5 ronment, and Related Agencies Appropriations Act, 2009  
6 (division E of Public Law 111–8) is repealed.

7 **SEC. 1605. LIGHT BULB CHOICE.**

8 (b) IN GENERAL.—Effective 6 months after the date  
9 of enactment of this Act, sections 321 and 322, and the  
10 items in the table of contents relating thereto, of the En-  
11 ergy Independence and Security Act of 2007 are repealed.

12 (c) REVERSION.—When the repeal occurs under  
13 paragraph (1), the amendments made by sections 321 and  
14 322 of the Energy Independence and Security Act of 2007  
15 are hereby repealed, and the laws amended thereby shall  
16 read as if those amendments had not been enacted.

17 **SEC. 1606. REPEAL OF DEDUCTION FOR INCOME ATTRIB-**  
18 **UTABLE TO DOMESTIC PRODUCTION ACTIVI-**  
19 **TIES.**

20 (a) IN GENERAL.—Section 199 of the Internal Rev-  
21 enue Code is repealed.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Sections 86(b)(2)(A), 135(c)(4)(A),  
24 137(b)(3)(A), 219(g)(3)(A)(ii), 221(b)(2)(C),  
25 246(b)(1), and 469(i)(3)(F) of such Code are each  
26 amended by striking “199,”.

1           (2) Clause (i) of section 163(j)(6)(A) of such  
2 Code is amended by inserting “and” at the end of  
3 subclause (II), by striking subclause (III) and by re-  
4 designating subclause (IV) as subclause (III).

5           (3) Subparagraph (C) of section 170(b)(2) of  
6 such Code is amended by striking clause (iv), by re-  
7 designating clause (v) as clause (iv), and by insert-  
8 ing “and” at the end of clause (iii).

9           (4) Subsection (d) of section 172 of such Code  
10 is amended by striking paragraph (7).

11           (5) Subsection (a) of section 613 of such Code  
12 is amended by striking “and without the deduction  
13 under section 199”.

14           (6) Paragraph (1) of section 613A(d) of such  
15 Code is amended by redesignating subparagraphs  
16 (C), (D), and (E) as subparagraphs (B), (C), and  
17 (D), respectively, and by striking subparagraph (B).

18           (7) Subsection (a) of section 1402 of such Code  
19 is amended by inserting “and” at the end of para-  
20 graph (15), by striking paragraph (16), and by re-  
21 designating paragraph (17) as paragraph (16).

22           (8) The table of sections for part VI of sub-  
23 chapter B of chapter 1 of such Code is amended by  
24 striking the item relating to section 199.



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

4 **SEC. 1607. HYDRAULIC FRACTURING.**

5 It is the sense of Congress that—

6 (1) the Safe Drinking Water Act was never in-  
7 tended to regulate natural gas and oil well construc-  
8 tion and stimulation;

9 (2) this responsibility has been effectively man-  
10 aged by the States reflecting their unique needs; and

11 (3) the modification of the Safe Drinking Water  
12 Act in the Energy Policy Act of 2005 to clarify that  
13 it was not intended to regulate the use of hydraulic  
14 fracturing was an appropriate and necessary action  
15 that should be retained.

16 **Subtitle D—Judicial Review**  
17 **Regarding Energy Projects**

18 **PART 1—JUDICIAL REVIEW REGARDING ENERGY**

19 **PROJECTS**

20 **SEC. 1701. EXCLUSIVE JURISDICTION OVER CAUSES AND**

21 **CLAIMS RELATING TO COVERED ENERGY**

22 **PROJECTS.**

23 Notwithstanding any other provision of law, the  
24 United States District Court for the District of Columbia  
25 shall have exclusive jurisdiction to hear all causes and

1 claims under this title or any other provision of law that  
2 arise from any covered energy project.

3 **SEC. 1702. TIME FOR FILING COMPLAINT.**

4 All causes and claims referred to in section 1701  
5 must be filed not later than the end of the 60-day period  
6 beginning on the date of the action or decision by a Fed-  
7 eral official that constitutes the covered energy project  
8 concerned. Any cause or claim not filed within that time  
9 period shall be barred.

10 **SEC. 1703. DISTRICT COURT FOR THE DISTRICT OF COLUM-**  
11 **BIA DEADLINE.**

12 (a) IN GENERAL.—All proceedings that are subject  
13 to section 1701—

14 (1) shall be resolved as expeditiously as pos-  
15 sible, and in any event not more than 180 days after  
16 such cause or claim is filed; and

17 (2) shall take precedence over all other pending  
18 matters before the district court.

19 (b) FAILURE TO COMPLY WITH DEADLINE.—If an  
20 interlocutory or final judgment, decree, or order has not  
21 been issued by the district court by the deadline described  
22 under this section, the cause or claim shall be dismissed  
23 with prejudice and all rights relating to such cause or  
24 claim shall be terminated.

1 **SEC. 1704. ABILITY TO SEEK APPELLATE REVIEW.**

2 An interlocutory or final judgment, decree, or order  
3 of the district court in a proceeding that is subject to sec-  
4 tion 1701 may be reviewed by no other court except the  
5 Supreme Court.

6 **SEC. 1705. DEADLINE FOR APPEAL TO THE SUPREME**  
7 **COURT.**

8 If a writ of certiorari has been granted by the Su-  
9 preme Court pursuant to section 1704, then—

10 (1) the interlocutory or final judgment, decree,  
11 or order of the district court shall be resolved as ex-  
12 peditiously as possible and in any event not more  
13 than 180 days after such interlocutory or final judg-  
14 ment, decree, order of the district court is issued;  
15 and

16 (2) all such proceedings shall take precedence  
17 over all other matters then before the Supreme  
18 Court.

19 **SEC. 1706. COVERED ENERGY PROJECT DEFINED.**

20 In this part, the term “covered energy project”  
21 means any action or decision by the President or a Federal  
22 official regarding—

23 (1) the leasing of Federal lands (including sub-  
24 merged lands) for the exploration, development, pro-  
25 duction, processing, or transmission of oil, natural  
26 gas, or any other source or form of energy, including

1 actions and decisions regarding the selection or of-  
2 fering of Federal lands for such leasing; or

3 (2) any action under such a lease.

4 **SEC. 1707. LIMITATION ON APPLICATION.**

5 This part shall not apply with respect to a covered  
6 energy project to the extent such application would be in-  
7 consistent with part 2.

8 **PART 2—PERMITTING REFORM**

9 **SEC. 1711. PURPOSES.**

10 The purposes of this part are to—

11 (1) respond to the Nation’s increased need for  
12 domestic energy resources;

13 (2) facilitate interagency coordination and co-  
14 operation in the processing of permits required to  
15 support oil and gas use authorization on Federal  
16 lands, both onshore and on the outer Continental  
17 Shelf, in order to achieve greater consistency, cer-  
18 tainty, and timeliness in permit processing require-  
19 ments;

20 (3) promote process streamlining and increased  
21 interagency efficiency, including elimination of inter-  
22 agency duplication of effort;

23 (4) improve information sharing among agen-  
24 cies and understanding of respective agency roles  
25 and responsibilities;

1           (5) promote coordination with State agencies  
2           with expertise and responsibilities related to Federal  
3           oil and gas permitting decisions;

4           (6) promote responsible stewardship of Federal  
5           oil and gas resources;

6           (7) maintain high standards of safety and envi-  
7           ronmental protection; and

8           (8) enhance the benefits to Federal permitting  
9           already occurring as a result of a coordinated and  
10          timely interagency process for oil and gas permit re-  
11          view for certain Federal oil and gas leases.

12 **SEC. 1712. FEDERAL COORDINATOR.**

13          (a) ESTABLISHMENT.—There is established, as an  
14          independent agency in the Executive Branch, the Office  
15          of the Federal Oil and Gas Permit Coordinator.

16          (b) FEDERAL PERMIT COORDINATOR.—The Office  
17          shall be headed by a Federal Permit Coordinator, who  
18          shall be appointed by the President within 90 days after  
19          the date of enactment of this Act.

20          (c) DUTIES.—The Federal Permit Coordinator shall  
21          be responsible for the following:

22                 (1) Coordinating the timely completion of all  
23                 permitting activities by Federal agencies, and State  
24                 agencies to the maximum extent practicable, with re-  
25                 spect to any oil and gas project under a Federal

1 lease issued pursuant to the mineral leasing laws, ei-  
2 ther onshore or on the outer Continental Shelf. For  
3 purposes of this part only, such oil and gas projects  
4 shall include oil shale projects under Federal oil  
5 shale leases.

6 (2) Ensuring the compliance of Federal agen-  
7 cies, and State agencies to the extent they partici-  
8 pate, with this part.

9 **SEC. 1713. REGIONAL OFFICES AND REGIONAL PERMIT CO-**  
10 **ORDINATORS.**

11 (a) REGIONAL OFFICES.—Within 90 days after the  
12 date of appointment of the Federal Permit Coordinator,  
13 the Secretary of the Interior (Secretary), in consultation  
14 with the Federal Permit Coordinator, shall establish re-  
15 gional offices to coordinate review of Federal permits for  
16 oil and gas projects on Federal lands onshore and on the  
17 outer Continental Shelf.

18 (b) NUMBER AND LOCATION OF REGIONAL OF-  
19 FICES.—The number of regional offices shall be estab-  
20 lished by the Secretary in consultation with the Federal  
21 Permit Coordinator. The Secretary shall ensure that there  
22 is an adequate number of offices in each region proximate  
23 to available Federal oil and gas lease tracts onshore and  
24 on the outer Continental Shelf to meet the demands for  
25 expeditious permitting in that region. The Secretary shall

1 designate as regional offices under this section all offices  
2 established under section 365 of the Energy Policy Act  
3 of 2005 (42 U.S.C. 15924).

4 (c) MEMORANDUM OF UNDERSTANDING.—Within 90  
5 days after the appointment of the Federal Permit Coordi-  
6 nator, the Federal Permit Coordinator, the Secretary, the  
7 Secretary of Agriculture, the Secretary of Commerce, the  
8 Secretary of Homeland Security, the Administrator of the  
9 Environmental Protection Agency, the Secretary of De-  
10 fense, and the head of any other Federal agency with re-  
11 sponsibilities related to permitting of Federal oil and gas  
12 leases, shall enter into a memorandum of understanding  
13 (MOU) establishing respective duties and responsibilities  
14 for staffing the regional offices and accomplishing the ob-  
15 jectives of this section.

16 (d) DESIGNATION OF QUALIFIED STAFF.—

17 (1) IN GENERAL.—Not later than 30 days after  
18 the date of signing of the MOU under subsection  
19 (c), all Federal signatory agencies shall assign to  
20 each regional office the appropriate employees with  
21 expertise in the oil and gas permitting issues relat-  
22 ing to that office, including, but not limited, with re-  
23 spect to—

1 (A) consultation and preparation of bio-  
2 logical opinions under section 7 of the Endan-  
3 gered Species Act of 1973 (16 U.S.C. 1536);

4 (B) permits under section 404 of Federal  
5 Water Pollution Control Act (33 U.S.C. 1344);

6 (C) regulatory matters under the Clean Air  
7 Act (42 U.S.C. 7401 et seq.);

8 (D) planning under the National Forest  
9 Management Act of 1976 (16 U.S.C. 472a et  
10 seq.);

11 (E) the preparation of analyses under the  
12 National Environmental Policy Act of 1969 (42  
13 U.S.C. 4321 et seq.) (NEPA);

14 (F) applications for permits to drill under  
15 the Mineral Leasing Act (30 U.S.C. 181 et  
16 seq.); and

17 (G) exploration plans and development and  
18 production plans under the Outer Continental  
19 Shelf Lands Act (43 U.S.C. 1331 et seq.).

20 (2) PREFERENCE AND INCENTIVES.—To the  
21 maximum extent practicable, for purposes of this  
22 subsection, Federal agencies shall give preference to  
23 employees volunteering for reassignment to the re-  
24 gional offices, and shall offer incentives to attract  
25 and retain regional office employees, including, but



1 not limited to, retaining contract employees, rota-  
2 tional assignments, salary incentives of up to 120  
3 percent of an employee's existing salary immediately  
4 prior to reassignment, or any combination of strate-  
5 gies.

6 (e) DUTIES.—Each employee assigned under sub-  
7 section (d) shall—

8 (1) within 90 days after the date of assignment,  
9 report to the regional office to which the employee  
10 is assigned;

11 (2) be responsible for all issues relating to the  
12 jurisdiction of the home office or agency of the em-  
13 ployee; and

14 (3) participate as part of the team working on  
15 proposed oil and gas projects, planning, and environ-  
16 mental analyses.

17 (f) CREATION OF AND DELEGATION OF AUTHORITY  
18 TO REGIONAL PERMIT COORDINATORS.—The Federal  
19 Permit Coordinator shall appoint a Regional Permit Coor-  
20 dinator to be located within each regional office estab-  
21 lished under this section, with full authority to act on be-  
22 half of the Federal Permit Coordinator.

23 (g) ADDITIONAL PERSONNEL.—The Federal Permit  
24 Coordinator or Regional Permit Coordinators may at any  
25 time direct that any Federal agency party to the MOU

1 under subsection (c) assign additional staff required to im-  
2 plement the duties of the regional offices.

3 **SEC. 1714. REVIEWS AND ACTIONS OF FEDERAL AGENCIES.**

4 (a) SCHEDULES FOR TIMELY PERMIT DECISION-  
5 MAKING.—Within 10 days after the date on which the Sec-  
6 retary receives any oil and gas permit application or  
7 amended application, the Secretary shall either notify the  
8 applicant that the application is complete or notify the ap-  
9 plicant that information is missing and specify the infor-  
10 mation that is required to be submitted for the application  
11 to be complete. Within 30 days after notifying a permit  
12 applicant that an application is complete, the Secretary,  
13 in consultation with the permit applicant as necessary,  
14 shall determine and inform the Regional Permit Coordi-  
15 nator responsible for that project area whether the pro-  
16 posed permit is a class I, class II, or class III permit. The  
17 Regional Permit Coordinator shall as soon as possible but  
18 in no event later than 30 days following the Secretary's  
19 determination establish a binding schedule to ensure the  
20 most expeditious possible review and processing of the re-  
21 quested permit, in accordance with this section.

22 (b) PERMIT CLASSES AND SCHEDULES.—

23 (1) CLASS I PERMITS.—An oil and gas permit  
24 shall be designated as a class I permit under this  
25 section if the permitted activity is of a nature that

1 would typically require preparation of an environ-  
2 mental impact statement under NEPA to inform the  
3 permitting decision. For such permits, the Regional  
4 Permit Coordinator shall establish a schedule for  
5 timely completion of all permit reviews and proc-  
6 essing, not to exceed 30 months. The Regional Per-  
7 mit Coordinator shall make the schedule publicly  
8 available within 10 days after the schedule is estab-  
9 lished.

10 (2) CLASS II PERMITS.—An oil and gas permit  
11 shall be designated as a class II permit under this  
12 section if the permitted activity is of a nature that  
13 would typically be found not to significantly affect  
14 the quality of the human environment under NEPA.  
15 For such permits, the Regional Permit Coordinator  
16 shall establish the most expeditious schedule possible  
17 for completion of all permit reviews and processing,  
18 not to exceed 90 days. The Regional Permit Coordi-  
19 nator may grant a one-time extension of that sched-  
20 ule, not to exceed 60 days, upon a good cause show-  
21 ing that additional time is necessary to complete  
22 permit decisions. Not later than 15 days after estab-  
23 lishing or extending any schedule for a class II per-  
24 mit, the Regional Permit Coordinator shall provide  
25 the permit applicant with the schedule.

1           (3) CLASS III PERMITS.—Notwithstanding para-  
2           graphs (1) and (2), an oil and gas permit shall be  
3           designated as a class III permit under this section  
4           if the permitted activity either qualifies for a statu-  
5           tory or regulatory categorical exclusion under NEPA  
6           or if the requirements under NEPA and other appli-  
7           cable law for the permit have been completed within  
8           30 days after the date of a complete application. For  
9           such permits, the permit shall be issued within 30  
10          days after the date of a complete application.

11          (4) RECLASSIFICATION OF CLASS II PERMIT.—  
12          If prior to the expiration of the established schedule  
13          for a class II permit newly discovered information  
14          indicates that the class II permit will significantly  
15          affect the quality of the human environment, the  
16          Secretary may, in consultation with the permit appli-  
17          cant, reclassify the permit as a class I permit under  
18          paragraph (1), and the Regional Coordinator shall  
19          establish an amended schedule that complies with  
20          the provisions of that paragraph.

21          (c) REPORTING.—The Regional Permit Coordinators  
22          shall include data on all schedule timing and compliance  
23          in their reports to the Federal Permit Coordinator re-  
24          quired under subsection (i), who shall include such data

1 in the report to the President and Congress required  
2 under subsection (i).

3 (d) DISPUTE RESOLUTION.—The Regional Permit  
4 Coordinator shall resolve all administrative issues that af-  
5 fect oil and gas permit reviews. The Regional Permit Coor-  
6 dinator shall report jointly to the Federal Permit Coordi-  
7 nator and to the head of the relevant action agency, or  
8 his or her designee, for resolution of any issue regarding  
9 an oil and gas permit that may result in missing the  
10 schedule deadlines established pursuant to subsection (b).  
11 The Regional Permit Coordinators shall include data re-  
12 garding the incidence and resolution of disputes under this  
13 subsection in their reports to the Federal Permit Coordi-  
14 nator required under subsection (i), who shall include such  
15 reported data and develop recommendations in the report  
16 to the President and Congress required under subsection  
17 (i).

18 (e) REMEDIES.—An applicant for a class I permit  
19 may bring a cause of action to seek expedited mandamus  
20 review, pursuant to the procedures in section 3207, if a  
21 Regional Permit Coordinator or the Secretary fails to—

22 (1) establish a schedule in accordance with sub-  
23 section (b);

24 (2) enforce and ensure completion of reviews  
25 within schedule deadlines; or

1           (3) take all actions as are necessary and proper  
2           to avoid jeopardizing the timely completion of the  
3           entire schedule.

4 If an agency fails to complete its review of and issue a  
5 decision upon a permit within the schedule established by  
6 the Court pursuant to section 3207(f), that permit shall  
7 be deemed granted to the applicant.

8           (f) PROHIBITION OF CERTAIN TERMS AND CONDI-  
9 TIONS.—No Federal agency may include in any permit,  
10 right-of-way, or other authorization issued for an oil and  
11 gas project subject to the provisions of this part, any term  
12 or condition that may be authorized, but is not required,  
13 by the provisions of any applicable law, if the Federal Per-  
14 mit Coordinator determines that such term or condition  
15 would prevent or impair in any significant respect comple-  
16 tion of a permit review within the time schedule estab-  
17 lished pursuant to subsection (b) or would otherwise im-  
18 pair in any significant respect expeditious oil and gas de-  
19 velopment. The Federal Permit Coordinator shall not have  
20 any authority to impose any terms, conditions, or require-  
21 ments beyond those imposed by any Federal law, agency,  
22 regulation, or lease term.

23           (g) CONSOLIDATED RECORD.—The Federal Permit  
24 Coordinator, acting through the appropriate Regional Per-  
25 mit Coordinator, with the cooperation of Federal and

1 State administrative officials and agencies, shall maintain  
2 a complete, consolidated record of all decisions made or  
3 actions taken by the Federal Permit Coordinator or Re-  
4 gional Permit Coordinator or by any Federal agency with  
5 respect to any oil and gas permit.

6 (h) RELATIONSHIP TO NEPA AND ENERGY POLICY  
7 ACT OF 2005.—

8 (1) Section 390(a) of the Energy Policy Act of  
9 2005 (42 U.S.C. 15942(a)) is amended—

10 (A) by striking “rebuttable presumption  
11 that the use of a”; and

12 (B) by striking “would apply”.

13 (2) Section 17(p) of the Mineral Leasing Act  
14 (30 U.S.C. 226(p)) is repealed.

15 (i) ADDITIONAL POWERS AND RESPONSIBILITIES.—

16 (1) REGIONAL PERMIT COORDINATOR RE-  
17 PORTS.—The Regional Permit Coordinators shall  
18 each submit a report to the Federal Permit Coordi-  
19 nator by December 31 of each year that documents  
20 each office’s performance in meeting the objectives  
21 under this part, including recommendations to fur-  
22 ther streamline the permitting process.

23 (2) REDIRECTION OF PRIORITIES OR RE-  
24 SOURCES.—In order to expedite overall permitting  
25 activity, the Federal Permit Coordinator may redi-

1       rect the priority of regional office activities or the al-  
2       location of resources among such offices, and shall  
3       engage the agencies that are parties to the MOU to  
4       the extent such adjustments implicate their respec-  
5       tive staffs or resources.

6               (3) REPORT TO CONGRESS.—Beginning three  
7       years after the date of enactment of this Act, the  
8       Federal Permit Coordinator shall prepare and sub-  
9       mit a report to the President and Congress by April  
10      15 of each year that outlines the results achieved  
11      under this part and makes recommendations to the  
12      President and Congress for further improvements in  
13      processing oil and gas permits on Federal lands.

14 **SEC. 1715. STATE COORDINATION.**

15      The Governor of any State wherein an oil and gas  
16      operation may require a Federal permit, or the coastline  
17      of which is in immediate geographic proximity to oil and  
18      gas operations on the outer Continental Shelf, may be a  
19      signatory to the MOU for purposes of fulfilling any State  
20      responsibilities with respect to Federal oil and gas permit-  
21      ting decisions. The Regional Permit Coordinators shall fa-  
22      cilitate and coordinate concurrent State reviews of re-  
23      quested permits for oil and gas projects on the outer Con-  
24      tinental Shelf.



1 **SEC. 1716. SAVINGS PROVISION.**

2 Except as expressly stated, nothing in this part af-  
3 fects—

4 (1) the applicability of any Federal or State  
5 law; or

6 (2) any delegation of authority made by the  
7 head of a Federal agency the employees of which are  
8 participating in the implementation of this section.

9 **SEC. 1717. ADMINISTRATIVE AND JUDICIAL REVIEW.**

10 (a) **ADMINISTRATIVE REVIEW.**—Any oil and gas per-  
11 mitting decision for Federal lands onshore or on the outer  
12 Continental Shelf that was issued in accordance with the  
13 procedures established by this part shall not be subject  
14 to further administrative review within the respective Fed-  
15 eral agency responsible for that decision, and shall be the  
16 final decision of that agency for purposes of judicial re-  
17 view.

18 (b) **EXCLUSIVE JURISDICTION OVER PERMIT DECI-**  
19 **SIONS.**—Only the United States District Court for the  
20 District of Columbia shall have original jurisdiction over  
21 any civil action for the review of such a permit decision.

22 (c) **LIMITATIONS ON CLAIMS.**—Notwithstanding any  
23 other provision of law, any action arising under Federal  
24 law seeking judicial review of a permit, license, or approval  
25 issued by a Federal agency for an oil and gas permit sub-  
26 ject to this part shall be barred unless it is filed within

1 90 days of the date of the decision. Nothing in this part  
2 shall creates a right to judicial review or places any limit  
3 on filing a claim that a person has violated the terms of  
4 a permit, license, or approval.

5 (d) FILING OF RECORD.—When any civil action is  
6 brought pursuant to this part, the Federal Permit Coordi-  
7 nator shall immediately prepare for the court a consoli-  
8 dated record.

9 (e) EXPEDITED REVIEW.—Any action for judicial re-  
10 view challenging a decision approved pursuant to this sec-  
11 tion shall be set for consideration by not later than 90  
12 days after the date the action is filed.

13 (f) EXPEDITED MANDAMUS REVIEW.—Notwith-  
14 standing subsection (e), within 30 days after the filing of  
15 an action challenging or seeking to enforce an established  
16 permit review schedule for a class I permit, the court shall  
17 issue a decision either compelling permit issuance or sanc-  
18 tioning the delay and establishing a new schedule that en-  
19 ables the most expeditious possible completion of pro-  
20 ceedings. In rendering its decision, the court shall review  
21 whether the agencies subject to the schedule have been  
22 acting in good faith, whether the permit applicant has  
23 been cooperating fully with the agencies that are respon-  
24 sible for issuing the requested permits, and any other rel-

1 evant matters. The court may issue orders to enforce any  
2 schedule it establishes under this subsection.

3 (g) NO PRIVATE RIGHT OF ACTION.—This part shall  
4 not be construed to create any additional right, benefit,  
5 or trust responsibility, substantive or procedural, enforce-  
6 able at law or equity, by a person against the United  
7 States, its agencies, its officers, or any person.

8 (h) FINALITY OF LEASING DECISIONS.—Notwith-  
9 standing the provisions of any law or regulation to the  
10 contrary, a decision by the Bureau of Land Management  
11 or the Minerals Management Service to issue a Final No-  
12 tice of Sale and proceed with an oil and gas lease sale  
13 pursuant to any mineral leasing law shall not be subject  
14 to further administrative review within the Department of  
15 the Interior, and shall be the final decision of the agency  
16 for purposes of judicial review.

17 **SEC. 1718. AMENDMENTS TO PUBLICATION PROCESS.**

18 Section 18 of the Outer Continental Shelf Lands Act  
19 (43 U.S.C. 1344) is amended—

20 (1) by amending subsection (c)(2) to read as  
21 follows:

22 “(2) The Secretary shall publish a proposed  
23 leasing program in the Federal Register, and shall  
24 submit a copy of such proposed program to the Gov-  
25 ernor of each affected State, for review and com-

1       ment. The Governor may solicit comments from  
2       those executives of local governments in his State  
3       which he, in his discretion, determines will be af-  
4       fected by the proposed program.”;

5               (2) by striking subsection (c)(3); and

6               (3) in subsection (d)(2) by inserting “final”  
7       after “proposed”.

8       **SEC. 1719. ALASKA OFFSHORE CONTINENTAL SHELF CO-**  
9                               **ORDINATION OFFICE.**

10       (a) ESTABLISHMENT.—The Secretary of the Interior  
11       shall establish and maintain, in coordination with the  
12       Mayor of the North Slope Borough of Alaska, a separate  
13       office to be known as the Alaska Offshore Continental  
14       Shelf Coordination Office.

15       (b) PURPOSE.—The purpose of the office shall be  
16       to—

17               (1) coordinate the leasing of the outer Conti-  
18       nental Shelf off the coast of Alaska;

19               (2) advise persons awarded such leases on local  
20       conditions and the history of areas affected by devel-  
21       opment of the oil and gas resources of the outer  
22       Continental Shelf off the coast of Alaska;

23               (3) provide to the Committee on Resources of  
24       the House of Representatives and the Committee on  
25       Energy and Natural Resources of the Senate annual

1 reports on the status of the coordination between  
2 such and communities affected by such development;

3 (4) collect from residents of the North Slope of  
4 Alaska information regarding the impacts of such  
5 development on marine wildlife, coastal habitats, ma-  
6 rine and coastal subsistence resources, and the ma-  
7 rine and coastal environment of Alaska’s North  
8 Slope region; and

9 (5) ensure that the information collected under  
10 paragraph (3) is submitted to—

11 (A) developers of such resources; and

12 (B) any appropriate Federal agency.

13 **Subtitle E—Innovation in Carbon**  
14 **Capture and Clean Coal Tech-**  
15 **nology**

16 **SEC. 1801. COAL-TO-LIQUID FUEL LOAN GUARANTEE PRO-**  
17 **GRAM.**

18 (a) **ELIGIBLE PROJECTS.**—Section 1703(b) of the  
19 Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is  
20 amended by adding at the end the following:

21 “(11) Large-scale coal-to-liquid facilities (as de-  
22 fined in section 101 of the Coal-to-Liquid Fuel Pro-  
23 motion Act of 2007) that use a feedstock, the major-  
24 ity of which is the coal resources of the United

1 States, to produce not less than 10,000 barrels a  
2 day of liquid transportation fuel.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
4 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514)  
5 is amended by adding at the end the following:

6 “(c) COAL-TO-LIQUID PROJECTS.—

7 “(1) IN GENERAL.—There are authorized to be  
8 appropriated such sums as are necessary to provide  
9 the cost of guarantees for projects involving large-  
10 scale coal-to-liquid facilities under section  
11 1703(b)(11).

12 “(2) ALTERNATIVE FUNDING.—If no appropria-  
13 tions are made available under paragraph (1), an eli-  
14 gible applicant may elect to provide payment to the  
15 Secretary, to be delivered if and at the time the ap-  
16 plication is approved, in the amount of the estimated  
17 cost of the loan guarantee to the Federal Govern-  
18 ment, as determined by the Secretary.

19 “(3) LIMITATIONS.—

20 “(A) IN GENERAL.—No loan guarantees  
21 shall be provided under this title for projects  
22 described in paragraph (1) after (as determined  
23 by the Secretary)—

24 “(i) the tenth such loan guarantee is  
25 issued under this title; or

1           “(ii) production capacity covered by  
2           such loan guarantees reaches 100,000 bar-  
3           rels per day of coal-to-liquid fuel.

4           “(B) INDIVIDUAL PROJECTS.—

5           “(i) IN GENERAL.—A loan guarantee  
6           may be provided under this title for any  
7           large-scale coal-to-liquid facility described  
8           in paragraph (1) that produces no more  
9           than 20,000 barrels of coal-to-liquid fuel  
10          per day.

11          “(ii) NON-FEDERAL FUNDING RE-  
12          QUIREMENT.—To be eligible for a loan  
13          guarantee under this title, a large-scale  
14          coal-to-liquid facility described in para-  
15          graph (1) that produces more than 20,000  
16          barrels per day of coal-to-liquid fuel shall  
17          be eligible to receive a loan guarantee for  
18          the proportion of the cost of the facility  
19          that represents 20,000 barrels of coal-to-  
20          liquid fuel per day of production.

21          “(4) REQUIREMENTS.—

22          “(A) GUIDELINES.—Not later than 180  
23          days after the date of enactment of this sub-  
24          section, the Secretary shall publish guidelines

1 for the coal-to-liquids loan guarantee applica-  
2 tion process.

3 “(B) APPLICATIONS.—Not later than 1  
4 year after the date of enactment of this sub-  
5 section, the Secretary shall begin to accept ap-  
6 plications for coal-to-liquid loan guarantees  
7 under this subsection.

8 “(C) DEADLINE.—Not later than 1 year  
9 from the date of acceptance of an application  
10 under subparagraph (B), the Secretary shall  
11 evaluate the application and make final deter-  
12 minations under this subsection.

13 “(5) REPORTS TO CONGRESS.—The Secretary  
14 shall submit to the Committee on Energy and Nat-  
15 ural Resources of the Senate and the Committee on  
16 Energy and Commerce of the House of Representa-  
17 tives a report describing the status of the program  
18 under this subsection not later than each of—

19 “(A) 180 days after the date of enactment  
20 of this subsection;

21 “(B) 1 year after the date of enactment of  
22 this subsection; and

23 “(C) the dates on which the Secretary ap-  
24 proves the first and fifth applications for coal-



1           to-liquid loan guarantees under this sub-  
2           section.”.

3 **SEC. 1802. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.**

4           (a) DEFINITION OF ELIGIBLE RECIPIENT.—In this  
5 section, the term “eligible recipient” means an individual,  
6 organization, or other entity that owns, operates, or plans  
7 to construct a coal-to-liquid facility that will produce at  
8 least 10,000 barrels per day of coal-to-liquid fuel.

9           (b) ESTABLISHMENT.—The Secretary shall establish  
10 a program under which the Secretary shall provide loans,  
11 in a total amount not to exceed \$20,000,000, for use by  
12 eligible recipients to pay the Federal share of the cost of  
13 obtaining any services necessary for the planning, permit-  
14 ting, and construction of a coal-to-liquid facility.

15           (c) APPLICATION.—To be eligible to receive a loan  
16 under subsection (b), the eligible recipient shall submit to  
17 the Secretary an application at such time, in such manner,  
18 and containing such information as the Secretary may re-  
19 quire.

20           (d) NON-FEDERAL MATCH.—To be eligible to receive  
21 a loan under this section, an eligible recipient shall use  
22 non-Federal funds to provide a dollar-for-dollar match of  
23 the amount of the loan.

24           (e) REPAYMENT OF LOAN.—

1           (1) IN GENERAL.—To be eligible to receive a  
2           loan under this section, an eligible recipient shall  
3           agree to repay the original amount of the loan to the  
4           Secretary not later than 5 years after the date of the  
5           receipt of the loan.

6           (2) SOURCE OF FUNDS.—Repayment of a loan  
7           under paragraph (1) may be made from any financ-  
8           ing or assistance received for the construction of a  
9           coal-to-liquid facility described in subsection (a), in-  
10          cluding a loan guarantee provided under section  
11          1703(b)(11) of the Energy Policy Act of 2005 (42  
12          U.S.C. 16513(b)(11)).

13          (f) REQUIREMENTS.—

14           (1) GUIDELINES.—Not later than 180 days  
15          after the date of enactment of this Act, the Sec-  
16          retary shall publish guidelines for the coal-to-liquids  
17          loan application process.

18           (2) APPLICATIONS.—Not later than 1 year  
19          after the date of enactment of this Act, the Sec-  
20          retary shall begin to accept applications for coal-to-  
21          liquid loans under this section.

22          (g) REPORTS TO CONGRESS.—Not later than each of  
23          180 days and 1 year after the date of enactment of this  
24          Act, the Secretary shall submit to the Committee on En-  
25          ergy and Natural Resources of the Senate and the Com-

1 mittee on Energy and Commerce of the House of Rep-  
2 resentatives a report describing the status of the program  
3 under this section.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
5 authorized to be appropriated to carry out this section  
6 \$200,000,000, to remain available until expended.

7 **SEC. 1803. ALLOWS FOR 7-YEAR DEPRECIATION FOR**  
8 **POWER-PLANTS THAT INSTALL CLEAN COAL**  
9 **TECHNOLOGY OR RETRO-FIT PLANTS FOR**  
10 **CARBON SEQUESTRATION TECHNOLOGY.**

11 Any coal fired power plant generating power that ret-  
12 rofits their operation to decrease their carbon output by  
13 at least 10 percent per year will get a 7-year accelerated  
14 depreciation credit for property placed in service after De-  
15 cember 31, 2009.

16 **SEC. 1804. EXTENSION OF 50 CENT PER GALLON ALTER-**  
17 **NATIVE FUELS EXCISE TAX CREDIT.**

18 Paragraph (5) of section 6426(d) of the Internal Rev-  
19 enue Code of 1986 is amended by striking “2009” and  
20 inserting “2019” and by striking “2014” and inserting  
21 “2024”.

1 **SEC. 1805. PROVIDES A 20 PERCENT INVESTMENT TAX**  
2 **CREDIT CAPPED AT \$200 MILLION TOTAL PER**  
3 **CTL PLANT PLACED IN SERVICE BEFORE**  
4 **2016.**

5 The Internal Revenue Service shall treat the syn-  
6 thetic gas produced from coal-to-liquids with the same tax  
7 treatment as covered by the industrial gasification tax  
8 credit.

9 **SEC. 1806. REDUCES RECOVERY PERIOD FOR CERTAIN EN-**  
10 **ERGY PRODUCTION AND DISTRIBUTION FA-**  
11 **CILITIES.**

12 In the case of an individual or business, there shall  
13 be allowed as a credit against the taxes imposed by sub-  
14 title A of the Internal Revenue Code of 1986 an amount  
15 equal to 30 percent of the expenditures made by such indi-  
16 vidual or business for energy production and distribution  
17 facilities.

18 **SEC. 1807. DOE CLEAN COAL TECHNOLOGY LOAN GUARAN-**  
19 **TEES AND DIRECT LOANS.**

20 The Secretary of Energy may provide clean coal tech-  
21 nology loan guarantees and direct loans for the research,  
22 development, demonstration, and deployment of clean coal  
23 technology, to build up to five commercial-scale coal-fired  
24 plants with carbon capture and sequestration capabilities.  
25 For each such loan guarantee or loan, at least 50 percent

1 of the total cost of the project shall be provided by the  
2 private sector.

### 3 **Subtitle F—Natural Gas**

#### 4 **SEC. 1901. NATURAL GAS VEHICLE RESEARCH, DEVELOP-** 5 **MENT, AND DEMONSTRATION PROJECTS.**

6 (a) IN GENERAL.—The Secretary of Energy shall  
7 conduct a 5-year program of natural gas vehicle research,  
8 development, and demonstration. The Secretary shall co-  
9 ordinate with the Administrator of the Environmental  
10 Protection Agency, as necessary.

11 (b) PURPOSE.—The program under this section shall  
12 focus on—

13 (1) the continued improvement and develop-  
14 ment of new, cleaner, more efficient light-duty, me-  
15 dium-duty, and heavy-duty natural gas vehicle en-  
16 gines;

17 (2) the integration of those engines into light-  
18 duty, medium-duty, and heavy-duty natural gas vehi-  
19 cles for onroad and offroad applications;

20 (3) expanding product availability by assisting  
21 manufacturers with the certification of the engines  
22 or vehicles described in paragraph (1) or (2) to Fed-  
23 eral or California certification requirements and in-  
24 use emission standards;

1           (4) the demonstration and proper operation and  
2 use of the vehicles described in paragraph (2) under  
3 all operating conditions;

4           (5) the development and improvement of na-  
5 tionally recognized codes and standards for the con-  
6 tinued safe operation of natural gas vehicles and  
7 their components;

8           (6) improvement in the reliability and efficiency  
9 of natural gas fueling station infrastructure;

10          (7) the certification of natural gas fueling sta-  
11 tion infrastructure to nationally recognized and in-  
12 dustry safety standards;

13          (8) the improvement in the reliability and effi-  
14 ciency of onboard natural gas fuel storage systems;

15          (9) the development of new natural gas fuel  
16 storage materials;

17          (10) the certification of onboard natural gas  
18 fuel storage systems to nationally recognized and in-  
19 dustry safety standards; and

20          (11) the use of natural gas engines in hybrid  
21 vehicles.

22          (c) CERTIFICATION OF CONVERSION SYSTEMS.—The  
23 Secretary shall coordinate with the Administrator on  
24 issues related to streamlining the certification of natural

1 gas conversion systems to the appropriate Federal certifi-  
2 cation requirements and in-use emission standards.

3 (d) COOPERATION AND COORDINATION WITH INDUS-  
4 TRY.—In developing and carrying out the program under  
5 this section, the Secretary shall coordinate with the nat-  
6 ural gas vehicle industry to ensure cooperation between  
7 the public and the private sector.

8 (e) CONDUCT OF PROGRAM.—The program under  
9 this section shall be conducted in accordance with sections  
10 3001 and 3002 of the Energy Policy Act of 1992.

11 (f) REPORT.—Not later than 2 years after the date  
12 of enactment of this Act, the Secretary shall provide a re-  
13 port to Congress on the implementation of this section.

14 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Secretary  
16 \$30,000,000 for each of the fiscal years 2010 through  
17 2014 to carry out this section.

18 (h) DEFINITION.—For purposes of this section, the  
19 term “natural gas” means compressed natural gas, lique-  
20 fied natural gas, biomethane, and mixtures of hydrogen  
21 and methane or natural gas.

22 **SEC. 1902. MODIFICATION OF ALTERNATIVE FUEL CREDIT.**

23 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of  
24 section 6426(d) of the Internal Revenue Code of 1986 (re-  
25 lating to alternative fuel credit) is amended by inserting

1 “, and December 31, 2027, in the case of any sale or use  
2 involving compressed or liquefied natural gas)” after “hy-  
3 drogen”.

4 (b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-  
5 graph (3) of section 6426(d) of such Code is amended by  
6 inserting “, and December 31, 2027, in the case of any  
7 sale or use involving compressed or liquefied natural gas)”  
8 after “hydrogen”.

9 (c) PAYMENTS RELATING TO ALTERNATIVE FUEL OR  
10 ALTERNATIVE FUEL MIXTURES.—Paragraph (6) of sec-  
11 tion 6427(e) of such Code is amended—

12 (1) in subparagraph (C)—

13 (A) by striking “subparagraph (D)” in  
14 subparagraph (C) and inserting “subpara-  
15 graphs (D) and (E)”, and

16 (B) by striking “and” at the end thereof,

17 (2) by striking the period at the end of sub-  
18 paragraph (D) and inserting “, and”,

19 (3) by inserting the following: “or with respect  
20 to compressed or liquefied natural gas” after “sub-  
21 paragraph (D)”, and

22 (4) by inserting the following new subpara-  
23 graph:



1           “(E) any alternative fuel or alternative fuel  
2           mixture (as so defined) involving compressed or  
3           liquefied natural gas.”.

4           (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to fuel sold or used after the date  
6 of the enactment of this Act.

7 **SEC. 1903. EXTENSION AND MODIFICATION OF ALTER-**  
8 **NATIVE FUEL VEHICLE CREDIT.**

9           (a) IN GENERAL.—Paragraph (4) of section 30B(k)  
10 of the Internal Revenue Code of 1986 (relating to termi-  
11 nation) is amended by inserting “(December 31, 2027, in  
12 the case of a vehicle powered by compressed or liquefied  
13 natural gas)” before the period at the end.

14           (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to property placed in service  
16 after the date of the enactment of this Act.

17 **SEC. 1904. ALLOWANCE OF VEHICLE AND INFRASTRUC-**  
18 **TURE CREDITS AGAINST REGULAR AND MIN-**  
19 **IMUM TAX AND TRANSFERABILITY OF CRED-**  
20 **ITS.**

21           (a) BUSINESS CREDITS.—Subparagraph (B) of sec-  
22 tion 38(c)(4) of the Internal Revenue Code of 1986 is  
23 amended by striking “and” at the end of clause (vii), by  
24 striking the period at the end of clause (viii) and inserting

1 “, and”, and by inserting after clause (viii) the following  
2 new clauses:

3 “(ix) the portion of the credit deter-  
4 mined under section 30B which is attrib-  
5 utable to the application of subsection  
6 (e)(3) thereof with respect to qualified al-  
7 ternative fuel motor vehicles which are ca-  
8 pable of being powered by compressed or  
9 liquefied natural gas, and

10 “(x) the portion of the credit deter-  
11 mined under section 30C which is attrib-  
12 utable to the application of subsection (b)  
13 thereof with respect to refueling property  
14 which is used to store and or dispense  
15 compressed or liquefied natural gas.”.

16 (b) PERSONAL CREDITS.—

17 (1) NEW QUALIFIED ALTERNATIVE FUEL  
18 MOTOR VEHICLES.—Subsection (g) of section 30B of  
19 such Code is amended by adding at the end the fol-  
20 lowing new paragraph:

21 “(3) SPECIAL RULE RELATING TO CERTAIN  
22 NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHI-  
23 CLES.—In the case of the portion of the credit deter-  
24 mined under subsection (a) which is attributable to  
25 the application of subsection (e)(3) with respect to

1 qualified alternative fuel motor vehicles which are  
2 capable of being powered by compressed or liquefied  
3 natural gas—

4 “(A) paragraph (2) shall (after the appli-  
5 cation of paragraph (1)) be applied separately  
6 with respect to such portion, and

7 “(B) in lieu of the limitation determined  
8 under paragraph (2), such limitation shall not  
9 exceed the excess (if any) of—

10 “(i) the sum of the regular tax liabil-  
11 ity (as defined in section 26(b)) plus the  
12 tentative minimum tax for the taxable  
13 year, reduced by

14 “(ii) the sum of the credits allowable  
15 under subpart A and sections 27 and 30.”.

16 (2) ALTERNATIVE FUEL VEHICLE REFUELING  
17 PROPERTIES.—Subsection (d) of section 30C of such  
18 Code is amended by adding at the end the following  
19 new paragraph:

20 “(3) SPECIAL RULE RELATING TO CERTAIN AL-  
21 TERNATIVE FUEL VEHICLE REFUELING PROP-  
22 erties.—In the case of the portion of the credit de-  
23 termined under subsection (a) with respect to refuel-  
24 ing property which is used to store and or dispense

1 compressed or liquefied natural gas and which is at-  
2 tributable to the application of subsection (b)—

3 “(A) paragraph (2) shall (after the appli-  
4 cation of paragraph (1)) be applied separately  
5 with respect to such portion, and

6 “(B) in lieu of the limitation determined  
7 under paragraph (2), such limitation shall not  
8 exceed the excess (if any) of—

9 “(i) the sum of the regular tax liabil-  
10 ity (as defined in section 26(b)) plus the  
11 tentative minimum tax for the taxable  
12 year, reduced by

13 “(ii) the sum of the credits allowable  
14 under subpart A and sections 27, 30, and  
15 the portion of the credit determined under  
16 section 30B which is attributable to the  
17 application of subsection (e)(3) thereof.”.

18 (c) CREDITS MAY BE TRANSFERRED.—

19 (1) VEHICLE CREDITS.—Subsection (h) of sec-  
20 tion 30B of such Code is amended by adding at the  
21 end the following new paragraph:

22 “(11) TRANSFERABILITY OF CREDIT.—Nothing  
23 in any law or rule of law shall be construed to limit  
24 a taxpayer from transferring, through sale and re-  
25 purchase agreement, the credit allowed by this sec-

1       tion for qualified alternative fuel motor vehicles  
2       which are capable of being powered by compressed  
3       or liquefied natural gas.”.

4           (2) INFRASTRUCTURE CREDIT.—Subsection (e)  
5       of section 30C of such Code is amended by adding  
6       at the end the following new paragraph:

7           “(6) CREDIT MAY BE TRANSFERRED.—Nothing  
8       in any law or rule of law shall be construed to limit  
9       a taxpayer from transferring the credit allowed by  
10      this section through sale and repurchase agree-  
11      ments.”.

12      (d) EFFECTIVE DATE.—The amendments made by  
13      this section shall apply with respect to property placed in  
14      service after the date of the enactment of this Act.

15      **SEC. 1905. CREDIT FOR PRODUCING VEHICLES FUELED BY**  
16                                   **NATURAL GAS OR LIQUIFIED NATURAL GAS.**

17      (a) IN GENERAL.—Subpart D of part IV of sub-  
18      chapter A of chapter 1 of the Internal Revenue Code of  
19      1986 (relating to business-related credits) is amended by  
20      inserting after section 45Q the following new section:

21      **“SEC. 45R. PRODUCTION OF VEHICLES FUELED BY NAT-**  
22                                   **URAL GAS OR LIQUIFIED NATURAL GAS.**

23      “(a) IN GENERAL.—For purposes of section 38, in  
24      the case of a taxpayer who is a manufacturer of natural  
25      gas vehicles, the natural gas vehicle credit determined

1 under this section for any taxable year with respect to  
2 each eligible natural gas vehicle produced by the taxpayer  
3 during such year is an amount equal to the lesser of—

4           “(1) 10 percent of the manufacturer’s basis in  
5           such vehicle, or

6           “(2) \$4,000.

7           “(b) AGGREGATE CREDIT ALLOWED.—The aggre-  
8 gate amount of credit allowed under subsection (a) with  
9 respect to a taxpayer for any taxable year shall not exceed  
10 \$200,000,000 reduced by the amount of the credit allowed  
11 under subsection (a) to the taxpayer (or any predecessor)  
12 for all prior taxable years.

13           “(c) DEFINITIONS.—For purposes of this section—

14           “(1) ELIGIBLE NATURAL GAS VEHICLE.—The  
15 term ‘eligible natural gas vehicle’ means any motor  
16 vehicle (as defined in section 30(c)(2))—

17           “(A) which—

18                   “(i) is only capable of operating on  
19 natural gas or liquefied natural gas, or

20                   “(ii) is capable of operating on com-  
21 pressed or liquefied natural gas and (but  
22 not in combination with) gasoline or diesel  
23 fuel, but in no case shall such vehicle have  
24 an operating range of less than 200 miles

1                   on compressed or liquefied natural gas,  
2                   and

3                   “(B) the final assembly of which is in the  
4                   United States.

5                   “(2) MANUFACTURER.—The term ‘manufac-  
6                   turer’ has the meaning given such term in regula-  
7                   tions prescribed by the Administrator of the Envi-  
8                   ronmental Protection Agency for purposes of the ad-  
9                   ministration of title II of the Clean Air Act (42  
10                  U.S.C. 7521 et seq.).

11                  “(d) SPECIAL RULES.—For purposes of this sec-  
12                  tion—

13                  “(1) IN GENERAL.—Rules similar to the rules  
14                  of subsections (c), (d), and (e) of section 52 shall  
15                  apply.

16                  “(2) CONTROLLED GROUPS.—

17                  “(A) IN GENERAL.—All persons treated as  
18                  a single employer under subsection (a) or (b) of  
19                  section 52 or subsection (m) or (o) of section  
20                  414 shall be treated as a single producer.

21                  “(B) INCLUSION OF FOREIGN CORPORA-  
22                  TIONS.—For purposes of subparagraph (A), in  
23                  applying subsections (a) and (b) of section 52  
24                  to this section, section 1563 shall be applied  
25                  without regard to subsection (b)(2)(C) thereof.

1           “(3) VERIFICATION.—No amount shall be al-  
2           lowed as a credit under subsection (a) with respect  
3           to which the taxpayer has not submitted such infor-  
4           mation or certification as the Secretary, in consulta-  
5           tion with the Secretary of Energy, determines nec-  
6           essary.

7           “(e) TERMINATION.—This section shall not apply to  
8 any vehicle produced after December 31, 2017.”.

9           (b) CREDIT TO BE PART OF BUSINESS CREDIT.—  
10 Section 38(b) of such Code is amended by striking “plus”  
11 at the end of paragraph (34), by striking the period at  
12 the end of paragraph (35) and inserting “, plus”, and by  
13 adding at the end the following:

14           “(36) the natural gas vehicle credit determined  
15           under section 45R(a).”.

16           (c) CONFORMING AMENDMENT.—The table of sec-  
17 tions for subpart D of part IV of subchapter A of chapter  
18 1 of such Code is amended by inserting after the item  
19 relating to section 45Q the following new item:

“Sec. 45R. Production of vehicles fueled by natural gas or liquified natural  
gas.”.

20           (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to vehicles produced after Decem-  
22 ber 31, 2008.



## **TITLE II—CONSERVATION**

### **Subtitle A—Conservation**

1           **SEC. 2001. PERMANENT EXTENSION OF THE CREDIT FOR**  
2                           **NONBUSINESS ENERGY PROPERTY, THE**  
3                           **CREDIT FOR GAS PRODUCED FROM BIOMASS**  
4                           **AND FOR SYNTHETIC FUELS PRODUCED**  
5                           **FROM COAL, AND THE CREDIT FOR ENERGY**  
6                           **EFFICIENT APPLIANCES.**

7           (a) CREDIT FOR NONBUSINESS ENERGY PROPERTY  
8           MADE PERMANENT.—

9                   (1) IN GENERAL.—Section 25C of the Internal  
10                   Revenue Code of 1986 is amended by striking sub-  
11                   section (g).

12                   (2) EFFECTIVE DATE.—The amendment made  
13                   by this subsection shall apply to property placed in  
14                   service after December 31, 2008.

15           (b) CREDIT FOR GAS PRODUCED FROM BIOMASS  
16           AND FOR SYNTHETIC FUELS PRODUCED FROM COAL  
17           MADE PERMANENT.—

18                   (1) IN GENERAL.—Subparagraph (B) of section  
19                   45K(f)(1) of such Code is amended to read as fol-  
20                   lows:

21                           “(B) if such facility is originally placed in  
22                           service after December 31, 1992, paragraph (2)  
23                           of subsection (e) shall not apply.”.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by this subsection shall apply to fuel sold after De-  
3           cember 31, 2008.

4           (c) EXTENSION OF CREDIT FOR ENERGY EFFICIENT  
5 APPLIANCES.—

6           (1) DISHWASHERS.—Section 45M(b)(1) of such  
7           Code is amended—

8                   (A) in subparagraph (A) by striking “cal-  
9                   endar year 2008 or 2009” and inserting “any  
10                   of calendar years 2008 through 2019”, and

11                   (B) in subparagraph (B) by striking “cal-  
12                   endar year 2008, 2009, or 2010” and inserting  
13                   “any of calendar years 2008 through 2020”.

14           (2) CLOTHES WASHERS.—Section 45M(b)(2) of  
15           such Code is amended—

16                   (A) in subparagraph (B) by striking “cal-  
17                   endar year 2008 or 2009” and inserting “any  
18                   of calendar years 2008 through 2019”,

19                   (B) in subparagraphs (C) and (D) by  
20                   striking “calendar year 2008, 2009, or 2010”  
21                   both places it appears and inserting “any of  
22                   calendar years 2008 through 2020”.

23           (3) REFRIGERATORS.—Section 45M(b)(3) of  
24           such Code is amended—

1 (A) in subparagraph (B) by striking “cal-  
2 endar year 2008 or 2009” and inserting “any  
3 of calendar years 2008 through 2019”,

4 (B) in subparagraphs (C) and (D) by  
5 striking “calendar year 2008, 2009, or 2010”  
6 both places it appears and inserting “any of  
7 calendar years 2008 through 2020”.

8 (4) EFFECTIVE DATE.—The amendments made  
9 by this subsection shall apply to appliances manufac-  
10 tured after December 31, 2008.

11 **SEC. 2002. EXTENSION AND CLARIFICATION OF NEW EN-**  
12 **ERGY EFFICIENT HOME CREDIT.**

13 (a) EXTENSION.—Subsection (g) of section 45L of  
14 the Internal Revenue Code of 1986 (relating to termi-  
15 nation) is amended by striking “December 31, 2009” and  
16 inserting “December 31, 2013”.

17 (b) CLARIFICATION.—

18 (1) IN GENERAL.—Paragraph (1) of section  
19 45L(a) is amended by striking “and” at the end of  
20 subparagraph (A) and by striking subparagraph (B)  
21 and inserting the following:

22 “(B) acquired by a person from such eligi-  
23 ble contractor, and

24 “(C) used by any person as a residence  
25 during the taxable year.”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall take effect as if included in  
3           section 1332 of the Energy Policy Act of 2005.

4 **SEC. 2003. EXTENSION AND MODIFICATION OF DEDUCTION**  
5                           **FOR ENERGY EFFICIENT COMMERCIAL**  
6                           **BUILDINGS.**

7           (a) EXTENSION.—Subsection (h) of section 179D of  
8           the Internal Revenue Code of 1986 (relating to termi-  
9           nation) is amended to read as follows:

10          “(h) TERMINATION.—This section shall not apply  
11          with respect to property—

12                       “(1) which is certified under subsection (d)(6)  
13                       after December 31, 2012, or

14                       “(2) which is placed in service after December  
15                       31, 2014.

16          A provisional certification shall be treated as meeting the  
17          requirements of paragraph (1) if it is based on the build-  
18          ing plans, subject to inspection and testing after installa-  
19          tion.”.

20          (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-  
21          TION.—

22                       (1) IN GENERAL.—Subparagraph (A) of section  
23                       179D(b)(1) of such Code is amended by striking  
24                       “\$1.80” and inserting “\$2.25”.

1           (2) PARTIAL ALLOWANCE.—Paragraph (1) of  
2 section 179D(d) of such Code is amended—

3           (A) by striking “\$.60” and inserting  
4 “\$0.75”, and

5           (B) by striking “\$1.80” and inserting  
6 “\$2.25”.

7 (c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

8           (1) METHODS OF CALCULATING ENERGY SAV-  
9 INGS.—

10           (A) IN GENERAL.—Paragraph (2) of sec-  
11 tion 179D(d) of such Code is amended—

12           (i) by inserting “, except that the Sec-  
13 retary shall use Standard 90.1–2001 in  
14 lieu of the California title 24 energy stand-  
15 ards and the tables contained therein and  
16 the Secretary may add requirements from  
17 Standard 90.1–2001 (or any successor  
18 standard)” before the period at the end,  
19 and

20           (ii) by adding at the end the following  
21 new sentence: “The calculation methods  
22 contained in such regulations shall also  
23 provide for the calculation of appropriate  
24 energy savings for design methods and  
25 technologies not otherwise credited in such

1 manual or standard, including energy sav-  
2 ings associated with natural ventilation,  
3 evaporative cooling, automatic lighting con-  
4 trols (such as occupancy sensors,  
5 photocells, and time clocks), day lighting,  
6 designs utilizing semi-conditioned spaces  
7 which maintain adequate comfort condi-  
8 tions without air conditioning or without  
9 heating, improved fan system efficiency  
10 (including reductions in static pressure),  
11 advanced unloading mechanisms for me-  
12 chanical cooling (such as multiple or vari-  
13 able speed compressors), on-site generation  
14 of electricity (including combined heat and  
15 power systems, fuel cells, and renewable  
16 energy generation such as solar energy),  
17 and wiring with lower energy losses than  
18 wiring satisfying Standard 90.1–2001 re-  
19 quirements for building power distribution  
20 systems.”.

21 (B) REQUIREMENTS FOR COMPUTER SOFT-  
22 WARE USED IN CALCULATING ENERGY AND  
23 POWER CONSUMPTION COSTS.—Paragraph  
24 (3)(B) of section 179D(d) of such Code is  
25 amended by striking “and” at the end of clause

1 (ii), by striking the period at the end of clause  
2 (iii) and inserting “, and”, and by adding at the  
3 end the following:

4 “(iv) which automatically—

5 “(I) generates the features, en-  
6 ergy use, and energy and power con-  
7 sumption costs of a reference building  
8 which meets Standard 90.1–2001,

9 “(II) generates the features, en-  
10 ergy use, and energy and power con-  
11 sumption costs of a compliant build-  
12 ing or system which reduces the an-  
13 nual energy and power costs by 50  
14 percent compared to Standard 90.1–  
15 2001, and

16 “(III) compares such features,  
17 energy use, and consumption costs to  
18 the features, energy use, and con-  
19 sumption costs of the building or sys-  
20 tem with respect to which the calcula-  
21 tion is being made.”.

22 (2) TARGETS FOR PARTIAL ALLOWANCE OF  
23 CREDIT.—Paragraph (1)(B) of section 179D(d) of  
24 such Code is amended—

1 (A) by striking “The Secretary” and in-  
2 serting the following:

3 “(i) IN GENERAL.—The Secretary”,  
4 and

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

6 “(ii) ADDITIONAL REQUIREMENTS.—  
7 For purposes of clause (i)—

8 “(I) the Secretary shall deter-  
9 mine prescriptive criteria that can be  
10 modeled explicitly for reference build-  
11 ings which meet the requirements of  
12 subsection (c)(1)(D) for different  
13 building types and regions,

14 “(II) a system may be certified  
15 as meeting the target under subpara-  
16 graph (A)(ii) if the appropriate ref-  
17 erence building either meets the re-  
18 quirements of subsection (c)(1)(D)  
19 with such system rather than the  
20 comparable reference system (using  
21 the calculation under paragraph (2))  
22 or meets the relevant prescriptive cri-  
23 teria under subclause (I), and

24 “(III) the lighting system target  
25 shall be based on lighting power den-



1                   sity, except that it shall allow lighting  
2                   controls credits that trade off for  
3                   lighting power density savings based  
4                   on section 3.2.2 of the 2005 Cali-  
5                   fornia Nonresidential Alternative Cal-  
6                   culation Method Approval Manual.

7                   “(B) PUBLICATION.—The Secretary shall  
8                   publish in the Federal Register the bases for  
9                   the target levels established in the regulations  
10                  under clause (i).”.

11               (d) ALTERNATIVE STANDARDS.—Section 179D(d) of  
12 such Code is amended by adding at the end the following  
13 new paragraph:

14               “(7) ALTERNATIVE STANDARDS PENDING  
15 FINAL REGULATIONS.—Until such time as the Sec-  
16 retary issues final regulations under paragraph  
17 (1)(B)—

18                   “(A) in the case of property which is part  
19                   of a building envelope, the building envelope  
20                   system target under paragraph (1)(A)(ii) shall  
21                   be a 7 percent reduction in total annual energy  
22                   and power costs (determined in the same man-  
23                   ner as under subsection (c)(1)(D)), and

24                   “(B) in the case of property which is part  
25                   of the heating, cooling, ventilation, and hot

1 water systems, the heating, cooling, ventilation,  
2 and hot water system shall be treated as meet-  
3 ing the target under paragraph (1)(A)(ii) if it  
4 would meet the requirement in subsection  
5 (c)(1)(D) if combined with a building envelope  
6 system and lighting system which met their re-  
7 spective targets under paragraph (1)(A)(ii) (in-  
8 cluding interim targets in effect under sub-  
9 section (f) and subparagraph (A)).”.

10 (e) MODIFICATIONS TO LIGHTING STANDARDS.—

11 (1) STANDARDS TO BE ALTERNATE STAND-  
12 ARDS.—Subsection (f) of section 179D of such Code  
13 is amended by—

14 (A) striking “Interim” in the heading and  
15 inserting “Alternative”, and

16 (B) inserting “, or, if the taxpayer elects,  
17 in lieu of the target set forth in such final regu-  
18 lations” after “lighting system” at the end of  
19 the matter preceding paragraph (1).

20 (2) QUALIFIED INDIVIDUALS.—Section  
21 179D(d)(6)(C) of such Code is amended by adding  
22 at the end the following: “For purposes of certifi-  
23 cation of whether the alternative target for lighting  
24 systems under subsection (f) is met, individuals  
25 qualified to determine compliance shall include indi-

1 individuals who are certified as Lighting Certified (LC)  
2 by the National Council on Qualifications for the  
3 Lighting Professions, Certified Energy Managers  
4 (CEM) by the Association of Energy Engineers, and  
5 LEED Accredited Professionals (AP) by the U.S.  
6 Green Buildings Council.”.

7 (3) REQUIREMENT FOR BILEVEL SWITCHING.—  
8 Section 179D(f)(2) of such Code is amended by add-  
9 ing at the end the following new subparagraph:

10 “(3) APPLICATION OF SUBSECTION TO BILEVEL  
11 SWITCHING.—

12 “(A) IN GENERAL.—Notwithstanding para-  
13 graph (2)(C)(i), this subsection shall apply to a  
14 system which does not include provisions for  
15 bilevel switching if the reduction in lighting  
16 power density is at least 37.5 percent of the  
17 minimum requirements in Table 9.3.1.1 or  
18 Table 9.3.1.2 (not including additional interior  
19 lighting allowances) of Standard 90.1–2001.

20 “(B) REDUCTION IN DEDUCTION.—In the  
21 case of a system to which this subsection ap-  
22 plies by reason of subparagraph (A), paragraph  
23 (2) shall be applied—

1                   “(i) by striking ‘40 percent’ and in-  
2                   serting ‘50 percent’ in subparagraph (A)  
3                   thereof, and

4                   “(ii) in subparagraph (B)(ii) there-  
5                   of—

6                                 “(I) by striking ‘25 percentage  
7                                 points’ and inserting ‘37.5 percentage  
8                                 points’; and

9                                 “(II) by striking ‘15’ and insert-  
10                                 ing ‘12.5’.”.

11           (f) PUBLIC PROPERTY.—Paragraph (4) of section  
12 179(d) of such Code is amended by striking “the Sec-  
13 retary shall promulgate a regulation to allow the allocation  
14 of the deduction” and inserting “the deduction under this  
15 section shall be allowed”.

16           (g) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to property placed in service in  
18 taxable years beginning after the date of the enactment  
19 of this Act.

20 **SEC. 2004. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE**  
21 **BUILDINGS.**

22           (a) IN GENERAL.—Part VI of subchapter B of chap-  
23 ter 1 of the Internal Revenue Code of 1986 is amended  
24 by inserting after section 179E the following new section:

1 **“SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DE-**  
2 **DUCTION.**

3 “(a) IN GENERAL.—There shall be allowed as a de-  
4 duction an amount equal to the amount of qualified energy  
5 efficiency expenditures paid or incurred by the taxpayer  
6 during the taxable year.

7 “(b) LIMITATIONS.—

8 “(1) IN GENERAL.—The amount allowed as a  
9 credit under subsection (a) with respect to any  
10 dwelling unit shall not exceed the product of—

11 “(A) the qualified energy savings achieved,  
12 and

13 “(B) \$12,000.

14 “(2) MINIMUM AMOUNT OF QUALIFIED ENERGY  
15 SAVINGS.—No credit shall be allowed under sub-  
16 section (a) with respect to any dwelling unit in a  
17 qualified low-rise building which achieves a qualified  
18 energy savings of less than 20 percent.

19 “(c) QUALIFIED ENERGY EFFICIENCY EXPENDI-  
20 TURES.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified energy  
22 efficiency expenditures’ means any amount paid or  
23 incurred which is related to producing qualified en-  
24 ergy savings in any dwelling unit located in a quali-  
25 fied low-rise building of the taxpayer which is lo-  
26 cated in the United States.

1           “(2) NO DOUBLE BENEFIT FOR CERTAIN EX-  
2           PENDITURES.—The term ‘qualified energy efficiency  
3           expenditures’ shall not include any expenditure for  
4           any property for which a deduction has been allowed  
5           to the taxpayer under section 179G.

6           “(3) QUALIFIED LOW-RISE BUILDING.—The  
7           term ‘qualified low-rise building’ means a building—

8                   “(A) with respect to which depreciation is  
9                   allowable under section 167,

10                   “(B) which is used for multifamily hous-  
11                   ing, and

12                   “(C) which is not within the scope of  
13                   Standard 90.1–2001 (as defined under section  
14                   179D(c)(2)).

15           “(d) QUALIFIED ENERGY SAVINGS.—For purposes of  
16           this section—

17                   “(1) IN GENERAL.—The term ‘qualified energy  
18                   savings’ means, with respect to any dwelling unit in  
19                   a qualified low-rise building, the amount (measured  
20                   as a percentage) by which—

21                           “(A) the annual energy use with respect to  
22                           such dwelling unit after qualified energy effi-  
23                           ciency expenditures are made, as certified under  
24                           paragraph (2), is less than

1           “(B) the annual energy use with respect to  
2           such dwelling unit before the qualified energy  
3           efficiency expenditures were made, as certified  
4           under paragraph (2).

5           In determining annual energy use under subpara-  
6           graph (B), any energy efficiency improvements  
7           which are not attributable to qualified energy effi-  
8           ciency expenditures shall be disregarded.

9           “(2) CERTIFICATION.—

10           “(A) IN GENERAL.—The Secretary, in con-  
11           sultation with the Secretary of Energy, shall  
12           prescribe the procedures and method for the  
13           making of certifications under this paragraph  
14           based on the Residential Energy Services Net-  
15           work (RESNET) Technical Guidelines in effect  
16           on the date of the enactment of this Act.

17           “(B) QUALIFIED INDIVIDUALS.—Any cer-  
18           tification made under this paragraph may only  
19           be made by an individual who is recognized by  
20           an organization certified by the Secretary for  
21           such purposes.

22           “(e) SPECIAL RULES.—For purposes of this section,  
23           rules similar to the rules under paragraphs (8) and (9)  
24           of section 25D(e) shall apply.

1       “(f) BASIS ADJUSTMENTS.—For purposes of this  
2 subtitle, if a credit is allowed under this section with re-  
3 spect to any expenditure with respect to any property, the  
4 increase in the basis of such property which would (but  
5 for this subsection) result from such expenditure shall be  
6 reduced by the amount of the credit so allowed.

7       “(g) TERMINATION.—This section shall not apply  
8 with respect to any property placed in service after Decem-  
9 ber 31, 2013.”.

10       (b) CONFORMING AMENDMENTS.—

11               (1) Section 263(a)(1) of such Code is amended  
12 by striking “or” at the end of subparagraph (K), by  
13 striking the period at the end of subparagraph (L)  
14 and inserting “, or”, and by inserting after subpara-  
15 graph (L) the following new subparagraph:

16                       “(M) expenditures for which a deduction is  
17 allowed under section 179F.”.

18               (2) Section 312(k)(3)(B) of such Code is  
19 amended by striking “179, 179A, 179B, 179C,  
20 179D, or 179E” each place it appears in the head-  
21 ing and text and inserting “179, 179A, 179B, 179C,  
22 179D, 179E, or 179F”.

23               (3) Section 1016(a) of such Code is amended  
24 by striking “and” at the end of paragraph (36), by  
25 striking the period at the end of paragraph (37) and



1 inserting “, and”, and by adding at the end the fol-  
 2 lowing new paragraph:

3 “(38) to the extent provided in section  
 4 179F(f).”.

5 (4) Section 1245(a) of such Code is amended  
 6 by inserting “179F,” after “179E,” both places it  
 7 appears in paragraphs (2)(C) and (3)(C).

8 (5) The table of sections for part VI of sub-  
 9 chapter B of such Code is amended by inserting  
 10 after the item relating to section 179E the following  
 11 new item:

“Sec. 179F. Energy efficient low-rise buildings deduction.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to amounts paid or incurred in tax-  
 14 able years beginning after the date of the enactment of  
 15 this Act.

## 16 **Subtitle B—Clean Coal Alternative** 17 **Transition**

### 18 **SEC. 2101. CARBON DIOXIDE STORAGE CAPACITY ASSESS-** 19 **MENT.**

20 (a) DEFINITIONS.—In this section:

21 (1) ASSESSMENT.—The term “assessment”  
 22 means the national assessment of capacity for car-  
 23 bon dioxide completed under subsection (f).

24 (2) CAPACITY.—The term “capacity” means the  
 25 portion of a storage formation that can retain car-

1 bon dioxide in accordance with the requirements (in-  
2 cluding physical, geological, and economic require-  
3 ments) established under the methodology developed  
4 under subsection (b).

5 (3) ENGINEERED HAZARD.—The term “engi-  
6 neered hazard” includes the location and completion  
7 history of any well that could affect potential stor-  
8 age.

9 (4) RISK.—The term “risk” includes any risk  
10 posed by geomechanical, geochemical,  
11 hydrogeological, structural, and engineered hazards.

12 (5) SECRETARY.—The term “Secretary” means  
13 the Secretary of the Interior, acting through the Di-  
14 rector of the United States Geological Survey.

15 (6) STORAGE FORMATION.—The term “storage  
16 formation” means a deep saline formation,  
17 unmineable coal seam, or oil or gas reservoir that is  
18 capable of accommodating a volume of industrial  
19 carbon dioxide.

20 (b) METHODOLOGY.—Not later than 1 year after the  
21 date of enactment of this Act, the Secretary shall develop  
22 a methodology for conducting an assessment under sub-  
23 section (f), taking into consideration—

24 (1) the geographical extent of all potential stor-  
25 age formations in all States;

1           (2) the capacity of the potential storage forma-  
2           tions;

3           (3) the injectivity of the potential storage forma-  
4           tions;

5           (4) an estimate of potential volumes of oil and  
6           gas recoverable by injection and storage of industrial  
7           carbon dioxide in potential storage formations;

8           (5) the risk associated with the potential stor-  
9           age formations; and

10          (6) the Carbon Sequestration Atlas of the  
11          United States and Canada that was completed by  
12          the Department of Energy in April 2006.

13          (c) COORDINATION.—

14           (1) FEDERAL COORDINATION.—

15           (A) CONSULTATION.—The Secretary shall  
16           consult with the Secretary of Energy and the  
17           Administrator of the Environmental Protection  
18           Agency on issues of data sharing, format, devel-  
19           opment of the methodology, and content of the  
20           assessment required under this title to ensure  
21           the maximum usefulness and success of the as-  
22           sessment.

23           (B) COOPERATION.—The Secretary of En-  
24           ergy and the Administrator shall cooperate with  
25           the Secretary to ensure, to the maximum extent

1           practicable, the usefulness and success of the  
2           assessment.

3           (2) STATE COORDINATION.—The Secretary  
4           shall consult with State geological surveys and other  
5           relevant entities to ensure, to the maximum extent  
6           practicable, the usefulness and success of the assess-  
7           ment.

8           (d) EXTERNAL REVIEW AND PUBLICATION.—On  
9           completion of the methodology under subsection (b), the  
10          Secretary shall—

11           (1) publish the methodology and solicit com-  
12           ments from the public and the heads of affected  
13           Federal and State agencies;

14           (2) establish a panel of individuals with exper-  
15           tise in the matters described in paragraphs (1)  
16           through (5) of subsection (b) composed, as appro-  
17           priate, of representatives of Federal agencies, insti-  
18           tutions of higher education, nongovernmental organi-  
19           zations, State organizations, industry, and inter-  
20           national geoscience organizations to review the  
21           methodology and comments received under para-  
22           graph (1); and

23           (3) on completion of the review under para-  
24           graph (2), publish in the Federal Register the re-  
25           vised final methodology.

1 (e) PERIODIC UPDATES.—The methodology devel-  
2 oped under this section shall be updated periodically (in-  
3 cluding at least once every 5 years) to incorporate new  
4 data as the data becomes available.

5 (f) NATIONAL ASSESSMENT.—

6 (1) IN GENERAL.—Not later than 2 years after  
7 the date of publication of the methodology under  
8 subsection (d)(1), the Secretary, in consultation with  
9 the Secretary of Energy and State geological sur-  
10 veys, shall complete a national assessment of capac-  
11 ity for carbon dioxide in accordance with the meth-  
12 odology.

13 (2) GEOLOGICAL VERIFICATION.—As part of  
14 the assessment under this subsection, the Secretary  
15 shall carry out a drilling program to supplement the  
16 geological data relevant to determining storage ca-  
17 pacity of carbon dioxide in geological storage forma-  
18 tions, including—

19 (A) well log data;

20 (B) core data; and

21 (C) fluid sample data.

22 (3) PARTNERSHIP WITH OTHER DRILLING PRO-  
23 GRAMS.—As part of the drilling program under  
24 paragraph (2), the Secretary shall enter, as appro-  
25 priate, into partnerships with other entities to collect

1 and integrate data from other drilling programs rel-  
2 evant to the storage of carbon dioxide in geologic  
3 formations.

4 (4) INCORPORATION INTO NATCARB.—

5 (A) IN GENERAL.—On completion of the  
6 assessment, the Secretary of Energy shall incor-  
7 porate the results of the assessment using the  
8 NatCarb database, to the maximum extent  
9 practicable.

10 (B) RANKING.—The database shall include  
11 the data necessary to rank potential storage  
12 sites for capacity and risk, across the United  
13 States, within each State, by formation, and  
14 within each basin.

15 (5) REPORT.—Not later than 180 days after  
16 the date on which the assessment is completed, the  
17 Secretary shall submit to the Committee on Energy  
18 and Natural Resources of the Senate and the Com-  
19 mittee on Science and Technology of the House of  
20 Representatives a report describing the findings  
21 under the assessment.

22 (6) PERIODIC UPDATES.—The national assess-  
23 ment developed under this section shall be updated  
24 periodically (including at least once every 5 years) to  
25 support public and private sector decisionmaking.

1 (g) AUTHORIZATION OF APPROPRIATIONS.— There is  
2 authorized to be appropriated to carry out this section  
3 \$30,000,000 for the period of fiscal years 2009 through  
4 2013.

5 **SEC. 2102. EFFICIENCY AUDIT AND QUANTIFICATION.**

6 (a) IN GENERAL.—Not later than 1 year after the  
7 date of enactment of this Act, the Secretary of Energy  
8 (referred to in this section as the “Secretary”) shall con-  
9 duct an efficiency audit, and quantify the operating effi-  
10 ciencies, of all coal-fired electric generation facilities in the  
11 United States.

12 (b) REPORT.—Not later than 180 days after the date  
13 of completion of the audit and quantification under sub-  
14 section (a), the Secretary, in consultation with the Admin-  
15 istrator of the Environmental Protection Agency, shall  
16 submit to the Committees on Energy and Natural Re-  
17 sources and Environment and Public Works of the Senate  
18 and the Committee on Energy and Commerce of the  
19 House of Representatives, a report that—

20 (1) identifies all commercially available tech-  
21 nologies, processes, and other approaches to increas-  
22 ing the efficiency of the coal-fired electric generation  
23 facilities audited;

24 (2) includes a methodology for determining  
25 which technologies and processes, in the absence of

1 the obstacles identified under paragraph (3), would  
2 be sufficiently cost effective to recoup all costs of the  
3 technologies and processes in not more than 5 years  
4 after the date of installation or implementation, re-  
5 spectively, of the technologies or processes;

6 (3) identifies the technical, economic, regu-  
7 latory, environmental, and other obstacles to coal-  
8 fired electric generation facilities undertaking the in-  
9 stallation of the technologies or incorporation of the  
10 processes described in paragraph (2);

11 (4) includes recommendations as to legislative,  
12 administrative, and other actions that could reduce  
13 or eliminate the obstacles identified under paragraph  
14 (3); and

15 (5) includes calculations of—

16 (A) the additional power to be expected  
17 from the installation or implementation of those  
18 technologies and processes that are considered  
19 to be economic under the methodology described  
20 in paragraph (2); and

21 (B) the greenhouse gas emissions that are  
22 or could be avoided through installation or im-  
23 plementation of those technologies and proc-  
24 esses.



1 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as are nec-  
3 essary to carry out this section.

## 4 **Subtitle C—Natural Gas Transition**

### 5 **SEC. 2201. EXTENSION OF ALTERNATIVE VEHICLE CREDIT** 6 **PURCHASE OF NATURAL GAS POWERED VE-** 7 **HICLE FROM 2010 TILL 2020; INCREASE IN** 8 **AMOUNT OF CREDIT FOR CARS.**

9 (a) EXTENSION.—Section 30B(k)(4) of the Internal  
10 Revenue Code of 1986 is amended by striking “2010” and  
11 inserting “2020”.

12 (b) INCREASE IN CREDIT AMOUNT FOR CARS.—

13 (1) IN GENERAL.—Subparagraph (A) of section  
14 (30)(B)(e)(3) of such Code is amended by striking  
15 “\$5,000” and inserting “\$8,000”.

16 (2) EFFECTIVE DATE.—The amendment made  
17 by paragraph (1) shall apply to property purchased  
18 after December 31, 2008.

1 **SEC. 2202. EXTENSION OF CREDIT OF 50 PERCENT OF THE**  
2 **AUTO CONVERSION COST TO A NATURAL GAS**  
3 **POWERED AUTOMOBILE FROM GASOLINE OR**  
4 **DIESEL POWERED ENGINE AND THE CNG**  
5 **HOME FILLING STATION COST.**

6 (a) **AUTO CONVERSION.**—Section 30B(k)(4) of the  
7 Internal Revenue Code is amended by striking “2010”  
8 and inserting “2020”.

9 (b) **CNG HOME FILLING STATION.**—Section  
10 30C(e)(6) of such Code is amended—

11 (1) in the text by striking “2011” and inserting  
12 “2021”, and

13 (2) in the heading by striking “and 2010” and  
14 inserting “through 2020”.

15 **Subtitle D—Carbon Capture and**  
16 **Storage Credit**

17 **SEC. 2301. INCREASE IN CARBON CAPTURE AND STORAGE**  
18 **TAX CREDIT.**

19 (a) **APPLICATION OF SECTION.**—Section 45Q(e) of  
20 the Internal Revenue Code of 1986 is amended by striking  
21 “75,000,000” and inserting “225,000,000”.

22 (b) **INCREASE IN CREDIT AMOUNT.**—

23 (1) Section 45(a) of such Code is amended—

24 (A) in paragraph (1) by striking “\$20”  
25 and inserting “\$50”, and

1 (B) in paragraph (2) by striking “\$10”  
2 and inserting “\$40”.

3 (2) CONFORMING AMENDMENT.—Section  
4 45Q(d)(7) of such Code is amended—

5 (A) by striking “2009” and inserting  
6 “2010”, and

7 (B) by striking “2008” and inserting  
8 “2009”.

9 **TITLE III—PRODUCTION**  
10 **Subtitle A—Outer Continental**  
11 **Shelf**

12 **SEC. 3001. END MORATORIUM OF OIL AND GAS LEASING IN**  
13 **CERTAIN AREAS OF THE GULF OF MEXICO.**

14 (a) REPEAL OF MORATORIUM.—

15 (1) REPEAL.—Section 104 of the Gulf of Mex-  
16 ico Energy Security Act of 2006 (43 U.S.C. 1331  
17 note; Public Law 109–432) is repealed.

18 (2) NATIONAL DEFENSE AREA.—Section 12(d)  
19 of the Outer Continental Shelf Lands Act (43  
20 U.S.C. 1341(d)) is amended—

21 (A) by striking “(d) The United States”  
22 and inserting the following:

23 “(d) RESTRICTION OF AREAS FOR NATIONAL DE-  
24 FENSE.—

25 “(1) IN GENERAL.—The United States”; and

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

2 “(2) REVIEW.—Annually, the Secretary of De-  
3 fense shall review the areas of the outer Continental  
4 Shelf that have been designated as restricted from  
5 exploration and operation to determine whether the  
6 areas should remain under restriction.”.

7 (b) LEASING OF MORATORIUM AREAS.—

8 (1) IN GENERAL.—As soon as practicable, but  
9 not later than 1 year, after the date of enactment  
10 of this Act, the Secretary shall offer for leasing  
11 under the Outer Continental Shelf Lands Act (43  
12 U.S.C. 1331 et seq.), any areas made available for  
13 leasing as a result of the enactment of subsection  
14 (a).

15 (2) LEASING PLAN.—Any areas made available  
16 for leasing under paragraph (1) shall be offered for  
17 lease under this section notwithstanding the omis-  
18 sion of any of these respective areas from the appli-  
19 cable 5-year plan developed by the Secretary pursu-  
20 ant to section 18 of the Outer Continental Shelf  
21 Lands Act (43 U.S.C. 1344).

22 (c) MILITARY MISSION.—Section 104 of the Gulf of  
23 Mexico Energy Security Act of 2006 (43 U.S.C. 1331  
24 note; Public Law 109–432) is further amended—

1           (1) by striking “(b) MILITARY MISSION  
2           LINE.—Notwithstanding subsection (a), the” and in-  
3           serting “(c) MILITARY MISSION.—”;

4           (2) by redesignating subsection (c) as sub-  
5           section (b);.

6           (3) in subsection (b)(1), as so redesignated, by  
7           striking “paragraph (2) or (3) of subsection (a)”  
8           and inserting “paragraph (5)”; and

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

10           “(5) AREAS DESCRIBED.—The areas referred to  
11           in paragraph (1) are—

12                   “(A) any area in the Eastern Planning  
13                   Area that is within 125 miles of the coastline  
14                   of the State of Florida; and

15                   “(B) any area in the Central Planning  
16                   Area that is—

17                           “(i) within—

18                                   “(I) the 181 Area; and

19                                   “(II) 100 miles of the coastline  
20                           of the State of Florida; or

21                           “(i)(I) outside the 181 Area;

22                                   “(II) east of the western edge of  
23                           the Pensacola Official Protraction  
24                           Diagram (UTM X coordinate  
25                           1,393,920 (NAD 27 feet)); and

1                                   “(III) within 100 miles of the  
2                                   coastline of the State of Florida.”.

3 **SEC. 3002. OUTER CONTINENTAL SHELF DIRECTED LEASE**  
4                                   **SALES.**

5           (a) 209 LEASE SALE.—The Secretary of the Interior  
6 (referred to in this section as the “Secretary”) shall offer  
7 the Beaufort Sea Program Area for oil and gas leasing  
8 pursuant to the Outer Continental Shelf Lands Act (43  
9 U.S.C. 1331 et seq.) in 2010 as established in the 2007–  
10 2012 Lease Sale Schedule.

11           (b) 210 LEASE SALE.—The Secretary shall offer the  
12 Western Gulf of Mexico Program Area for oil and gas leas-  
13 ing pursuant to the Outer Continental Shelf Lands Act  
14 (43 U.S.C. 1331 et seq.) in 2009 as established in the  
15 2007–2012 Lease Sale Schedule.

16           (c) 212 LEASE SALE.—The Secretary shall offer the  
17 Chukchi Sea Program Area for oil and gas leasing pursu-  
18 ant to the Outer Continental Shelf Lands Act (43 U.S.C.  
19 1331 et seq.) in 2010 as established in the 2007–2012  
20 Lease Sale Schedule.

21           (d) 213 LEASE SALE.—The Secretary shall offer the  
22 Central Gulf of Mexico Program Area for oil and gas leas-  
23 ing pursuant to the Outer Continental Shelf Lands Act  
24 (43 U.S.C. 1331 et seq.) in 2010 as established in the  
25 2007–2012 Lease Sale Schedule.

1 (e) 215 LEASE SALE.—The Secretary shall offer the  
2 Western Gulf of Mexico Program Area for oil and gas leas-  
3 ing pursuant to the Outer Continental Shelf Lands Act  
4 (43 U.S.C. 1331 et seq.) in 2010 as established in the  
5 2007–2012 Lease Sale Schedule.

6 (f) 216 LEASE SALE.—The Secretary shall offer the  
7 Central Gulf of Mexico Program Area for oil and gas leas-  
8 ing pursuant to the Outer Continental Shelf Lands Act  
9 (43 U.S.C. 1331 et seq.) in 2011 as established in the  
10 2007–2012 Lease Sale Schedule.

11 (g) 217 LEASE SALE.—The Secretary shall offer the  
12 Beaufort Sea Program Area for oil and gas leasing pursu-  
13 ant to the Outer Continental Shelf Lands Act (43 U.S.C.  
14 1331 et seq.) in 2011 as established in the 2007–2012  
15 Lease Sale Schedule.

16 (h) 214 LEASE SALE.—The Secretary shall offer the  
17 North Aleutian Basin Program Area for oil and gas leas-  
18 ing pursuant to the Outer Continental Shelf Lands Act  
19 (43 U.S.C. 1331 et seq.) in 2011 as established in the  
20 2007–2012 Lease Sale Schedule.

21 (i) 218 LEASE SALE.—The Secretary shall offer the  
22 Western Gulf of Mexico Program Area for oil and gas leas-  
23 ing pursuant to the Outer Continental Shelf Lands Act  
24 (43 U.S.C. 1331 et seq.) in 2011 as established in the  
25 2007–2012 Lease Sale Schedule.

1 (j) 219 LEASE SALE.—The Secretary shall offer the  
2 Cook Inlet Program Area for oil and gas leasing pursuant  
3 to the Outer Continental Shelf Lands Act (43 U.S.C. 1331  
4 et seq.) in 2011 as established in the 2007–2012 Lease  
5 Sale Schedule.

6 (k) 220 LEASE SALE.—The Secretary shall offer the  
7 Mid-Atlantic Program Area for oil and gas leasing pursu-  
8 ant to the Outer Continental Shelf Lands Act (43 U.S.C.  
9 1331 et seq.) in 2011 as established in the 2007–2012  
10 Lease Sale Schedule.

11 (l) 221 LEASE SALE.—The Secretary shall offer the  
12 Chukchi Sea Program Area for oil and gas leasing pursu-  
13 ant to the Outer Continental Shelf Lands Act (43 U.S.C.  
14 1331 et seq.) in 2012 as established in the 2007–2012  
15 Lease Sale Schedule.

16 (m) 222 LEASE SALE.—The Secretary shall offer the  
17 Central Gulf of Mexico Program Area for oil and gas leas-  
18 ing pursuant to the Outer Continental Shelf Lands Act  
19 (43 U.S.C. 1331 et seq.) in 2012 as established in the  
20 2007–2012 Lease Sale Schedule.

21 **SEC. 3003. LEASING PROGRAM CONSIDERED APPROVED.**

22 (a) IN GENERAL.—The Draft Proposed Outer Conti-  
23 nental Shelf Oil and Gas Leasing Program 2010–2015  
24 issued by the Secretary of the Interior (referred to in this  
25 section as the “Secretary”) under section 18 of the Outer



1 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-  
2 ered to have been approved by the Secretary as a final  
3 oil and gas leasing program under that section.

4 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—  
5 The Secretary is considered to have issued a final environ-  
6 mental impact statement for the program described in  
7 subsection (a) in accordance with all of the requirements  
8 of sections 18, 19, and 20 of the Outer Continental Shelf  
9 Lands Act (43 U.S.C. 1344, 1345, and 1346), in accord-  
10 ance with all requirements under section 102(2)(C) of the  
11 National Environmental Policy Act of 1969 (42 U.S.C.  
12 4332(2)(C)), and in accordance with all requirements of  
13 the Coastal Zone Management Act of 1972 (16 U.S.C.  
14 1451 et seq.)

15 **SEC. 3004. OUTER CONTINENTAL SHELF LEASE SALES.**

16 (a) REQUIREMENT TO CONDUCT LEASE SALES.—

17 (1) IN GENERAL.—Except as provided in para-  
18 graph (2), not later than one year after the date of  
19 enactment of this Act and annually thereafter, the  
20 Secretary of the Interior (referred to in this section  
21 as the “Secretary”) shall conduct at a minimum one  
22 lease sale in an Atlantic Planning Area, one lease  
23 sale in the Pacific Planning Area, one lease sale in  
24 the Alaska Planning Area, and three lease sales in  
25 a Gulf of Mexico Planning Area for which the Sec-

1       retary determines that there is a commercial interest  
2       in purchasing Federal oil and gas leases for produc-  
3       tion on the outer Continental Shelf.

4               (2)   SUBSEQUENT   DETERMINATIONS   AND  
5       SALES.—If the Secretary determines that there is  
6       not a commercial interest in purchasing Federal oil  
7       and gas leases for production on the outer Conti-  
8       nental Shelf in a planning area under this sub-  
9       section, not later than 2 years after the date of en-  
10      actment of the determination and every 2 years  
11      thereafter, the Secretary shall—

12               (A) determine whether there is a commer-  
13              cial interest in purchasing Federal oil and gas  
14              leases for production on the outer Continental  
15              Shelf in the planning area; and

16               (B) if the Secretary determines that there  
17              is a commercial interest described in subpara-  
18              graph (A), conduct a lease sale in the planning  
19              area

20       (b) LEASING PLAN.—Any areas made available for  
21      leasing under subsection (a) shall be offered for lease  
22      under this section notwithstanding the omission of any of  
23      these respective areas from the applicable 5-year plan de-  
24      veloped by the Secretary pursuant to section 18 of the  
25      Outer Continental Shelf Lands Act (43 U.S.C. 1344).

1 **SEC. 3005. RESTRICTIONS ON LEASING OF THE OUTER CON-**  
2 **TINENTAL SHELF.**

3 (a) STATE OPT-OUT.—No lease authorizing a perma-  
4 nent surface energy project for the exploration, develop-  
5 ment, or production of oil or gas may be issued for any  
6 area of the outer Continental Shelf located within 10 miles  
7 of the coastline of a State if the State has notified the  
8 Secretary of the Interior that the State does not want to  
9 participate in such leasing.

10 (b) EXISTING LEASES NOT AFFECTED.—This sec-  
11 tion shall not affect any lease issued before the date of  
12 enactment of this Act.

13 **SEC. 3006. SHARING OF OCS RECEIPTS WITH STATES AND**  
14 **LOCAL GOVERNMENTS.**

15 Section 9 of the Outer Continental Shelf Lands Act  
16 (43 U.S.C. 1338) is amended as follows:

17 (1) By designating the existing text as sub-  
18 section (a).

19 (2) In subsection (a) (as so designated) by in-  
20 sserting “, if not paid as otherwise provided in this  
21 title” after “receipts”.

22 (3) by adding the following:

23 “(b) TREATMENT OF OCS RECEIPTS.—

24 “(1) DEPOSIT.—The Secretary shall deposit  
25 into a separate account in the Treasury the portion

1 of OCS Receipts for each fiscal year that will be  
2 shared under paragraph (2).

3 “(2) IMMEDIATE RECEIPTS SHARING.—Begin-  
4 ning October 1, 2009, the Secretary shall share 50  
5 percent of OCS Receipts derived from all leases, ex-  
6 cept that the Secretary shall only share 25 percent  
7 of such OCS Receipts derived from all such leases  
8 within a State’s Adjacent Zone if leasing is not al-  
9 lowed within at least 25 percent of that State’s Ad-  
10 jacent Zone located completely within 75 miles of  
11 any coastline.

12 “(3) ALLOCATIONS.—The Secretary shall allo-  
13 cate the OCS Receipts deposited into the separate  
14 account established by paragraph (1) that are  
15 shared under paragraph (2) as follows:

16 “(A) BONUS BIDS.—Deposits derived from  
17 bonus bids from a leased tract, including inter-  
18 est thereon, shall be allocated at the end of  
19 each fiscal year to the Adjacent State.

20 “(B) ROYALTIES.—Deposits derived from  
21 royalties and net profit shares from a leased  
22 tract, including interest thereon, shall be allo-  
23 cated at the end of each fiscal year as follows:

24 “(i) 50 percent to the Adjacent State.

1           “(ii) 50 percent to all States, includ-  
2           ing the Adjacent State, having a coastline  
3           point within 300 miles of the leased tract,  
4           divided equally, if such State allows leasing  
5           within at least 25 percent of its Adjacent  
6           Zone within 75 miles of the coastline.

7           “(C) LIMITATION IF NOT ADMITTED TO  
8           THE UNION AS A STATE.—Any entity defined as  
9           a ‘State’ under section 2(r), that has not been  
10          admitted to the Union as a State shall only be  
11          entitled to one-half of a ‘State’ share under this  
12          paragraph.

13          “(c) TRANSMISSION OF ALLOCATIONS.—

14                 “(1) IN GENERAL.—Not later than 90 days  
15                 after the end of each fiscal year, the Secretary shall  
16                 transmit—

17                         “(A) to each State 60 percent of such  
18                         State’s allocations under subsections (b)(2),  
19                         (b)(3)(A), and (b)(3)(B) (i) and (ii) for the im-  
20                         mediate prior fiscal year; and

21                         “(B) to each coastal county-equivalent and  
22                         municipal political subdivisions of such State a  
23                         total of 40 percent of such State’s allocations  
24                         under subsections (b)(2), (b)(3)(A), and  
25                         (b)(3)(B) (i) and (ii), for the immediate prior

1           fiscal year, together with all accrued interest  
2           thereon.

3           “(2) ALLOCATIONS TO COASTAL COUNTY-  
4           EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-  
5           retary shall make an initial allocation of the OCS  
6           Receipts to be shared under paragraph (1)(B) as fol-  
7           lows:

8                   “(A) 25 percent shall be allocated to coast-  
9                   al county-equivalent political subdivisions that  
10                  are completely more than 25 miles landward of  
11                  the coastline and at least a part of which lies  
12                  not more than 75 miles landward from the  
13                  coastline, with the allocation among such coast-  
14                  al county-equivalent political subdivisions based  
15                  on population.

16                  “(B) 75 percent shall be allocated to coast-  
17                  al county-equivalent political subdivisions that  
18                  are completely or partially less than 25 miles  
19                  landward of the coastline, with the allocation  
20                  among such coastal county-equivalent political  
21                  subdivisions to be further allocated as follows:

22                          “(i) 25 percent shall be allocated  
23                          based on the ratio of such coastal county-  
24                          equivalent political subdivision’s population  
25                          to the coastal population of all coastal

1 county-equivalent political subdivisions in  
2 the State.

3 “(ii) 25 percent shall be allocated  
4 based on the ratio of such coastal county-  
5 equivalent political subdivision’s coastline  
6 miles to the coastline miles of all coastal  
7 county-equivalent political subdivisions in  
8 the State as calculated by the Secretary.  
9 In such calculations, coastal county-equa-  
10 lent political subdivisions without a coast-  
11 line shall be considered to have 50 percent  
12 of the average coastline miles of the coast-  
13 al county-equivalent political subdivisions  
14 that do have coastlines.

15 “(iii) 50 percent shall be allocated  
16 equally to all coastal county-equivalent po-  
17 litical subdivisions having a coastline point  
18 within 300 miles of the leased tract for  
19 which OCS Receipts are being shared.

20 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-  
21 LITICAL SUBDIVISIONS.—The initial allocation to  
22 each coastal county-equivalent political subdivision  
23 under paragraph (2) shall be further allocated to the  
24 coastal county-equivalent political subdivision and  
25 any coastal municipal political subdivisions located

1 partially or wholly within the boundaries of the  
2 coastal county-equivalent political subdivision as fol-  
3 lows:

4 “(A) One-third shall be allocated to the  
5 coastal county-equivalent political subdivision.

6 “(B) Two-thirds shall be allocated on a per  
7 capita basis to the municipal political subdivi-  
8 sions and the county-equivalent political sub-  
9 division, with the allocation to the latter based  
10 upon its population not included within the  
11 boundaries of a municipal political subdivision.

12 “(d) INVESTMENT OF DEPOSITS.—Amounts depos-  
13 ited under this section shall be invested by the Secretary  
14 of the Treasury in securities backed by the full faith and  
15 credit of the United States having maturities suitable to  
16 the needs of the account in which they are deposited and  
17 yielding the highest reasonably available interest rates as  
18 determined by the Secretary of the Treasury.

19 “(e) USE OF FUNDS.—A recipient of funds under  
20 this section may use the funds for one or more of the fol-  
21 lowing:

22 “(1) To reduce in-State college tuition at public  
23 institutions of higher learning and otherwise support  
24 public education, including career technical edu-  
25 cation.



1           “(2) To make transportation infrastructure im-  
2           provements.

3           “(3) To reduce taxes.

4           “(4) To promote, fund, and provide for—

5                 “(A) coastal or environmental restoration;

6                 “(B) fish, wildlife, and marine life habitat  
7           enhancement;

8                 “(C) waterways construction and mainte-  
9           nance;

10                “(D) levee construction and maintenance  
11           and shore protection; and

12                “(E) marine and oceanographic education  
13           and research.

14           “(5) To promote, fund, and provide for—

15                “(A) infrastructure associated with energy  
16           production activities conducted on the outer  
17           Continental Shelf;

18                “(B) energy demonstration projects;

19                “(C) supporting infrastructure for shore-  
20           based energy projects;

21                “(D) State geologic programs, including  
22           geologic mapping and data storage programs,  
23           and State geophysical data acquisition;

24                “(E) State seismic monitoring programs,  
25           including operation of monitoring stations;

1           “(F) development of oil and gas resources  
2 through enhanced recovery techniques;

3           “(G) alternative energy development, in-  
4 cluding bio fuels, coal-to-liquids, oil shale, tar  
5 sands, geothermal, geopressure, wind, waves,  
6 currents, hydro, and other renewable energy;

7           “(H) energy efficiency and conservation  
8 programs; and

9           “(I) front-end engineering and design for  
10 facilities that produce liquid fuels from hydro-  
11 carbons and other biological matter.

12           “(6) To promote, fund, and provide for—

13           “(A) historic preservation programs and  
14 projects;

15           “(B) natural disaster planning and re-  
16 sponse; and

17           “(C) hurricane and natural disaster insur-  
18 ance programs.

19           “(7) For any other purpose as determined by  
20 State law.

21           “(f) NO ACCOUNTING REQUIRED.—No recipient of  
22 funds under this section shall be required to account to  
23 the Federal Government for the expenditure of such  
24 funds, except as otherwise may be required by law. How-  
25 ever, States may enact legislation providing for accounting

1 for and auditing of such expenditures. Further, funds allo-  
2 cated under this section to States and political subdivi-  
3 sions may be used as matching funds for other Federal  
4 programs.

5       “(g) EFFECT OF FUTURE LAWS.—Enactment of any  
6 future Federal statute that has the effect, as determined  
7 by the Secretary, of restricting any Federal agency from  
8 spending appropriated funds, or otherwise preventing it  
9 from fulfilling its pre-existing responsibilities as of the  
10 date of enactment of the statute, unless such responsibil-  
11 ities have been reassigned to another Federal agency by  
12 the statute with no prevention of performance, to issue  
13 any permit or other approval impacting on the OCS oil  
14 and gas leasing program, or any lease issued thereunder,  
15 or to implement any provision of this Act shall automati-  
16 cally prohibit any sharing of OCS Receipts under this sec-  
17 tion directly with the States, and their coastal political  
18 subdivisions, for the duration of the restriction. The Sec-  
19 retary shall make the determination of the existence of  
20 such restricting effects within 30 days of a petition by any  
21 outer Continental Shelf lessee or producing State.

22       “(h) DEFINITIONS.—In this section:

23               “(1) COASTAL COUNTY-EQUIVALENT POLITICAL  
24               SUBDIVISION.—The term ‘coastal county-equivalent  
25               political subdivision’ means a political jurisdiction

1 immediately below the level of State government, in-  
2 cluding a county, parish, borough in Alaska, inde-  
3 pendent municipality not part of a county, parish, or  
4 borough in Alaska, or other equivalent subdivision of  
5 a coastal State, that lies within the coastal zone.

6 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-  
7 SION.—The term ‘coastal municipal political subdivi-  
8 sion’ means a municipality located within and part  
9 of a county, parish, borough in Alaska, or other  
10 equivalent subdivision of a State, all or part of which  
11 coastal municipal political subdivision lies within the  
12 coastal zone.

13 “(3) COASTAL POPULATION.—The term ‘coastal  
14 population’ means the population of all coastal coun-  
15 ty-equivalent political subdivisions, as determined by  
16 the most recent official data of the Census Bureau.

17 “(4) COASTAL ZONE.—The term ‘coastal zone’  
18 means that portion of a coastal State, including the  
19 entire territory of any coastal county-equivalent po-  
20 litical subdivision at least a part of which lies, within  
21 75 miles landward from the coastline, or a greater  
22 distance as determined by State law enacted to im-  
23 plement this section.

1           “(5) BONUS BIDS.—The term ‘bonus bids’  
2 means all funds received by the Secretary to issue  
3 an outer Continental Shelf minerals lease.

4           “(6) ROYALTIES.—The term ‘royalties’ means  
5 all funds received by the Secretary from production  
6 of oil or natural gas, or the sale of production taken  
7 in-kind, or from net profit shares, from an outer  
8 Continental Shelf minerals lease.

9           “(7) PRODUCING STATE.—The term ‘producing  
10 State’ means an Adjacent State having an Adjacent  
11 Zone containing leased tracts from which OCS Re-  
12 ceipts were derived.

13           “(8) OCS RECEIPTS.—The term ‘OCS Receipts’  
14 means bonus bids and royalties, excluding royalties  
15 from leases amended under the authority of section  
16 8(s) of this Act.”.

## 17 **Subtitle B—Arctic Coastal Plain**

### 18 **SEC. 3101. DEFINITIONS.**

19 In this subtitle:

20           (1) COASTAL PLAIN.—The term “Coastal  
21 Plain” means that area identified as the “1002  
22 Coastal Plain Area” on the map.

23           (2) FEDERAL AGREEMENT.—The term “Fed-  
24 eral Agreement” means the Federal Agreement and  
25 Grant Right-of-Way for the Trans-Alaska Pipeline

1 issued on January 23, 1974, in accordance with sec-  
2 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)  
3 and the Trans-Alaska Pipeline Authorization Act  
4 (43 U.S.C. 1651 et seq.).

5 (3) FINAL STATEMENT.—The term “Final  
6 Statement” means the final legislative environmental  
7 impact statement on the Coastal Plain, dated April  
8 1987, and prepared pursuant to section 1002 of the  
9 Alaska National Interest Lands Conservation Act  
10 (16 U.S.C. 3142) and section 102(2)(C) of the Na-  
11 tional Environmental Policy Act of 1969 (42 U.S.C.  
12 4332(2)(C)).

13 (4) MAP.—The term “map” means the map en-  
14 titled “Arctic National Wildlife Refuge”, dated Sep-  
15 tember 2005, and prepared by the United States Ge-  
16 ological Survey.

17 (5) SECRETARY.—The term “Secretary” means  
18 the Secretary of the Interior (or the designee of the  
19 Secretary), acting through the Director of the Bu-  
20 reau of Land Management, in consultation with the  
21 Director of the United States Fish and Wildlife  
22 Service.

1 **SEC. 3102. LEASING PROGRAM FOR LAND WITHIN THE**  
2 **COASTAL PLAIN.**

3 (a) IN GENERAL.—The Secretary shall take such ac-  
4 tions as are necessary—

5 (1) to establish and implement, in accordance  
6 with this subtitle, a competitive oil and gas leasing  
7 program that will result in an environmentally sound  
8 program for the exploration, development, and pro-  
9 duction of the oil and gas resources of the Coastal  
10 Plain; and

11 (2) to administer this subtitle through regula-  
12 tions, lease terms, conditions, restrictions, prohibi-  
13 tions, stipulations, and other provisions that—

14 (A) ensure the oil and gas exploration, de-  
15 velopment, and production activities on the  
16 Coastal Plain will result in no significant ad-  
17 verse effect on fish and wildlife, their habitat,  
18 subsistence resources, and the environment; and

19 (B) require the application of the best  
20 commercially available technology for oil and  
21 gas exploration, development, and production to  
22 all exploration, development, and production op-  
23 erations under this subtitle in a manner that  
24 ensures the receipt of fair market value by the  
25 public for the mineral resources to be leased.

26 (b) REPEAL.—

1           (1) REPEAL.—Section 1003 of the Alaska Na-  
2           tional Interest Lands Conservation Act of 1980 (16  
3           U.S.C. 3143) is repealed.

4           (2) CONFORMING AMENDMENT.—The table of  
5           contents contained in section 1 of that Act (16  
6           U.S.C. 3101 note) is amended by striking the item  
7           relating to section 1003.

8           (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
9           TIONS.—

10           (A) IN GENERAL.—Before conducting the  
11           first lease sale under this subtitle, the Secretary  
12           shall prepare an environmental impact state-  
13           ment in accordance with the National Environ-  
14           mental Policy Act of 1969 (42 U.S.C. 4321 et  
15           seq.) with respect to the actions authorized by  
16           this subtitle that are not referred to in para-  
17           graph (2).

18           (B) IDENTIFICATION AND ANALYSIS.—  
19           Notwithstanding any other provision of law, in  
20           carrying out this paragraph, the Secretary shall  
21           not be required—

22                   (i) to identify nonleasing alternative  
23                   courses of action; or

24                   (ii) to analyze the environmental ef-  
25                   fects of those courses of action.



1 (C) IDENTIFICATION OF PREFERRED AC-  
2 TION.—Not later than 18 months after the date  
3 of enactment of this Act, the Secretary shall—

4 (i) identify only a preferred action and  
5 a single leasing alternative for the first  
6 lease sale authorized under this subtitle;  
7 and

8 (ii) analyze the environmental effects  
9 and potential mitigation measures for  
10 those 2 alternatives.

11 (D) PUBLIC COMMENTS.—In carrying out  
12 this paragraph, the Secretary shall consider  
13 only public comments that are filed not later  
14 than 20 days after the date of publication of a  
15 draft environmental impact statement.

16 (E) EFFECT OF COMPLIANCE.—Notwith-  
17 standing any other provision of law, compliance  
18 with this paragraph shall be considered to sat-  
19 isfy all requirements for the analysis and con-  
20 sideration of the environmental effects of pro-  
21 posed leasing under this subtitle.

22 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
23 ITY.—Nothing in this subtitle expands or limits any State  
24 or local regulatory authority.

25 (d) SPECIAL AREAS.—

1 (1) DESIGNATION.—

2 (A) IN GENERAL.—The Secretary, after  
3 consultation with the State of Alaska, the  
4 North Slope Borough, Alaska, and the City of  
5 Kaktovik, Alaska, may designate not more than  
6 45,000 acres of the Coastal Plain as a special  
7 area if the Secretary determines that the special  
8 area would be of such unique character and in-  
9 terest as to require special management and  
10 regulatory protection.

11 (B) SADLEROCHIT SPRING AREA.—The  
12 Secretary shall designate as a special area in  
13 accordance with subparagraph (A) the  
14 Sadlerochit Spring area, comprising approxi-  
15 mately 4,000 acres as depicted on the map.

16 (2) MANAGEMENT.—The Secretary shall man-  
17 age each special area designated under this sub-  
18 section in a manner that preserves the unique and  
19 diverse character of the area, including fish, wildlife,  
20 subsistence resources, and cultural values of the  
21 area.

22 (3) EXCLUSION FROM LEASING OR SURFACE  
23 OCCUPANCY.—

1           (A) IN GENERAL.—The Secretary may ex-  
2           clude any special area designated under this  
3           subsection from leasing.

4           (B) NO SURFACE OCCUPANCY.—If the Sec-  
5           retary leases all or a portion of a special area  
6           for the purposes of oil and gas exploration, de-  
7           velopment, production, and related activities,  
8           there shall be no surface occupancy of the land  
9           comprising the special area.

10          (4) DIRECTIONAL DRILLING.—Notwithstanding  
11          any other provision of this subsection, the Secretary  
12          may lease all or a portion of a special area under  
13          terms that permit the use of horizontal drilling tech-  
14          nology from sites on leases located outside the spe-  
15          cial area.

16          (e) LIMITATION ON CLOSED AREAS.—The Secretary  
17          may not close land within the Coastal Plain to oil and gas  
18          leasing or to exploration, development, or production ex-  
19          cept in accordance with this subtitle.

20          (f) REGULATIONS.—

21               (1) IN GENERAL.—Not later than 15 months  
22               after the date of enactment of this Act, the Sec-  
23               retary shall promulgate such regulations as are nec-  
24               essary to carry out this subtitle, including rules and  
25               regulations relating to protection of the fish and

1 wildlife, fish and wildlife habitat, subsistence re-  
2 sources, and environment of the Coastal Plain.

3 (2) REVISION OF REGULATIONS.—The Sec-  
4 retary shall periodically review and, as appropriate,  
5 revise the rules and regulations issued under para-  
6 graph (1) to reflect any significant biological, envi-  
7 ronmental, scientific or engineering data that come  
8 to the attention of the Secretary.

9 **SEC. 3103. LEASE SALES.**

10 (a) IN GENERAL.—Land may be leased pursuant to  
11 this subtitle to any person qualified to obtain a lease for  
12 deposits of oil and gas under the Mineral Leasing Act (30  
13 U.S.C. 181 et seq.).

14 (b) PROCEDURES.—The Secretary shall, by regula-  
15 tion, establish procedures for—

16 (1) receipt and consideration of sealed nomina-  
17 tions for any area in the Coastal Plain for inclusion  
18 in, or exclusion (as provided in subsection (c)) from,  
19 a lease sale;

20 (2) the holding of lease sales after that nomina-  
21 tion process; and

22 (3) public notice of and comment on designa-  
23 tion of areas to be included in, or excluded from, a  
24 lease sale.

1 (c) LEASE SALE BIDS.—Bidding for leases under  
2 this subtitle shall be by sealed competitive cash bonus bids.

3 (d) ACREAGE MINIMUM IN FIRST SALE.—For the  
4 first lease sale under this subtitle, the Secretary shall offer  
5 for lease those tracts the Secretary considers to have the  
6 greatest potential for the discovery of hydrocarbons, tak-  
7 ing into consideration nominations received pursuant to  
8 subsection (b)(1), but in no case less than 200,000 acres.

9 (e) TIMING OF LEASE SALES.—The Secretary  
10 shall—

11 (1) not later than 22 months after the date of  
12 enactment of this Act, conduct the first lease sale  
13 under this subtitle;

14 (2) not later than 90 days after the date of the  
15 completion of the sale, evaluate the bids in the sale  
16 and issue leases resulting from the sale; and

17 (3) conduct additional sales at appropriate in-  
18 tervals if sufficient interest in exploration or devel-  
19 opment exists to warrant the conduct of the addi-  
20 tional sales.

21 **SEC. 3104. GRANT OF LEASES BY THE SECRETARY.**

22 (a) IN GENERAL.—On payment by a lessee of such  
23 bonus as may be accepted by the Secretary, the Secretary  
24 may grant to the highest responsible qualified bidder in

1 a lease sale conducted pursuant to section 3103 a lease  
2 for any land on the Coastal Plain.

3 (b) SUBSEQUENT TRANSFERS.—

4 (1) IN GENERAL.—No lease issued under this  
5 subtitle may be sold, exchanged, assigned, sublet, or  
6 otherwise transferred except with the approval of the  
7 Secretary.

8 (2) CONDITION FOR APPROVAL.—Before grant-  
9 ing any approval described in paragraph (1), the  
10 Secretary shall consult with and give due consider-  
11 ation to the opinion of the Attorney General.

12 **SEC. 3105. LEASE TERMS AND CONDITIONS.**

13 An oil or gas lease issued pursuant to this subtitle  
14 shall—

15 (1) provide for the payment of a royalty of not  
16 less than 12½ percent of the amount or value of the  
17 production removed or sold from the lease, as deter-  
18 mined by the Secretary in accordance with regula-  
19 tions applicable to other Federal oil and gas leases;

20 (2) provide that the Secretary may close, on a  
21 seasonal basis, such portions of the Coastal Plain to  
22 exploratory drilling activities as are necessary to  
23 protect caribou calving areas and other species of  
24 fish and wildlife;

1           (3) require that each lessee of land within the  
2 Coastal Plain shall be fully responsible and liable for  
3 the reclamation of land within the Coastal Plain and  
4 any other Federal land that is adversely affected in  
5 connection with exploration, development, produc-  
6 tion, or transportation activities within the Coastal  
7 Plain conducted by the lessee or by any of the sub-  
8 contractors or agents of the lessee;

9           (4) provide that the lessee may not delegate or  
10 convey, by contract or otherwise, that reclamation  
11 responsibility and liability to another person without  
12 the express written approval of the Secretary;

13           (5) provide that the standard of reclamation for  
14 land required to be reclaimed under this subtitle  
15 shall be, to the maximum extent practicable—

16           (A) a condition capable of supporting the  
17 uses that the land was capable of supporting  
18 prior to any exploration, development, or pro-  
19 duction activities; or

20           (B) on application by the lessee, to a high-  
21 er or better standard, as approved by the Sec-  
22 retary;

23           (6) contain terms and conditions relating to  
24 protection of fish and wildlife, fish and wildlife habi-

1       tat, subsistence resources, and the environment as  
2       required under section 3102(a)(2);

3           (7) provide that each lessee, and each agent  
4       and contractor of a lessee, use their best efforts to  
5       provide a fair share of employment and contracting  
6       for Alaska Natives and Alaska Native Corporations  
7       from throughout the State of Alaska, as determined  
8       by the level of obligation previously agreed to in the  
9       Federal Agreement; and

10          (8) contain such other provisions as the Sec-  
11       retary determines to be necessary to ensure compli-  
12       ance with this subtitle and the regulations promul-  
13       gated under this subtitle.

14 **SEC. 3106. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

15       (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
16 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—  
17 In accordance with section 3102, the Secretary shall ad-  
18 minister this subtitle through regulations, lease terms,  
19 conditions, restrictions, prohibitions, stipulations, or other  
20 provisions that—

21           (1) ensure, to the maximum extent practicable,  
22       that oil and gas exploration, development, and pro-  
23       duction activities on the Coastal Plain will result in  
24       no significant adverse effect on fish and wildlife, fish  
25       and wildlife habitat, and the environment;



1           (2) require the application of the best commer-  
2           cially available technology for oil and gas explo-  
3           ration, development, and production on all new ex-  
4           ploration, development, and production operations;  
5           and

6           (3) ensure that the maximum surface acreage  
7           covered in connection with the leasing program by  
8           production and support facilities, including airstrips  
9           and any areas covered by gravel berms or piers for  
10          support of pipelines, does not exceed 2,000 acres on  
11          the Coastal Plain.

12          (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—  
13          The Secretary shall require, with respect to any proposed  
14          drilling and related activities on the Coastal Plain, that—

15               (1) a site-specific analysis be made of the prob-  
16               able effects, if any, that the drilling or related activi-  
17               ties will have on fish and wildlife, fish and wildlife  
18               habitat, subsistence resources, subsistence uses, and  
19               the environment;

20               (2) a plan be implemented to avoid, minimize,  
21               and mitigate (in that order and to the maximum ex-  
22               tent practicable) any significant adverse effect iden-  
23               tified under paragraph (1); and

1           (3) the development of the plan shall occur  
2           after consultation with the 1 or more agencies hav-  
3           ing jurisdiction over matters mitigated by the plan.

4           (c) REGULATIONS TO PROTECT COASTAL PLAIN  
5 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
6 AND THE ENVIRONMENT.—Before implementing the leas-  
7 ing program authorized by this subtitle, the Secretary  
8 shall prepare and issue regulations, lease terms, condi-  
9 tions, restrictions, prohibitions, stipulations, or other  
10 measures designed to ensure, to the maximum extent prac-  
11 ticable, that the activities carried out on the Coastal Plain  
12 under this subtitle are conducted in a manner consistent  
13 with the purposes and environmental requirements of this  
14 subtitle.

15           (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
16 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
17 proposed regulations, lease terms, conditions, restrictions,  
18 prohibitions, and stipulations for the leasing program  
19 under this subtitle shall require—

20           (1) compliance with all applicable provisions of  
21 Federal and State environmental law (including reg-  
22 ulations);

23           (2) implementation of and compliance with—

24                   (A) standards that are at least as effective  
25           as the safety and environmental mitigation

1 measures, as described in items 1 through 29  
2 on pages 167 through 169 of the Final State-  
3 ment, on the Coastal Plain;

4 (B) seasonal limitations on exploration, de-  
5 velopment, and related activities, as necessary,  
6 to avoid significant adverse effects during peri-  
7 ods of concentrated fish and wildlife breeding,  
8 denning, nesting, spawning, and migration;

9 (C) design safety and construction stand-  
10 ards for all pipelines and any access and service  
11 roads that minimize, to the maximum extent  
12 practicable, adverse effects on—

13 (i) the passage of migratory species  
14 (such as caribou); and

15 (ii) the flow of surface water by re-  
16 quiring the use of culverts, bridges, or  
17 other structural devices;

18 (D) prohibitions on general public access  
19 to, and use of, all pipeline access and service  
20 roads;

21 (E) stringent reclamation and rehabilita-  
22 tion requirements in accordance with this sub-  
23 title for the removal from the Coastal Plain of  
24 all oil and gas development and production fa-  
25 cilities, structures, and equipment on comple-

1 tion of oil and gas production operations, except  
2 in a case in which the Secretary determines  
3 that those facilities, structures, or equipment—

4 (i) would assist in the management of  
5 the Arctic National Wildlife Refuge; and

6 (ii) are donated to the United States  
7 for that purpose;

8 (F) appropriate prohibitions or restrictions  
9 on—

10 (i) access by all modes of transpor-  
11 tation;

12 (ii) sand and gravel extraction; and

13 (iii) use of explosives;

14 (G) reasonable stipulations for protection  
15 of cultural and archaeological resources;

16 (H) measures to protect groundwater and  
17 surface water, including—

18 (i) avoidance, to the maximum extent  
19 practicable, of springs, streams, and river  
20 systems;

21 (ii) the protection of natural surface  
22 drainage patterns and wetland and ripar-  
23 ian habitats; and

24 (iii) the regulation of methods or tech-  
25 niques for developing or transporting ade-

1           quate supplies of water for exploratory  
2           drilling; and

3           (I) research, monitoring, and reporting re-  
4           quirements;

5           (3) that exploration activities (except surface  
6           geological studies) be limited to the period between  
7           approximately November 1 and May 1 of each year  
8           and be supported, if necessary, by ice roads, winter  
9           trails with adequate snow cover, ice pads, ice air-  
10          strips, and air transport methods (except that those  
11          exploration activities may be permitted at other  
12          times if the Secretary determines that the explo-  
13          ration will have no significant adverse effect on fish  
14          and wildlife, fish and wildlife habitat, and the envi-  
15          ronment of the Coastal Plain);

16          (4) consolidation of facility siting;

17          (5) avoidance or reduction of air traffic-related  
18          disturbance to fish and wildlife;

19          (6) treatment and disposal of hazardous and  
20          toxic wastes, solid wastes, reserve pit fluids, drilling  
21          muds and cuttings, and domestic wastewater, includ-  
22          ing, in accordance with applicable Federal and State  
23          environmental laws (including regulations)—

24                  (A) preparation of an annual waste man-  
25                  agement report;

1 (B) development and implementation of a  
2 hazardous materials tracking system; and

3 (C) prohibition on the use of chlorinated  
4 solvents;

5 (7) fuel storage and oil spill contingency plan-  
6 ning;

7 (8) conduct of periodic field crew environmental  
8 briefings;

9 (9) avoidance of significant adverse effects on  
10 subsistence hunting, fishing, and trapping;

11 (10) compliance with applicable air and water  
12 quality standards;

13 (11) appropriate seasonal and safety zone des-  
14 ignations around well sites, within which subsistence  
15 hunting and trapping shall be limited; and

16 (12) development and implementation of such  
17 other protective environmental requirements, restric-  
18 tions, terms, or conditions as the Secretary deter-  
19 mines to be necessary.

20 (e) CONSIDERATIONS.—In preparing and issuing reg-  
21 ulations, lease terms, conditions, restrictions, prohibitions,  
22 or stipulations under this section, the Secretary shall take  
23 into consideration—

24 (1) the stipulations and conditions that govern  
25 the National Petroleum Reserve-Alaska leasing pro-

1 gram, as set forth in the 1999 Northeast National  
2 Petroleum Reserve-Alaska Final Integrated Activity  
3 Plan/Environmental Impact Statement;

4 (2) the environmental protection standards that  
5 governed the initial Coastal Plain seismic exploration  
6 program under parts 37.31 through 37.33 of title  
7 50, Code of Federal Regulations (or successor regu-  
8 lations); and

9 (3) the land use stipulations for exploratory  
10 drilling on the KIC-ASRC private land described in  
11 appendix 2 of the agreement between Arctic Slope  
12 Regional Corporation and the United States dated  
13 August 9, 1983.

14 (f) FACILITY CONSOLIDATION PLANNING.—

15 (1) IN GENERAL.—After providing for public  
16 notice and comment, the Secretary shall prepare and  
17 periodically update a plan to govern, guide, and di-  
18 rect the siting and construction of facilities for the  
19 exploration, development, production, and transpor-  
20 tation of oil and gas resources from the Coastal  
21 Plain.

22 (2) OBJECTIVES.—The objectives of the plan  
23 shall be—

24 (A) the avoidance of unnecessary duplica-  
25 tion of facilities and activities;

1 (B) the encouragement of consolidation of  
2 common facilities and activities;

3 (C) the location or confinement of facilities  
4 and activities to areas that will minimize impact  
5 on fish and wildlife, fish and wildlife habitat,  
6 subsistence resources, and the environment;

7 (D) the use of existing facilities, to the  
8 maximum extent practicable; and

9 (E) the enhancement of compatibility be-  
10 tween wildlife values and development activities.

11 (g) ACCESS TO PUBLIC LAND.—The Secretary  
12 shall—

13 (1) manage public land in the Coastal Plain in  
14 accordance with subsections (a) and (b) of section  
15 811 of the Alaska National Interest Lands Con-  
16 servation Act (16 U.S.C. 3121); and

17 (2) ensure that local residents shall have rea-  
18 sonable access to public land in the Coastal Plain for  
19 traditional uses.

20 **SEC. 3107. EXPEDITED JUDICIAL REVIEW.**

21 (a) FILING OF COMPLAINTS.—

22 (1) DEADLINE.—A complaint seeking judicial  
23 review of a provision of this subtitle or an action of  
24 the Secretary under this subtitle shall be filed—



1 (A) except as provided in subparagraph  
2 (B), during the 90-day period beginning on the  
3 date on which the action being challenged was  
4 carried out; or

5 (B) in the case of a complaint based solely  
6 on grounds arising after the 90-day period de-  
7 scribed in subparagraph (A), by not later than  
8 90 days after the date on which the complain-  
9 ant knew or reasonably should have known  
10 about the grounds for the complaint.

11 (2) VENUE.—A complaint seeking judicial re-  
12 view of a provision of this subtitle or an action of  
13 the Secretary under this subtitle shall be filed in the  
14 United States Court of Appeals for the District of  
15 Columbia Circuit.

16 (3) SCOPE.—

17 (A) IN GENERAL.—Judicial review of a de-  
18 cision of the Secretary relating to a lease sale  
19 under this subtitle (including an environmental  
20 analysis of such a lease sale) shall be—

21 (i) limited to a review of whether the  
22 decision is in accordance with this subtitle;  
23 and

24 (ii) based on the administrative record  
25 of the decision.

1           (B) PRESUMPTIONS.—Any identification  
2           by the Secretary of a preferred course of action  
3           relating to a lease sale, and any analysis by the  
4           Secretary of environmental effects, under this  
5           subtitle shall be presumed to be correct unless  
6           proven otherwise by clear and convincing evi-  
7           dence.

8           (b) LIMITATION ON OTHER REVIEW.—Any action of  
9           the Secretary that is subject to judicial review under this  
10          section shall not be subject to judicial review in any civil  
11          or criminal proceeding for enforcement.

12   **SEC. 3108. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
13                           **NUES.**

14          (a) IN GENERAL.—Notwithstanding any other provi-  
15          sion of law, of the amount of adjusted bonus, rental, and  
16          royalty revenues from Federal oil and gas leasing and op-  
17          erations authorized under this subtitle for each fiscal  
18          year—

19               (1) 50 percent shall be paid to the State of  
20               Alaska; and

21               (2) the balance shall be used to offset the provi-  
22               sions of this Act.

23          (b) PAYMENTS TO ALASKA.—Payments to the State  
24          of Alaska under this section shall be made semiannually.

1 **SEC. 3109. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

2 (a) IN GENERAL.—The Secretary shall issue rights-  
3 of-way and easements across the Coastal Plain for the  
4 transportation of oil and gas—

5 (1) except as provided in paragraph (2), under  
6 section 28 of the Mineral Leasing Act (30 U.S.C.  
7 185), without regard to title XI of the Alaska Na-  
8 tional Interest Lands Conservation Act (16 U.S.C.  
9 3161 et seq.); and

10 (2) under title XI of the Alaska National Inter-  
11 est Lands Conservation Act (16 U.S.C. 3161 et  
12 seq.), for access authorized by sections 1110 and  
13 1111 of that Act (16 U.S.C. 3170, 3171).

14 (b) TERMS AND CONDITIONS.—The Secretary shall  
15 include in any right-of-way or easement issued under sub-  
16 section (a) such terms and conditions as may be necessary  
17 to ensure that transportation of oil and gas does not result  
18 in a significant adverse effect on the fish and wildlife, sub-  
19 sistence resources, their habitat, and the environment of  
20 the Coastal Plain, including requirements that facilities be  
21 sited or designed so as to avoid unnecessary duplication  
22 of roads and pipelines.

23 (c) REGULATIONS.—The Secretary shall include in  
24 regulations under section 3102(f) provisions granting  
25 rights-of-way and easements described in subsection (a).

1 **SEC. 3110. CONVEYANCE.**

2 Notwithstanding section 1302(h)(2) of the Alaska  
3 National Interest Lands Conservation Act (16 U.S.C.  
4 3192(h)(2)), to remove any cloud on title to land, and to  
5 clarify land ownership patterns in the Coastal Plain, the  
6 Secretary shall—

7 (1) to the extent necessary to fulfill the entitle-  
8 ment of the Kaktovik Inupiat Corporation under sec-  
9 tions 12 and 14 of the Alaska Native Claims Settle-  
10 ment Act (43 U.S.C. 1611, 1613), as determined by  
11 the Secretary, convey to that Corporation the sur-  
12 face estate of the land described in paragraph (1) of  
13 Public Land Order 6959, in accordance with the  
14 terms and conditions of the agreement between the  
15 Secretary, the United States Fish and Wildlife Serv-  
16 ice, the Bureau of Land Management, and the  
17 Kaktovik Inupiat Corporation, dated January 22,  
18 1993; and

19 (2) convey to the Arctic Slope Regional Cor-  
20 poration the remaining subsurface estate to which  
21 that Corporation is entitled under the agreement be-  
22 tween that corporation and the United States, dated  
23 August 9, 1983.

1           **Subtitle C—Nuclear Energy**  
2                           **Reforms**

3   **SEC. 3201. AMENDMENTS TO TITLE XVII OF THE ENERGY**  
4                           **POLICY ACT 2005.**

5           (a) **DEFINITION OF PROJECT COST.**—Section  
6 1701(1) of the Energy Policy Act of 2005 (42 U.S.C.  
7 16511(1)) is amended by inserting a new paragraph (4)  
8 and renumbering the paragraphs accordingly:

9                   “(4) **PROJECT COST.**—The term ‘project cost’  
10 means all costs associated with the development,  
11 planning, design, engineering, permitting and licens-  
12 ing, construction, commissioning, start-up, shake-  
13 down and financing of the facility, including but not  
14 limited to reasonable escalation and contingencies,  
15 the cost of and fees for the guarantee, reasonably re-  
16 quired reserve funds, initial working capital and in-  
17 terest during construction.”.

18           (b) **TERMS AND CONDITIONS.**—Section 1702 of the  
19 Energy Policy Act of 2005 (42 U.S.C. 16512) is amended  
20 by striking subsections (b) and (c) and inserting the fol-  
21 lowing:

22                   “(b) **SPECIFIC APPROPRIATION OR CONTRIBU-**  
23 **TION.**—

24                   “(1) **IN GENERAL.**—No guarantee shall be  
25 made unless—

1           “(A) an appropriation for the cost has  
2           been made;

3           “(B) the Secretary has received from the  
4           borrower a payment in full for the cost of the  
5           obligation and deposited the payment into the  
6           Treasury; or

7           “(C) a combination of (A) and (B) has  
8           been made, that when combined is sufficient to  
9           cover the cost of the obligation.

10          “(2) RELATION TO OTHER LAWS.—Section 504  
11          (b) of the Federal Credit Reform Act of 1990 (2  
12          U.S.C. 661e(b)) shall not apply to a loan guarantee  
13          made in accordance with paragraph (1)(B).”.

14          “(c) AMOUNT.—Section 1702 of the Energy Policy Act  
15          of 2005 (42 U.S.C. 16512) is amended by striking sub-  
16          section (c) and inserting the following:

17          “(c) AMOUNT.—

18                 “(1) IN GENERAL.—Subject to paragraph (2),  
19                 the Secretary shall guarantee 100 percent of the ob-  
20                 ligation for a facility that is the subject of the guar-  
21                 antee, or a lesser amount if requested by the bor-  
22                 rower.

23                 “(2) LIMITATION.—The total amount of loans  
24                 guaranteed for a facility by the Secretary shall not  
25                 exceed 80 percent of the total cost of the facility, as

1 estimated at the time at which the guarantee is  
2 issued.”.

3 **SEC. 3202. AMENDMENTS TO SECTION 638 OF THE ENERGY**  
4 **POLICY ACT OF 2005.**

5 (a) DEFINITIONS.—Section 638(a) of the Energy  
6 Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—

7 (1) by inserting after paragraph (3) the fol-  
8 lowing:

9 “(4) FULL POWER OPERATION.—The term ‘full  
10 power operation’ means whichever occurs first of—

11 “(A) the ‘commercial operation date’ or  
12 the equivalent under the terms of the financing  
13 documents for such facility; or

14 “(B) operation of such facility at an aver-  
15 age of 50 percent or greater of nameplate ca-  
16 pacity over any consecutive 30-day period.

17 “(5) INCREASED PROJECT COSTS.—The term  
18 ‘increased project costs’ means the increased cost of  
19 constructing, commissioning, testing, operating or  
20 maintaining a reactor prior to full-power operation  
21 incurred as a result of a delay covered by the con-  
22 tract including but not limited to costs of demobili-  
23 zation and demobilization, increased costs of equip-  
24 ment, materials and labor due to delay (including  
25 idle time), increased general and administrative

1 costs, and escalation costs for completing construc-  
2 tion.

3 “(6) LITIGATION.—The term ‘litigation’ means  
4 adjudication in Federal, State, local or tribal courts  
5 and administrative proceedings or hearings at or be-  
6 fore Federal, State, local or tribal agencies or ad-  
7 ministrative bodies.”; and

8 (2) by redesignating paragraph (4) as para-  
9 graph (7).

10 (b) CONTRACT AUTHORITY.—Section 638(b) of the  
11 Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is  
12 amended by striking paragraph (1) and inserting the fol-  
13 lowing:

14 “(1) IN GENERAL.—The Secretary may enter  
15 into contracts under this section with sponsors of an  
16 advanced nuclear facility that cover at any one time  
17 outstanding a total of not more than 6 reactors,  
18 with the 6 reactors consisting of not more than 3  
19 different reactor designs, in accordance with para-  
20 graph (2). In the event that any contract entered  
21 into under this section terminates or expires without  
22 a claim being paid by the Secretary thereunder, then  
23 the Secretary may enter into a new contract under  
24 this section in replacement or substitution for such  
25 contract.”.



1 (c) COVERED COSTS.—Section 638(d) of the Energy  
2 Policy Act of 2005 (42 U.S.C. 16014(d)) is amended by  
3 striking paragraphs (2) and (3) and inserting the fol-  
4 lowing:

5 “(2) COVERAGE.—In the case of reactors that  
6 receive combined licenses and on which construction  
7 is commenced, the Secretary shall pay—

8 “(A) 100 percent of the covered costs of  
9 delay that occur after the initial 30-day period  
10 of covered delay; but

11 “(B) not more than \$500,000,000 per con-  
12 tract.

13 “(3) COVERED DEBT OBLIGATIONS.—Debt obli-  
14 gations covered under subparagraph (A) of para-  
15 graph (5) shall include but not be limited to debt ob-  
16 ligations incurred to pay increased project costs.”.

17 (d) DISPUTE RESOLUTION.—Section 638 of the En-  
18 ergy Policy Act of 2005 (42 U.S.C. 16014) is amended—

19 (1) by inserting after subsection (e) the fol-  
20 lowing:

21 “(f) DISPUTE RESOLUTION.—Any controversy or  
22 claim arising out of or relating to any contract entered  
23 into under this section shall be determined by arbitration  
24 in Washington, DC according to the then prevailing Com-  
25 mercial Arbitration Rules of the American Arbitration As-

1 sociation. A decision by the arbitrator(s) shall be final and  
2 binding, and any court having jurisdiction may enter judg-  
3 ment on it.”; and

4 (2) by designating subsections (f), (g), and (h)  
5 as subsections (g), (h), and (i) respectively.

6 **SEC. 3203. AMENDMENTS TO SECTION 952(c) OF THE EN-**  
7 **ERGY POLICY ACT 2005.**

8 Section 952(c) of the Energy Policy Act of 2005 (42  
9 U.S.C. 16014) is amended by striking paragraphs (1) and  
10 (2) and substituting the following:

11 “(1) IN GENERAL.—The Secretary shall carry  
12 out a Nuclear Power 2010 Program to position the  
13 nation to start construction of new nuclear power  
14 plants by 2010 or as close to 2010 as achievable.

15 “(2) SCOPE OF PROGRAM.—The Nuclear Power  
16 2010 Program shall be cost-shared with the private  
17 sector and shall support the following objectives:

18 “(A) Demonstrating the licensing process  
19 for new nuclear power plants, including the Nu-  
20 clear Regulatory Commission process for ob-  
21 taining early site permits (EPS), combined con-  
22 struction/operating licenses (cols), and design  
23 certifications.

24 “(B) Conducting first-of-a-kind design and  
25 engineering work on at least two advanced nu-

1 clear reactor designs sufficient to bring those  
2 designs to a state of design completion suffi-  
3 cient to allow development of firm cost esti-  
4 mates.

5 “(3) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated to the Sec-  
7 retary to carry out the Nuclear Power 2010 Pro-  
8 gram—

9 “(A) \$182,800,000 for fiscal year 2009;

10 “(B) \$159,600,000 for fiscal year 2010;

11 “(C) \$135,600,000 for fiscal year 2011;

12 “(D) \$46,900,000 for fiscal year 2012;

13 and

14 “(E) \$2,200,000 for fiscal year 2013.”.

15 **SEC. 3204. DOMESTIC MANUFACTURING BASE FOR NU-**

16 **CLEAR COMPONENTS AND EQUIPMENT.**

17 (a) ESTABLISHMENT OF INTERAGENCY WORKING  
18 GROUP.—

19 (1) PURPOSES.—The purposes of this section  
20 are—

21 (A) to increase the competitiveness of the  
22 United States nuclear energy products and  
23 services industries;

24 (B) to identify the stimulus or incentives  
25 necessary to cause United States manufacturers

1 of nuclear energy products to expand manufac-  
2 turing capacity;

3 (C) to facilitate the export of United  
4 States nuclear energy products and services;

5 (D) to reduce the trade deficit of the  
6 United States through the export of United  
7 States nuclear energy products and services;

8 (E) to retain and create nuclear energy  
9 manufacturing and related service jobs in the  
10 United States;

11 (F) to integrate the objectives in para-  
12 graphs (1) through (4) in a manner consistent  
13 with the interests of the United States, into the  
14 foreign policy of the United States; and

15 (G) to authorize funds for increasing  
16 United States capacity to manufacture nuclear  
17 energy products and supply nuclear energy  
18 services.

19 (2) ESTABLISHMENT.—

20 (A) There shall be established an inter-  
21 agency working group that, in consultation with  
22 representative industry organizations and man-  
23 ufacturers of nuclear energy products, shall  
24 make recommendations to coordinate the ac-  
25 tions and programs of the Federal Government

1 in order to promote increasing domestic manu-  
2 facturing capacity and export of domestic nu-  
3 clear energy products and services.

4 (B) The Interagency Working Group shall  
5 be composed as follows:

6 (i) The Secretary of Energy, or the  
7 Secretary's designee, shall chair the inter-  
8 agency working group. The Secretary of  
9 Energy shall provide staff for carrying out  
10 the functions of the interagency working  
11 group established under this section.

12 (ii) Representatives of—

13 (I) the Department of Energy;

14 (II) the Department of Com-  
15 merce;

16 (III) the Department of Defense;

17 (IV) the Department of Treas-  
18 ury;

19 (V) the Department of State;

20 (VI) the Environmental Protec-  
21 tion Agency;

22 (VII) the United States Agency  
23 for International Development;

24 (VIII) the Export-Import Bank  
25 of the United States;

1 (IX) the Trade and Development  
2 Agency;

3 (X) the Small Business Adminis-  
4 tration;

5 (XI) the Office of the U.S. Trade  
6 Representative; and

7 (XII) other Federal agencies, as  
8 determined by the President.

9 (iii) The heads of appropriate agencies  
10 shall detail such personnel and furnish  
11 such services to the interagency group,  
12 with or without reimbursement, as may be  
13 necessary to carry out the group's func-  
14 tions.

15 (3) DUTIES OF THE INTERAGENCY WORKING  
16 GROUP.—

17 (A) Within six months of enactment, the  
18 interagency working group established under  
19 paragraph (2) shall identify the actions nec-  
20 essary to promote the safe development and ap-  
21 plication in foreign countries of nuclear energy  
22 products and services in order to—

23 (i) increase electricity generation from  
24 nuclear energy sources through develop-  
25 ment of new generation facilities;

1 (ii) improve the efficiency, safety and/  
2 or reliability of existing nuclear generating  
3 facilities through modifications; and

4 (iii) enhance the safe treatment, han-  
5 dling, storage and disposal of used nuclear  
6 fuel.

7 (B) Within 6 months of enactment, the  
8 interagency working group shall identify mecha-  
9 nisms (including, but not limited to, tax stim-  
10 ulus for investment, loans and loan guarantees,  
11 and grants) necessary for United States compa-  
12 nies to increase their capacity to produce or  
13 provide nuclear energy products and services,  
14 and to increase their exports of nuclear energy  
15 products and services. The interagency working  
16 group shall identify administrative or legislative  
17 initiatives necessary to—

18 (i) encourage United States compa-  
19 nies to increase their manufacturing capac-  
20 ity for nuclear energy products;

21 (ii) provide technical and financial as-  
22 sistance and support to small and mid-  
23 sized businesses to establish quality assur-  
24 ance programs in accordance with domestic

1 and international nuclear quality assurance  
2 code requirements;

3 (iii) encourage, through financial in-  
4 centives, private sector capital investment  
5 to expand manufacturing capacity; and

6 (iv) provide technical assistance and  
7 financial incentives to small and mid-sized  
8 businesses to develop the work-force nec-  
9 essary to increase manufacturing capacity  
10 and meet domestic and international nu-  
11 clear quality assurance code requirements.

12 (C) Within 9 months of enactment, the  
13 interagency working group shall provide a re-  
14 port to Congress on its findings under subpara-  
15 graphs (A) and (B), including recommendations  
16 for new legislative authority where necessary.

17 (4) TRADE ASSISTANCE.—The interagency  
18 working group shall encourage the member agencies  
19 of the interagency working group to—

20 (A) provide technical training and edu-  
21 cation for international development personnel  
22 and local users in their own country;

23 (B) provide financial and technical assist-  
24 ance to nonprofit institutions that support the  
25 marketing and export efforts of domestic com-



1           panies that provide nuclear energy products and  
2           services;

3           (C) develop nuclear energy projects in for-  
4           eign countries;

5           (D) provide technical assistance and train-  
6           ing materials to loan officers of the World  
7           Bank, international lending institutions, com-  
8           mercial and energy attaches at embassies of the  
9           United States and other appropriate personnel  
10          in order to provide information about nuclear  
11          energy products and services to foreign govern-  
12          ments or other potential project sponsors;

13          (E) support, through financial incentives,  
14          private sector efforts to commercialize and ex-  
15          port nuclear energy products and services in ac-  
16          cordance with the subsidy codes of the World  
17          Trade Organization; and

18          (F) augment budgets for trade and devel-  
19          opment programs in order to support pre-feasi-  
20          bility or feasibility studies for projects that uti-  
21          lize nuclear energy products and services.

22          (5) AUTHORIZATION OF APPROPRIATIONS.—  
23          There are authorized to be appropriated to the Sec-  
24          retary for purposes of carrying out this section  
25          \$20,000,000 for fiscal years 2009 and 2010.

1 (b) CREDIT FOR QUALIFYING NUCLEAR POWER  
2 MANUFACTURING.—Subpart E of part IV of subchapter  
3 A of chapter 1 of the Internal Revenue Code is amended  
4 by inserting after section 48B the following new section:  
5 **“SEC. 48C. QUALIFYING NUCLEAR POWER MANUFAC-**  
6 **TURING CREDIT.**

7 “(a) IN GENERAL.—For purposes of section 46, the  
8 qualifying nuclear power manufacturing credit for any  
9 taxable year is an amount equal to 20 percent of the quali-  
10 fied investment for such taxable year.

11 “(b) QUALIFIED INVESTMENT.—

12 “(1) IN GENERAL.—For purposes of subsection  
13 (a), the qualified investment for any taxable year is  
14 the basis of eligible property placed in service by the  
15 taxpayer during such taxable year—

16 “(A) which is either part of a qualifying  
17 nuclear power manufacturing project or is  
18 qualifying nuclear power manufacturing equip-  
19 ment,

20 “(B)(i) the construction, reconstruction, or  
21 erection of which is completed by the taxpayer,  
22 or

23 “(ii) which is acquired by the taxpayer if  
24 the original use of such property commences  
25 with the taxpayer,

1           “(C) with respect to which depreciation (or  
2           amortization in lieu of depreciation) is allow-  
3           able, and

4           “(D) which is placed in service on or be-  
5           fore December 31, 2015.

6           “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED  
7           PROPERTY.—Rules similar to section 48(a)(4) shall  
8           apply for purposes of this section.

9           “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-  
10          TURES RULES MADE APPLICABLE.—Rules similar to  
11          the rules of subsections (c)(4) and (d) of section 46  
12          (as in effect on the day before the enactment of the  
13          Revenue Reconciliation Act of 1990) shall apply for  
14          purposes of this section.

15          “(c) DEFINITIONS.—For purposes of this section—

16               “(1) QUALIFYING NUCLEAR POWER MANUFAC-  
17               TURING PROJECT.—The term ‘qualifying nuclear  
18               power manufacturing project’ means any project  
19               which is designed primarily to enable the taxpayer to  
20               produce or test equipment necessary for the con-  
21               struction or operation of a nuclear power plant.

22               “(2) QUALIFYING NUCLEAR POWER MANUFAC-  
23               TURING EQUIPMENT.—The term ‘qualifying nuclear  
24               power manufacturing equipment’ means machine  
25               tools and other similar equipment, including com-

1       puters and other peripheral equipment, acquired or  
2       constructed primarily to enable the taxpayer to  
3       produce or test equipment necessary for the con-  
4       struction or operation of a nuclear power plant.

5               “(3) PROJECT.—The term ‘project’ includes  
6       any building constructed to house qualifying nuclear  
7       power manufacturing equipment.”.

8       (c) CONFORMING AMENDMENTS.—

9               (1) ADDITIONAL INVESTMENT CREDIT.—Sec-  
10       tion 46 of such Code is amended by—

11               (A) striking “and” at the end of paragraph

12               (3),

13               (B) striking the period at the end of para-  
14       graph (4) and inserting “, and”, and

15               (C) inserting after paragraph (4) the fol-  
16       lowing new paragraph:

17               “(5) the qualifying nuclear power manufac-  
18       turing credit.”.

19               (2) APPLICATION OF SECTION 49.—Subpara-  
20       graph (C) of section 49(a)(1) of such Code is  
21       amended by:

22               (A) striking “and” at the end of clause

23               (iii),

24               (B) striking the period at the end of clause

25               (iv) and inserting “, and”, and

1 (C) inserting after clause (iv) the following  
2 new clause:

3 “(v) the basis of any property which  
4 is part of a qualifying nuclear power equip-  
5 ment manufacturing project under section  
6 48C.”.

7 (3) TABLE OF SECTIONS.—The table of sections  
8 preceding section 46 is amended by inserting after  
9 the line for section 48B the following new line:

“Sec. 48C. Qualifying nuclear power manufacturing credit.”.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to property—

12 (1) the construction, reconstruction, or erection  
13 of which of began after the date of enactment, or

14 (2) which was acquired by the taxpayer on or  
15 after the date of enactment and not pursuant to a  
16 binding contract which was in effect on the day prior  
17 to the date of enactment.

18 **SEC. 3205. USE OF FUNDS FOR RECYCLING.**

19 Section 302 of the Nuclear Waste Policy Act of 1982  
20 (42 U.S.C. 10222) is amended—

21 (1) in subsection (d), by striking “The Sec-  
22 retary may” and inserting “Except as provided in  
23 subsection (f), the Secretary may”; and

24 (2) by adding at the end the following new sub-  
25 section:

1 “(f) RECYCLING.—

2 “(1) IN GENERAL.—Amounts in the Waste  
3 Fund may be used by the Secretary of Energy to  
4 make grants to or enter into long-term contracts  
5 with private sector entities for the recycling of spent  
6 nuclear fuel.

7 “(2) COMPETITIVE SELECTION.—Grants and  
8 contracts authorized under paragraph (1) shall be  
9 awarded on the basis of a competitive bidding proc-  
10 ess that—

11 “(A) maximizes the competitive efficiency  
12 of the projects funded;

13 “(B) best serves the goal of reducing the  
14 amount of waste requiring disposal under this  
15 Act; and

16 “(C) ensures adequate protection against  
17 the proliferation of nuclear materials that could  
18 be used in the manufacture of nuclear weap-  
19 ons.”.

20 **SEC. 3206. LICENSING OF NEW NUCLEAR POWER PLANTS.**

21 (a) Sections 189A(1)(A) of the Atomic Energy Act  
22 of 1954 is modified thus:

23 “(A) In any proceeding under this Act, for  
24 the granting, suspending, revoking, or amend-  
25 ing of any license or construction permit, or ap-

1           plication to transfer control, and in any pro-  
2           ceeding for the issuance or modification of rules  
3           and regulations dealing with the activities of li-  
4           censees, and in any proceeding for the payment  
5           of compensation, an award, or royalties under  
6           section 153, 157, 186e., or 188, the Commis-  
7           sion shall grant a hearing upon the request of  
8           any person whose interest may be affected by  
9           the proceeding, and shall admit any such per-  
10          son as a party to such proceeding. The Com-  
11          mission may, in the absence of a request there-  
12          for by any person whose interest may be af-  
13          fected, issue a construction permit, an oper-  
14          ating license or an amendment to a construc-  
15          tion permit or an amendment to an operating  
16          license without a hearing, but upon thirty days'  
17          notice and publication once in the Federal Reg-  
18          ister of its intent to do so. The Commission  
19          may dispense with such thirty days' notice and  
20          publication with respect to any application for  
21          an amendment to a construction permit or an  
22          amendment to an operating license upon a de-  
23          termination by the Commission that the amend-  
24          ment involves no significant hazards consider-  
25          ation.”.

1 (b) Section 185b of the Atomic Energy Act of 1954  
2 is modified thus:

3 “b. After any public hearing held under section  
4 189a.(1)(A), the Commission shall issue to the applicant  
5 a combined construction and operating license if the appli-  
6 cation contains sufficient information to support the  
7 issuance of a combined license and the Commission deter-  
8 mines that there is reasonable assurance that the facility  
9 will be constructed and will operate in conformity with the  
10 license, the provisions of this Act, and the Commission’s  
11 rules and regulations. The Commission shall identify with-  
12 in the combined license the inspections, tests, and anal-  
13 yses, including those applicable to emergency planning,  
14 that the licensee shall perform, and the acceptance criteria  
15 that, if met, are necessary and sufficient to provide rea-  
16 sonable assurance that the facility has been constructed  
17 and will be operated in conformity with the license, the  
18 provisions of this Act, and the Commission’s rules and  
19 regulations. Following issuance of the combined license,  
20 the Commission shall ensure that the prescribed inspec-  
21 tions, tests, and analyses are performed and, prior to oper-  
22 ation of the facility, shall find that the prescribed accept-  
23 ance criteria are met. Any finding made under this sub-  
24 section shall not require a hearing except as provided in  
25 section 189a.(1)(B).”.



1 **SEC. 3207. INVESTMENT TAX CREDIT FOR INVESTMENTS IN**  
2 **NUCLEAR POWER FACILITIES.**

3 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-  
4 TIES.—Section 46 of the Internal Revenue Code of 1986  
5 is amended by—

6 (1) striking “and” at the end of paragraph (3),

7 (2) striking the period at the end of paragraph

8 (4) and inserting “, and”, and

9 (3) inserting after paragraph (4) the following  
10 new paragraph:

11 “(5) the nuclear power facility construction  
12 credit.”.

13 (b) NUCLEAR POWER FACILITY CONSTRUCTION  
14 CREDIT.—Subpart E of part IV of subchapter A of chap-  
15 ter 1 of such Code is amended by inserting after section  
16 48B the following new section:

17 **“SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION**  
18 **CREDIT.**

19 “(a) IN GENERAL.—For purposes of section 46, the  
20 nuclear power facility construction credit for any taxable  
21 year is 10 percent of the qualified nuclear power facility  
22 expenditures with respect to a qualified nuclear power fa-  
23 cility.

24 “(b) WHEN EXPENDITURES TAKEN INTO AC-  
25 COUNT.—

1           “(1) IN GENERAL.—Qualified nuclear power fa-  
2           cility expenditures shall be taken into account for  
3           the taxable year in which the qualified nuclear power  
4           facility is placed in service.

5           “(2) COORDINATION WITH SUBSECTION (C).—  
6           The amount which would (but for this paragraph) be  
7           taken into account under paragraph (1) with respect  
8           to any qualified nuclear power facility shall be re-  
9           duced (but not below zero) by any amount of quali-  
10          fied nuclear power facility expenditures taken into  
11          account under subsection (c) by the taxpayer or a  
12          predecessor of the taxpayer (or, in the case of a sale  
13          and leaseback described in section 50(a)(2)(C), by  
14          the lessee), to the extent any amount so taken into  
15          account has not been required to be recaptured  
16          under section 50(a).

17          “(c) PROGRESS EXPENDITURES.—

18                 “(1) IN GENERAL.—A taxpayer may elect to  
19                 take into account qualified nuclear power facility ex-  
20                 penditures—

21                         “(A) SELF-CONSTRUCTED PROPERTY.—In  
22                         the case of a qualified nuclear power facility  
23                         which is a self-constructed facility, in the tax-  
24                         able year for which such expenditures are prop-

1           erly chargeable to capital account with respect  
2           to such facility.

3           “(B) ACQUIRED FACILITY.—In the case of  
4           a qualified nuclear facility which is not self-con-  
5           structed property, in the taxable year in which  
6           such expenditures are paid.

7           “(2) SPECIAL RULES FOR APPLYING PARA-  
8           GRAPH (1).—For purposes of paragraph (1)—

9           “(A) COMPONENT PARTS, ETC.—Property  
10           which is not self-constructed property and  
11           which is to be a component part of, or is other-  
12           wise to be included in, any facility to which this  
13           subsection applies shall be taken into account in  
14           accordance with paragraph (1)(B).

15           “(B) CERTAIN BORROWING DIS-  
16           REGARDED.—Any amount borrowed directly or  
17           indirectly by the taxpayer on a nonrecourse  
18           basis from the person constructing the facility  
19           for the taxpayer shall not be treated as an  
20           amount expended for such facility.

21           “(C) LIMITATION FOR FACILITIES OR COM-  
22           PONENTS WHICH ARE NOT SELF-CON-  
23           STRUCTED.—

24           “(i) IN GENERAL.—In the case of a  
25           facility or a component of a facility which

1 is not self-constructed, the amount taken  
2 into account under paragraph (1)(B) for  
3 any taxable year shall not exceed the  
4 amount which represents the portion of the  
5 overall cost to the taxpayer of the facility  
6 or component of a facility which is prop-  
7 erly attributable to the portion of the facil-  
8 ity or component which is completed dur-  
9 ing such taxable year.

10 “(ii) CARRY-OVER OF CERTAIN  
11 AMOUNTS.—In the case of a facility or  
12 component of a facility which is not self-  
13 constructed, if for the taxable year—

14 “(I) the amount which (but for  
15 clause (i)) would have been taken into  
16 account under paragraph (1)(B) ex-  
17 ceeds the limitation of clause (i), then  
18 the amount of such excess shall be  
19 taken into account under paragraph  
20 (1)(B) for the succeeding taxable  
21 year, or

22 “(II) the limitation of clause (i)  
23 exceeds the amount taken into ac-  
24 count under paragraph (1)(B), then  
25 the amount of such excess shall in-

1                   crease the limitation of clause (i) for  
2                   the succeeding taxable year.

3                   “(D) DETERMINATION OF PERCENTAGE OF  
4                   COMPLETION.—The determination under sub-  
5                   paragraph (C)(i) of the portion of the overall  
6                   cost to the taxpayer of the construction which  
7                   is properly attributable to construction com-  
8                   pleted during any taxable year shall be made on  
9                   the basis of engineering or architectural esti-  
10                  mates or on the basis of cost accounting  
11                  records. Unless the taxpayer establishes other-  
12                  wise by clear and convincing evidence, the con-  
13                  struction shall be deemed to be completed not  
14                  more rapidly than ratably over the normal con-  
15                  struction period.

16                  “(E) NO PROGRESS EXPENDITURES FOR  
17                  CERTAIN PRIOR PERIODS.—No qualified nuclear  
18                  facility expenditures shall be taken into account  
19                  under this subsection for any period before the  
20                  first day of the first taxable year to which an  
21                  election under this subsection applies.

22                  “(F) NO PROGRESS EXPENDITURES FOR  
23                  PROPERTY FOR YEAR IT IS PLACED IN SERVICE,  
24                  ETC.—In the case of any qualified nuclear facil-  
25                  ity, no qualified nuclear facility expenditures

1 shall be taken into account under this sub-  
2 section for the earlier of—

3 “(i) the taxable year in which the fa-  
4 cility is placed in service, or

5 “(ii) the first taxable year for which  
6 recapture is required under section  
7 50(a)(2) with respect to such facility, or  
8 for any taxable year thereafter.

9 “(3) SELF-CONSTRUCTED.—For purposes of  
10 this subsection—

11 “(A) The term ‘self-constructed facility’  
12 means any facility if it is reasonable to believe  
13 that more than half of the qualified nuclear fa-  
14 cility expenditures for such facility will be made  
15 directly by the taxpayer.

16 “(B) A component of a facility shall be  
17 treated as not self-constructed if the cost of the  
18 component is at least 5 percent of the expected  
19 cost of the facility and the component is ac-  
20 quired by the taxpayer.

21 “(4) ELECTION.—An election shall be made  
22 under this section for a qualified nuclear power facil-  
23 ity by claiming the nuclear power facility construc-  
24 tion credit for expenditures described in paragraph  
25 (1) on a tax return filed by the due date for such

1 return (taking into account extensions). Such an  
2 election shall apply to the taxable year for which  
3 made and all subsequent taxable years. Such an  
4 election, once made, may be revoked only with the  
5 consent of the Secretary.

6 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
7 poses of this section—

8 “(1) QUALIFIED NUCLEAR POWER FACILITY.—  
9 The term ‘qualified nuclear power facility’ means an  
10 advanced nuclear power facility, as defined in section  
11 45J, the construction of which was approved by the  
12 Nuclear Regulatory Commission on or before De-  
13 cember 31, 2013.

14 “(2) QUALIFIED NUCLEAR POWER FACILITY  
15 EXPENDITURES.—

16 “(A) IN GENERAL.—The term ‘qualified  
17 nuclear power facility expenditures’ means any  
18 amount properly chargeable to capital ac-  
19 count—

20 “(i) with respect to a qualified nuclear  
21 power facility,

22 “(ii) for which depreciation is allow-  
23 able under section 168, and

24 “(iii) which are incurred before the  
25 qualified nuclear power facility is placed in

1 service or in connection with the placement  
2 of such facility in service.

3 “(B) PRE-EFFECTIVE DATE EXPENDI-  
4 TURES.—Qualified nuclear power facility ex-  
5 penditures do not include any expenditures in-  
6 curred by the taxpayer before January 1, 2007,  
7 unless such expenditures constitute less than 20  
8 percent of the total qualified nuclear power fa-  
9 cility expenditures (determined without regard  
10 to this subparagraph) for the qualified nuclear  
11 power facility.

12 “(3) DELAYS AND SUSPENSION OF CONSTRUC-  
13 TION.—

14 “(A) IN GENERAL.—For purposes of ap-  
15 plying this section and section 50, a nuclear  
16 power facility that is under construction shall  
17 cease to be treated as a facility that will be a  
18 qualified nuclear power facility as of the earlier  
19 of—

20 “(i) the date on which the taxpayer  
21 decides to terminate construction of the fa-  
22 cility, or

23 “(ii) the last day of any 24-month pe-  
24 riod in which the taxpayer has failed to  
25 incur qualified nuclear power facility ex-



1           penditures totaling at least 20 percent of  
2           the expected total cost of the nuclear  
3           power facility.

4           “(B) AUTHORITY TO WAIVE.—The Sec-  
5           retary may waive the application of clause (ii)  
6           of subparagraph (A) if the Secretary deter-  
7           mines that the taxpayer intended to continue  
8           the construction of the qualified nuclear power  
9           facility and the expenditures were not incurred  
10          for reasons outside the control of the taxpayer.

11          “(C) RESUMPTION OF CONSTRUCTION.—If  
12          a nuclear power facility that is under construc-  
13          tion ceases to be a qualified nuclear power facil-  
14          ity by reason of paragraph (2) and work is sub-  
15          sequently resumed on the construction of such  
16          facility—

17                 “(i) the date work is subsequently re-  
18                 sumed shall be treated as the date that  
19                 construction began for purposes of para-  
20                 graph (1), and

21                 “(ii) if the facility is a qualified nu-  
22                 clear power facility, the qualified nuclear  
23                 power facility expenditures shall be deter-  
24                 mined without regard to any delay or tem-

1                   porary termination of construction of the  
2                   facility.”.

3           (c) PROVISIONS RELATING TO CREDIT RECAP-  
4   TURE.—

5           (1) PROGRESS EXPENDITURE RECAPTURE  
6   RULES.—

7           (A) BASIC RULES.—Subparagraph (A) of  
8           section 50(a)(2) of such Code is amended to  
9           read as follows:

10           “(A) IN GENERAL.—If during any taxable  
11           year any building to which section 47(d) applied  
12           or any facility to which section 48C(e) applied  
13           ceases (by reason of sale or other disposition,  
14           cancellation or abandonment of contract, or  
15           otherwise) to be, with respect to the taxpayer,  
16           property which, when placed in service, will be  
17           a qualified rehabilitated building or a qualified  
18           nuclear power facility, then the tax under this  
19           chapter for such taxable year shall be increased  
20           by an amount equal to the aggregate decrease  
21           in the credits allowed under section 38 for all  
22           prior taxable years which would have resulted  
23           solely from reducing to zero the credit deter-  
24           mined under this subpart with respect to such  
25           building or facility.”

1 (B) AMENDMENT TO EXCESS CREDIT RE-  
2 CAPTURE RULE.—Subparagraph (B) of section  
3 50(a)(2) of such Code is amended by—

4 (i) inserting “or paragraph (2) of sec-  
5 tion 48C(b)” after “paragraph (2) of sec-  
6 tion 47(b)”,

7 (ii) inserting “or section 48C(b)(1)”  
8 after “section 47(b)(1)”, and

9 (iii) inserting “or facility” after  
10 “building”.

11 (C) AMENDMENT OF SALE AND LEASE-  
12 BACK RULE.—Subparagraph (C) of section  
13 50(a)(2) of such Code is amended by—

14 (i) inserting “or section 48C(e)” after  
15 “section 47(d)”, and

16 (ii) inserting “or qualified nuclear  
17 power facility expenditures” after “quali-  
18 fied rehabilitation expenditures”.

19 (D) OTHER AMENDMENT.—Subparagraph  
20 (D) of section 50(a)(2) of such Code is amend-  
21 ed by inserting “or section 48C(e)” after “sec-  
22 tion 47(d)”.

23 (d) NO BASIS ADJUSTMENT.—Section 50(e) of such  
24 Code is amended by inserting at the end thereof the fol-  
25 lowing new paragraph:

1           “(6) NUCLEAR POWER FACILITY CONSTRUC-  
2           TION CREDIT.—Paragraphs (1) and (2) shall not  
3           apply to the nuclear power facility construction cred-  
4           it.”.

5           (e) TECHNICAL AMENDMENTS.—The table of sec-  
6           tions for subpart E of part IV of subchapter A of chapter  
7           1 of such Code is amended by inserting after the line for  
8           section 48B the following new line:

          “Sec. 48C. Nuclear power facility construction credit.”.

9           (f) EFFECTIVE DATE.—The amendments made by  
10          this section shall be effective for expenditures incurred and  
11          property placed in service in taxable years beginning after  
12          the date of enactment.

13       **SEC. 3208. NATIONAL NUCLEAR ENERGY COUNCIL.**

14          (a) IN GENERAL.—

15               (1) The Secretary of Energy shall establish a  
16               National Nuclear Energy Council (hereinafter the  
17               “Council”).

18               (2) The National Nuclear Energy Council shall  
19               be subject to the requirements of the Federal Advi-  
20               sory Committee Act (5 U.S.C. appendix 2).

21          (b) PURPOSE.—The National Nuclear Energy Coun-  
22          cil shall—

23               (1) serve in an advisory capacity to the Sec-  
24               retary of Energy regarding nuclear energy on mat-

1       ters submitted to the Council by the Secretary of  
2       Energy; and

3           (2) advise, inform, and make recommendations  
4       to the Secretary of Energy, and represent the views  
5       of the nuclear energy industry with respect to any  
6       matter relating to nuclear energy.

7       (c) MEMBERSHIP AND ORGANIZATION.—

8           (1) The members of the Council shall be ap-  
9       pointed by the Secretary of Energy.

10          (2) The Council may establish such study and  
11       administrative committees as it may deem appro-  
12       priate. Study committees shall only assist the Coun-  
13       cil in preparing its advice, information, or rec-  
14       ommendations to the Secretary of Energy. Adminis-  
15       trative committees shall be formed solely for the  
16       purpose of assisting the Council or its Chairman in  
17       the management of the internal affairs of the Coun-  
18       cil.

19          (3) The officers of the Council shall consist of  
20       a Chairman, a Vice Chairman, and such other offi-  
21       cers as may be approved by the Council. The Chair-  
22       man and Vice Chairman must be members of the  
23       Council and shall receive no compensation for service  
24       as officers of the Council.

1           (4) The Secretary of Energy shall be Cochair-  
2           man of the Council. If the Secretary of Energy des-  
3           ignates a full-time, salaried official of the Depart-  
4           ment of Energy as his alternate, such alternate may  
5           exercise any duties of the Secretary of Energy and  
6           may perform any function on the Council otherwise  
7           reserved for the Secretary of Energy.

8           (5) The Chairman and the Vice Chairman shall  
9           be elected by the Council at its organizational meet-  
10          ing to serve until their successors are elected at the  
11          next organizational meeting of the Council.

12          (d) MEETINGS.—

13           (1) Regular meetings of the Council shall be  
14           held at least twice each year at times determined by  
15           the Chairman and approved by the Government Co-  
16           chairman.

17           (2) No meeting of the Council shall be held un-  
18           less the Government Cochairman approves the agen-  
19           da thereof, approves the calling thereof, and is  
20           present thereat.

21           (3) The time and place of all Council meetings  
22           shall be given general publicity and such meetings  
23           shall be open to the public.

24          (e) STUDIES BY THE COUNCIL.—

1           (1) The Council may establish study committees  
2           to prepare reports for the consideration of the Coun-  
3           cil pursuant to requests from the Secretary of En-  
4           ergy for advice, information, and recommendations.

5           (2) The Secretary of Energy or a full-time em-  
6           ployee of the Department of Energy designated by  
7           the Secretary shall be the Cochairman of each study  
8           committee.

9           (3) The members of study committees shall be  
10          selected from the Council membership on the basis  
11          of their training, experience, and general qualifica-  
12          tions to deal with the matters assigned.

13 **SEC. 3209. TEMPORARY SPENT NUCLEAR FUEL STORAGE**  
14 **AGREEMENTS.**

15          (a) **AUTHORIZATION AND LOCATION.**—The Secretary  
16 of Energy (Secretary) is authorized to initiate spent nu-  
17 clear fuel storage agreements as provided herein.

18           (1) No later than 180 days from the date of en-  
19           actment of this Act, representatives of a community  
20           may submit written notice to the Secretary that the  
21           community is willing to host a temporary spent nu-  
22           clear fuel storage facility within its jurisdiction.

23           (2) Within 90 days of the receipt of the notifi-  
24           cation under subsection (a)(1), the Secretary shall  
25           determine whether the identified site is suitable for

1 a temporary storage facility. In determining the  
2 site's suitability, the Secretary will evaluate technical  
3 feasibility and consider favorably local support for  
4 collocating a temporary spent nuclear fuel storage  
5 facility with facilities intended to develop and imple-  
6 ment advanced nuclear fuel cycle technologies.

7 (b) CONTENT OF AGREEMENTS.—If the Secretary  
8 determines one or more sites to be suitable in accordance  
9 with subsection (a)(2), negotiation of a temporary spent  
10 nuclear fuel storage facility agreement shall proceed.

11 (1) Any temporary spent nuclear fuel storage  
12 agreement shall contain such terms and conditions,  
13 including financial, institutional and such other ar-  
14 rangements as the Secretary and community deter-  
15 mine to be reasonable and appropriate.

16 (2) Any temporary spent nuclear fuel storage  
17 agreement may be amended only with the mutual  
18 consent of the parties to the agreement.

19 (c) ENVIRONMENTAL IMPACT STATEMENT.—Execu-  
20 tion of a temporary spent nuclear fuel storage agreement  
21 shall not require preparation of an environmental impact  
22 statement under section 102(2)(C) of the National Envi-  
23 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or  
24 require any environmental review under subparagraph (E)



1 or (F) of section 102(2) of such Act (42 U.S.C.  
2 4332(2)(E), (F)).

3 **SEC. 3210. IMPLEMENTATION OF TEMPORARY SPENT NU-**  
4 **CLEAR FUEL STORAGE AGREEMENTS.**

5 (a) IN GENERAL.—Any temporary spent nuclear fuel  
6 storage agreement or agreements entered into under sec-  
7 tion 1 shall enter into force with respect to the United  
8 States if (and only if)—

9 (1) the Secretary, at least 60 days before the  
10 day on which he or she enters into the temporary  
11 spent nuclear fuel storage agreement or agreements  
12 notifies the House of Representatives and the Senate  
13 of his intention to enter into the agreement or agree-  
14 ments, and promptly thereafter publishes notice of  
15 such intention in the Federal Register;

16 (2) the Governor of the State or States in  
17 which the facility is proposed to be located submits  
18 written notice to the Secretary that the Governor  
19 supports the temporary spent nuclear fuel storage  
20 agreement; and

21 (3) after entering into the agreement, the Sec-  
22 retary submits to the House of Representatives and  
23 to the Senate a copy of the final text of the agree-  
24 ment, together with—

25 (A) a draft of an implementing bill, and

1 (B) a statement of any administrative ac-  
2 tion proposed to implement the agreement.

3 (b) APPLICATION OF EXPEDITED PROCEDURES TO  
4 IMPLEMENTING BILLS.—The provisions of paragraph (3)  
5 apply to implementing bills submitted with respect to tem-  
6 porary spent nuclear fuel storage agreements entered into  
7 and submitted pursuant to paragraph (2).

8 **SEC. 3211. EXPEDITED PROCEDURES FOR CONGRESSIONAL**  
9 **REVIEW OF TEMPORARY SPENT NUCLEAR**  
10 **FUEL STORAGE AGREEMENTS.**

11 (a) RULES OF HOUSE OF REPRESENTATIVE AND  
12 SENATE.—The provisions of this subsection are enacted  
13 by the Congress—

14 (1) as an exercise of the rulemaking power of  
15 the House of Representatives and the Senate, re-  
16 spectively, and as such they are deemed a part of  
17 the rules of each House, respectively, but applicable  
18 only with respect to the procedure to be followed in  
19 that House in the case of implementing bills de-  
20 scribed in subsection (b)(2) of this section and ap-  
21 proval resolutions described in subsection (b)(3) of  
22 this section; and they supersede other rules only to  
23 the extent that they are inconsistent therewith; and

24 (2) with full recognition of the constitutional  
25 right of either House to change the rules (so far as

1 relating to the procedure of that House) at any time,  
2 in the same manner and to the same extent as in  
3 the case of any other rule of that House.

4 (b) DEFINITIONS.—For purposes of this section—

5 (1) the term “community” means any entity of  
6 local government appropriate, in terms of legal au-  
7 thority, for negotiating and entering into temporary  
8 spent nuclear fuel storage agreements provided for  
9 in section 3210;

10 (2) the term “implementing bill” means only a  
11 bill of either House of Congress which is introduced  
12 as provided in subsection (c) of this section with re-  
13 spect to one or more temporary spent nuclear fuel  
14 storage agreements and which contain—

15 (A) a provision approving such storage  
16 agreements,

17 (B) a provision approving the statement of  
18 administrative action (if any) proposed to im-  
19 plement such storage agreements,

20 (C) if changes in existing laws or new stat-  
21 utory authority is required to implement such  
22 storage agreement or agreements, provisions  
23 necessary or appropriate to implement such  
24 agreement or agreements either repealing or

1 amending existing laws or providing new statu-  
2 tory authority, and

3 (D) a provision containing revenue meas-  
4 ures (if any), by reason of which the bill must  
5 originate in the House of Representatives as  
6 provided for in subsection (c); and

7 (3) The term “approval resolution” means only  
8 a joint resolution of the two Houses of the Congress,  
9 the matter after the resolving clause of which is as  
10 follows: “That the Congress approves the temporary  
11 spent nuclear fuel storage agreement between the  
12 Secretary of Energy and \_\_\_\_\_ on  
13 \_\_\_\_\_,” the first blank space being filled  
14 with the name of the governor involved and the sec-  
15 ond blank space being filled in with the appropriate  
16 date.

17 (c) INTRODUCTION AND REFERRAL.—On the day on  
18 which the temporary spent nuclear fuel storage agreement  
19 is submitted to the House of Representatives and the Sen-  
20 ate under this title, the implementing bill submitted by  
21 the Secretary with respect to such temporary spent nu-  
22 clear fuel storage agreement shall be introduced (by re-  
23 quest) in the House by the majority leader of the House,  
24 for himself and the minority leader of the House, or by  
25 Members of the House designated by the majority leader

1 and minority leader of the House; and shall be introduced  
2 (by request) in the Senate by the majority leader of the  
3 Senate, for himself and the minority leader of the Senate,  
4 or by Members of the Senate designated by the majority  
5 leader and minority leader of the Senate. If either House  
6 is not in session on the day on which such temporary spent  
7 nuclear fuel storage agreement is submitted, the imple-  
8 menting bill shall be introduced in that House, as provided  
9 in the preceding sentence, on the first day thereafter on  
10 which that House is in session. Such bills shall be referred  
11 by the Presiding Officers of the respective Houses to the  
12 appropriate committee, or, in the case of a bill containing  
13 provisions within the jurisdiction of two or more commit-  
14 tees, jointly to such committees for consideration of those  
15 provisions within their respective jurisdictions.

16 (d) AMENDMENTS PROHIBITED.—No amendment to  
17 an implementing bill or approval resolution shall be in  
18 order in either the House of Representatives or the Sen-  
19 ate; and no motion to suspend the application of this sub-  
20 section shall be in order in either House, nor shall it be  
21 in order in either House for the Presiding Officer to enter-  
22 tain a request to suspend the application of this subsection  
23 by unanimous consent.

24 (e) PERIOD FOR COMMITTEE AND FLOOR CONSIDER-  
25 ATION.—

1           (1) Except as provided in subsection (e)(2), if  
2           the committee or committees of either House to  
3           which an implementing bill or approval resolution  
4           has been referred have not reported it at the close  
5           of the 45th day after its introduction, such com-  
6           mittee or committees shall be automatically dis-  
7           charged from further consideration of the bill or res-  
8           olution and it shall be placed on the appropriate cal-  
9           endar. A vote on final passage of the bill or resolu-  
10          tion shall be taken in each House on or before the  
11          close of the 15th day after the bill or resolution is  
12          reported by the committee or committees of that  
13          House to which it was referred, or after such com-  
14          mittee or committees have been discharged from fur-  
15          ther consideration of the bill or resolution. If prior  
16          to the passage by one House of an implementing bill  
17          or approval resolution of that House, that House re-  
18          ceives the same implementing bill or approval resolu-  
19          tion from the other House, then—

20                   (A) the procedure in that House shall be  
21                   the same as if no implementation bill or ap-  
22                   proval resolution had been received from the  
23                   other House, but

1 (B) the vote on final passage shall be on  
2 the implementing bill or approval resolution of  
3 the other House.

4 (2) For purposes of computing a number of  
5 days in either House as provided for in subsection  
6 (e)(1), there shall be excluded any day on which that  
7 House is not in session.

8 (3) If the implementing bill contains one or  
9 more revenue measures—

10 (A) the provisions of subsection (e)(1)  
11 shall not apply; and

12 (B) the Senate shall not take final action  
13 on the bill until it is received from the House.

14 (f) FLOOR CONSIDERATION IN THE HOUSE.—

15 (1) A motion in the House of Representatives  
16 to proceed to the consideration of an implementing  
17 bill or approval resolution shall be highly privileged  
18 and not debatable. An amendment to the motion  
19 shall not be in order, nor shall it be in order to move  
20 to reconsider the vote by which the motion is agreed  
21 to or disagreed to.

22 (2) Debate in the House of Representatives on  
23 an implementing bill or approval resolution shall be  
24 limited to not more than 10 hours, which shall be  
25 divided equally between those favoring and those op-

1 posing the bill or resolution. A motion further to  
2 limit debate shall not be debatable. It shall not be  
3 in order to move to recommit an implementing bill  
4 or approval resolution or to move to reconsider the  
5 vote by which an implementing bill or approval reso-  
6 lution is agreed to or disagreed to.

7 (3) Motions to postpone, made in the House of  
8 Representatives with respect to the consideration of  
9 an implementing bill or approval resolution, and mo-  
10 tions to proceed to the consideration of other busi-  
11 ness, shall be decided without debate. If a motion to  
12 proceed to consideration is agreed to, such resolution  
13 shall remain unfinished business of House until dis-  
14 posed of.

15 (4) All appeals from the decisions of the Chair  
16 relating to the application of the Rules of the House  
17 of Representatives to the procedure relating to an  
18 implementing bill or approval resolution shall be de-  
19 cided without debate.

20 (5) Except to the extent specifically provided in  
21 the preceding provisions of this subsection, consider-  
22 ation of an implementing bill or approval resolution  
23 shall be governed by the Rules of the House of Rep-  
24 resentatives applicable to other bills and resolutions  
25 in similar circumstances.



1 (g) FLOOR CONSIDERATION IN THE SENATE.—

2 (1) A motion in the Senate to proceed to the  
3 consideration of an implementing bill or approval  
4 resolution shall be privileged and not debatable. An  
5 amendment to the motion shall not be in order, nor  
6 shall it be in order to move to reconsider the vote  
7 by which the motion is agreed to or disagreed to.

8 (2) Debate in the Senate on an implementing  
9 bill or approval resolution, and all debatable motions  
10 and appeals in connection therewith, shall be limited  
11 to not more than 10 hours. The time shall be equally  
12 divided between, and controlled by, the majority  
13 leader and the minority leader or their designees.

14 (3) Debate in the Senate on any debatable mo-  
15 tion or appeal in connection with an implementing  
16 bill or approval resolution shall be limited to not  
17 more than 1 hour, to be equally divided between,  
18 and controlled by, the mover and the manager of the  
19 bill or resolution, except that in the event the man-  
20 ager of the bill or resolution is in favor of any such  
21 motion or appeal, the time in opposition thereto  
22 shall be controlled by the minority leader or his des-  
23 ignee. Such leaders, or either of them, may, from  
24 time under their control on the passage of an imple-  
25 menting bill or approval resolution, allot additional

1 time to any Senator during the consideration of any  
2 debatable motion or appeal.

3 (4) A motion in the Senate to further limit de-  
4 bate is not debatable. A motion to recommit an im-  
5 plementation bill or approval resolution is not in  
6 order.

7 **SEC. 3212. CONTRACTING AND NUCLEAR WASTE FUND.**

8 Section 302 of the Nuclear Waste Policy Act of 1982  
9 (42 U.S.C. 10222) is amended—

10 (1) in subsection (a)(1), by adding at the end  
11 the following:

12 “For any civilian nuclear power reactor a license ap-  
13 plication for which is filed with the Commission, pursuant  
14 to its authority under section 103 or 104 of the Atomic  
15 Energy Act of 1954, after the date of enactment of this  
16 Act, contracts entered into under this section shall—

17 “(A) except as provided in subsections  
18 302(a)(1) (B), (C), (D), and (E), below, be  
19 generally consistent with the terms and condi-  
20 tions of the ‘Standard Contract for Disposal of  
21 Spent Nuclear Fuel and/or High-Level Radio-  
22 active Waste,’ as codified at 10 CFR part 961  
23 and in effect on January 1, 2007;

1           “(B) provide for the taking of title to, and  
2           for the Secretary to dispose of, the high-level  
3           waste or spent nuclear fuel;

4           “(C) contain no provisions providing for  
5           adjustment of the 1.0 mil per kilowatt-hour fee  
6           established by paragraph (2);

7           “(D) be entered into no later than 60 days  
8           following the docketing of the license applica-  
9           tion by the Commission, or the date of enact-  
10          ment of this Act, whichever is later; and

11          “(E) provide that, on a schedule consistent  
12          with the Secretary’s acceptance of spent nuclear  
13          fuel from each civilian nuclear power reactor or  
14          site, and completed not later than the Sec-  
15          retary’s completing the acceptance of all spent  
16          nuclear fuel from that commercial nuclear  
17          power reactor or site, the Secretary shall accept  
18          from each such reactor or site, all low-level ra-  
19          dioactive waste defined in section 3(b)(1)(D) of  
20          the Low-level Radioactive Waste Policy Act, as  
21          amended, 42 U.S.C. 2021c(b)(1)(D).”;

22          (2) in subsection (a)(4), by striking all after  
23          “herein.” in the second sentence;

24          (3) in subsection (a)(6), by adding at the end  
25          the following:

1       “Further, the Secretary shall offer to settle any ac-  
2 tions pending on the date of enactment of this Act for  
3 damages resulting from failure to commence accepting  
4 spent nuclear fuel or high-level radioactive waste on or be-  
5 fore January 31, 1998. Each offer to settle shall provide  
6 for the payment of \$150 to the other party to a contract  
7 for disposal of spent nuclear fuel and high-level radioactive  
8 waste for each kilogram of spent nuclear fuel which such  
9 party was or shall be entitled to deliver to the Department  
10 in a particular year, based on the following aggregate ac-  
11 ceptance rates: 400 MTU for 1998; 600 MTU for 1999;  
12 1,200 MTU for 2000; 2,000 MTU for 2001; and 3,000  
13 MTU for 2002 and thereafter; provided that the Secretary  
14 shall adjust the payment amount per kilogram of spent  
15 nuclear fuel under this subsection (a)(6) annually accord-  
16 ing to the most recent Producer Price Index published by  
17 the Department of Labor. Such aggregate acceptance  
18 rates shall be allocated among parties to contracts with  
19 the United States based upon the age of spent nuclear  
20 fuel, as measured by the date of the discharge of such  
21 spent nuclear fuel from the civilian nuclear power reactor.  
22 Such offer to settle also shall include an annual payment  
23 of the amount to be determined by the Secretary of En-  
24 ergy to any such party where a civilian nuclear power reac-  
25 tor has been decommissioned, except for those portions of

1 the facility that cannot be decommissioned until removal  
2 of spent nuclear fuel and high-level radioactive waste. The  
3 Secretary also shall offer like compensation to parties to  
4 contracts entered into pursuant to section 302 of the Nu-  
5 clear Waste Policy Act of 1982 (42 U.S.C. 10222) who  
6 brought actions for damages prior to the date of enact-  
7 ment of this Act, but which were no longer pending as  
8 of said date, provided that such compensation shall be re-  
9 duced by the amount of any settlement or judgment re-  
10 ceived by such party.”; and

11 (4) in subsection (d), by adding at the end the  
12 following:

13 “No amount may be expended by the Secretary from  
14 the Waste Fund to carry out research and development  
15 activities on advanced nu-clear fuel cycle technologies.”.

16 **SEC. 3213. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**  
17 **POSAL.**

18 (a) CONGRESSIONAL DETERMINATION.—The Con-  
19 gress finds that—

20 (1) there is reasonable assurance that high-level  
21 radioactive waste and spent nuclear fuel generated  
22 in reactors licensed by the Nuclear Regulatory Com-  
23 mission in the past, currently, or in the future will  
24 be managed in a safe manner without significant en-

1        vironmental impact until capacity for ultimate dis-  
2        posal is available; and

3            (2) the Federal Government is responsible and  
4        has an established a policy for the ultimate safe and  
5        environmentally sound disposal of such high-level ra-  
6        dioactive waste and spent nuclear fuel.

7        (b)     REGULATORY     CONSIDERATION.—Notwith-  
8        standing any other provision of law, for the period fol-  
9        lowing the licensed operation of a civilian nuclear power  
10       reactor or any facility for the treatment or storage of  
11       spent nuclear fuel or high-level radioactive waste, no con-  
12       sideration of the public health and safety, common defense  
13       and security, or environmental impacts of the storage of  
14       high-level radioactive waste and spent nuclear fuel gen-  
15       erated in reactors licensed by the Nuclear Regulatory  
16       Commission in the past, currently, or in the future, is re-  
17       quired by the Department of Energy or the Nuclear Regu-  
18       latory Commission in connection with the development,  
19       construction, and operation of, or any permit, license, li-  
20       cense amendment, or siting approval for, a civilian nuclear  
21       power reactor or any facility for the treatment or storage  
22       of spent nuclear fuel or high-level radioactive waste. Noth-  
23       ing in this section shall affect the Department of Energy's  
24       and Nuclear Regulatory Commission's obligation to con-  
25       sider the public health and safety, common defense and

1 security, and environmental impacts of storage during the  
2 period of licensed operation of a civilian nuclear power re-  
3 actor or facility for the treatment or storage of spent nu-  
4 clear fuel or high-level radioactive waste.

5 **SEC. 3214. LIMITATION ON USE OF FUNDS.**

6 None of the funds authorized by this Act may be used  
7 to improve or build any temporary storage or spent nu-  
8 clear fuel and high-level radioactive waste disposal facility  
9 in a State previously recommended for repository develop-  
10 ment under Public Law 97–425, as amended.

11 **Subtitle D—Expedited Oil, Gas, and**  
12 **Oil Shale Leasing of Federal Lands**

13 **SEC. 3301. EXPEDITED PERMITTING OF COVERED ENERGY**  
14 **PROJECTS.**

15 (a) PERMIT APPLICATIONS DEEMED APPROVED.—

16 (1) IN GENERAL.—Any application for a permit  
17 under Federal law for a covered energy project is  
18 deemed approved upon the expiration of the 6-month  
19 period beginning on the date of the submittal of a  
20 completed application for such permit, unless before  
21 the end of such period the Federal official author-  
22 ized by law to issue such permit affirmatively dis-  
23 approves the application and certifies to Congress  
24 the reasons for such disapproval.

25 (2) EXTENSION OF PERIOD.—

1           (A) IN GENERAL.—The President may ex-  
2           tend the period under subsection (a) for a per-  
3           mit application by an additional 6 months by  
4           submitting to Congress a certification of the  
5           reasons why such extension is necessary.

6           (B) LIMITATION.—The President may not  
7           extend such period more than one time with re-  
8           spect to any particular permit application.

9           (b) APPEAL OF DISAPPROVAL OF PERMIT APPLICA-  
10          TION.—

11           (1) IN GENERAL.—Any person who submits an  
12           application for a permit under Federal law for a cov-  
13           ered energy project that is disapproved may file an  
14           action seeking judicial review (subject to subtitle B)  
15           of such disapproval within the 2-month period begin-  
16           ning on the date of the disapproval.

17           (2) DEADLINE FOR DECISION.—If a person files  
18           such an action—

19           (A) a final decision shall be issued before  
20           the end of the 2-month period beginning on the  
21           date the appeal is filed; and

22           (B) if a decision is not issued before the  
23           end of such period the permit application is  
24           deemed approved and the permit issued upon  
25           the expiration of such period.



1 **SEC. 3302. WAIVER OF LAWS APPLICABLE TO COVERED EN-**  
2 **ERGY PROJECTS.**

3 (a) IN GENERAL.—Notwithstanding any other provi-  
4 sion of law, the President or a designee of the President  
5 may waive any legal requirement under any provision of  
6 Federal law otherwise applicable to a covered energy  
7 project, including any provision of law relating to any ad-  
8 ministrative protest of any agency action taken with re-  
9 spect to such a project, as the President or such designee,  
10 in his or her sole discretion, determines necessary to en-  
11 sure expeditious conduct of such project. Any such deter-  
12 mination shall be effective upon being published in the  
13 Federal Register.

14 (b) FEDERAL COURT REVIEW.—

15 (1) IN GENERAL.—The district courts of the  
16 United States shall have exclusive jurisdiction to  
17 hear all causes or claims arising from any action un-  
18 dertaken, or any decision made, by the President or  
19 such designee pursuant to subsection (a). Such a  
20 cause of action or claim may only be brought alleg-  
21 ing a violation of the Constitution of the United  
22 States. The court shall not have jurisdiction to hear  
23 any claim not specified in this paragraph.

24 (2) TIME FOR FILING OF COMPLAINT.—Any  
25 cause or claim brought pursuant to paragraph (1)  
26 shall be filed not later than the end of the 60-day

1 period beginning upon the expiration of the date of  
2 the action or decision made by the President or such  
3 designee. A claim shall be barred unless it is filed  
4 within that period.

5 (3) ABILITY TO SEEK APPELLATE REVIEW.—An  
6 interlocutory or final judgment, decree, or order of  
7 the district court may be reviewed only upon petition  
8 for a writ of certiorari to the Supreme Court of the  
9 United States.

10 **SEC. 3303. PERMITTING FOR YEAR-ROUND CONDUCT OF**  
11 **COVERED ENERGY PROJECTS.**

12 Notwithstanding any other provision of law—

13 (1) nothing in Federal law shall be construed as  
14 prohibiting the issuance of a permit authorizing con-  
15 duct of a covered energy project throughout the  
16 year; and

17 (2) any Federal official who is otherwise au-  
18 thorized to issue a permit authorizing a covered en-  
19 ergy project is encouraged to issue such a permit au-  
20 thorizing conduct of a covered energy project  
21 throughout the year.

1     **Subtitle E—Refining Capacity and**  
2                     **Efficiency**

3     **SEC. 3401. REFINERY REVITALIZATION REPEAL.**

4             Subtitle H of title III of the Energy Policy Act of  
5     2005 and the items relating thereto in the table of con-  
6     tents of such Act are repealed.

7     **SEC. 3402. REDUCTION IN NUMBER OF BOUTIQUE FUELS.**

8             Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.  
9     7545(c)(4)(C)) is amended as follows:

10             (1) By redesignating the clause (v) added by  
11             section 1541(b) of the Energy Policy Act of 2005  
12             (Public Law 109–58; 119 Stat. 1106) as clause (vi).

13             (2) In clause (vi) (as so redesignated)—

14                     (A) in subclause (I) by striking “approved  
15                     under this paragraph as of September 1, 2004,  
16                     in all State implementation plans” and by in-  
17                     serting in lieu there of “set forth on the list  
18                     published under subclause (II) (or on the re-  
19                     vised list referred to in subclause (III) if the list  
20                     has been revised)”;

21                     (B) by amending subclause (III) to read as  
22                     follows:

23                             “(III) The Administrator shall, after notice  
24                             and opportunity for comment, remove a fuel  
25                             from the list published under subclause (II) if

1 the Administrator determines that such fuel has  
2 ceased to be included in any State implementa-  
3 tion plan or is identical to a Federal fuel con-  
4 trol or prohibition promulgated and imple-  
5 mented by the Administrator. The Adminis-  
6 trator shall publish a revised list reflecting the  
7 reduction in the number of fuels.”;

8 (C) in subclause (IV) by striking “Sub-  
9 clause (I)” and inserting “Neither subclause (I)  
10 nor subclause (V)” and by striking “not” and  
11 by striking “if such new fuel”; and

12 (D) by amending subclause (IV) to read as  
13 follows:

14 “(IV) Subclause (I) shall not  
15 limit the Administrator’s author-  
16 ity to approve a control or prohi-  
17 bition respecting any new fuel  
18 under this paragraph in a State  
19 implementation plan or revision  
20 to a State implementation plan if  
21 such new fuel completely replaces  
22 a fuel on the list published under  
23 subclause (II) (or the revised list  
24 referred to in subclause (III) if  
25 the list has been revised) and if

1 the Administrator, after consulta-  
2 tion with the Secretary of En-  
3 ergy, publishes in the Federal  
4 Register after notice and com-  
5 ment a finding that, in the Ad-  
6 ministrator's judgment, such con-  
7 trol or prohibition respecting  
8 such new fuel will not cause fuel  
9 supply or distribution interrup-  
10 tions or have a significant ad-  
11 verse impact on fuel producibility  
12 in the affected area or contiguous  
13 areas.”.

14 **SEC. 3403. REFINERY PERMITTING PROCESS.**

15 (a) DEFINITIONS.—In this section:

16 (1) ADMINISTRATOR.—The term “Adminis-  
17 trator” means the Administrator of the Environ-  
18 mental Protection Agency.

19 (2) INDIAN TRIBE.—The term “Indian tribe”  
20 has the meaning given the term in section 4 of the  
21 Indian Self-Determination and Education Assistance  
22 Act (25 U.S.C. 450b).

23 (3) PERMIT.—The term “permit” means any  
24 permit, license, approval, variance, or other form of  
25 authorization that a refiner is required to obtain—

1 (A) under any Federal law; or

2 (B) from a State or Indian tribal govern-  
3 ment agency delegated authority by the Federal  
4 Government, or authorized under Federal law,  
5 to issue permits.

6 (4) REFINER.—The term “refiner” means a  
7 person that—

8 (A) owns or operates a refinery; or

9 (B) seeks to become an owner or operator  
10 of a refinery.

11 (5) REFINERY.—

12 (A) IN GENERAL.—The term “refinery”  
13 means—

14 (i) a facility at which crude oil is re-  
15 fined into transportation fuel or other pe-  
16 troleum products; and

17 (ii) a coal liquification or coal-to-liquid  
18 facility at which coal is processed into syn-  
19 thetic crude oil or any other fuel.

20 (B) INCLUSIONS.—The term “refinery” in-  
21 cludes an expansion of a refinery.

22 (6) REFINERY EXPANSION.—The term “refin-  
23 ery expansion” means a physical change in a refin-  
24 ery that results in an increase in the capacity of the  
25 refinery.

1           (7) REFINERY PERMITTING AGREEMENT.—The  
2 term “refinery permitting agreement” means an  
3 agreement entered into between the Administrator  
4 and a State or Indian tribe under subsection (b).

5           (8) SECRETARY.—The term “Secretary” means  
6 the Secretary of Commerce.

7           (9) STATE.—The term “State” means—

8                   (A) a State;

9                   (B) the District of Columbia;

10                  (C) the Commonwealth of Puerto Rico;

11                  and

12                  (D) any other territory or possession of the  
13 United States.

14           (b) STREAMLINING OF REFINERY PERMITTING  
15 PROCESS.—

16           (1) IN GENERAL.—At the request of the Gov-  
17 ernor of a State or the governing body of an Indian  
18 tribe, the Administrator shall enter into a refinery  
19 permitting agreement with the State or Indian tribe  
20 under which the process for obtaining all permits  
21 necessary for the construction and operation of a re-  
22 finery shall be streamlined using a systematic inter-  
23 disciplinary multimedia approach as provided in this  
24 section.

1           (2) AUTHORITY OF ADMINISTRATOR.—Under a  
2 refinery permitting agreement—

3           (A) the Administrator shall have authority,  
4 as applicable and necessary, to—

5           (i) accept from a refiner a consoli-  
6 dated application for all permits that the  
7 refiner is required to obtain to construct  
8 and operate a refinery;

9           (ii) in consultation and cooperation  
10 with each Federal, State, or Indian tribal  
11 government agency that is required to  
12 make any determination to authorize the  
13 issuance of a permit, establish a schedule  
14 under which each agency shall—

15           (I) concurrently consider, to the  
16 maximum extent practicable, each de-  
17 termination to be made; and

18           (II) complete each step in the  
19 permitting process; and

20           (iii) issue a consolidated permit that  
21 combines all permits issued under the  
22 schedule established under clause (ii); and

23           (B) the Administrator shall provide to  
24 State and Indian tribal government agencies—



1           (i) financial assistance in such  
2 amounts as the agencies reasonably require  
3 to hire such additional personnel as are  
4 necessary to enable the Government agen-  
5 cies to comply with the applicable schedule  
6 established under subparagraph (A)(ii);  
7 and

8           (ii) technical, legal, and other assist-  
9 ance in complying with the refinery permit-  
10 ting agreement.

11           (3) AGREEMENT BY THE STATE.—Under a re-  
12 finery permitting agreement, a State or governing  
13 body of an Indian tribe shall agree that—

14           (A) the Administrator shall have each of  
15 the authorities described in paragraph (2); and

16           (B) each State or Indian tribal government  
17 agency shall—

18           (i) in accordance with State law, make  
19 such structural and operational changes in  
20 the agencies as are necessary to enable the  
21 agencies to carry out consolidated project-  
22 wide permit reviews concurrently and in  
23 coordination with the Environmental Pro-  
24 tection Agency and other Federal agencies;  
25 and

1                   (ii) comply, to the maximum extent  
2                   practicable, with the applicable schedule  
3                   established under paragraph (2)(A)(ii).

4           (4) DEADLINES.—

5                   (A) NEW REFINERIES.—In the case of a  
6                   consolidated permit for the construction of a  
7                   new refinery, the Administrator and the State  
8                   or governing body of an Indian tribe shall ap-  
9                   prove or disapprove the consolidated permit not  
10                  later than—

11                   (i) 360 days after the date of the re-  
12                   ceipt of the administratively complete ap-  
13                   plication for the consolidated permit; or

14                   (ii) on agreement of the applicant, the  
15                   Administrator, and the State or governing  
16                   body of the Indian tribe, 90 days after the  
17                   expiration of the deadline established  
18                   under clause (i).

19                   (B) EXPANSION OF EXISTING REFIN-  
20                   ERIES.—In the case of a consolidated permit  
21                   for the expansion of an existing refinery, the  
22                   Administrator and the State or governing body  
23                   of an Indian tribe shall approve or disapprove  
24                   the consolidated permit not later than—

1 (i) 120 days after the date of the re-  
2 ceipt of the administratively complete ap-  
3 plication for the consolidated permit; or

4 (ii) on agreement of the applicant, the  
5 Administrator, and the State or governing  
6 body of the Indian tribe, 30 days after the  
7 expiration of the deadline established  
8 under clause (i).

9 (5) FEDERAL AGENCIES.—Each Federal agency  
10 that is required to make any determination to au-  
11 thorize the issuance of a permit shall comply with  
12 the applicable schedule established under paragraph  
13 (2)(A)(ii).

14 (6) JUDICIAL REVIEW.—Any civil action for re-  
15 view of any permit determination under a refinery  
16 permitting agreement shall be brought exclusively in  
17 the United States district court for the district in  
18 which the refinery is located or proposed to be lo-  
19 cated.

20 (7) EFFICIENT PERMIT REVIEW.—In order to  
21 reduce the duplication of procedures, the Adminis-  
22 trator shall use State permitting and monitoring  
23 procedures to satisfy substantially equivalent Fed-  
24 eral requirements under this title.

1           (8) SEVERABILITY.—If 1 or more permits that  
2           are required for the construction or operation of a  
3           refinery are not approved on or before any deadline  
4           established under paragraph (4), the Administrator  
5           may issue a consolidated permit that combines all  
6           other permits that the refiner is required to obtain  
7           other than any permits that are not approved.

8           (9) SAVINGS.—Nothing in this subsection af-  
9           fects the operation or implementation of otherwise  
10          applicable law regarding permits necessary for the  
11          construction and operation of a refinery.

12          (10) CONSULTATION WITH LOCAL GOVERN-  
13          MENTS.—Congress encourages the Administrator,  
14          States, and tribal governments to consult, to the  
15          maximum extent practicable, with local governments  
16          in carrying out this subsection.

17          (11) AUTHORIZATION OF APPROPRIATIONS.—  
18          There are authorized to be appropriated such sums  
19          as are necessary to carry out this subsection.

20          (12) EFFECT ON LOCAL AUTHORITY.—Nothing  
21          in this subsection affects—

22                 (A) the authority of a local government  
23                 with respect to the issuance of permits; or

24                 (B) any requirement or ordinance of a  
25                 local government (such as a zoning regulation).

1 (c) FISCHER-TROPSCH FUELS.—

2 (1) IN GENERAL.—In cooperation with the Sec-  
3 retary of Energy, the Secretary of Defense, the Ad-  
4 ministrator of the Federal Aviation Administration,  
5 Secretary of Health and Human Services, and  
6 Fischer-Tropsch industry representatives, the Ad-  
7 ministrator shall—

8 (A) conduct a research and demonstration  
9 program to evaluate the air quality benefits of  
10 ultra-clean Fischer-Tropsch transportation fuel,  
11 including diesel and jet fuel;

12 (B) evaluate the use of ultra-clean Fischer-  
13 Tropsch transportation fuel as a mechanism for  
14 reducing engine exhaust emissions; and

15 (C) submit recommendations to Congress  
16 on the most effective use and associated bene-  
17 fits of these ultra-clean fuel for reducing public  
18 exposure to exhaust emissions.

19 (2) GUIDANCE AND TECHNICAL SUPPORT.—The  
20 Administrator shall, to the extent necessary, issue  
21 any guidance or technical support documents that  
22 would facilitate the effective use and associated ben-  
23 efit of Fischer-Tropsch fuel and blends.

24 (3) REQUIREMENTS.—The program described  
25 in paragraph (1) shall consider—

1 (A) the use of neat (100 percent) Fischer-  
2 Tropisch fuel and blends with conventional  
3 crude oil-derived fuel for heavy-duty and light-  
4 duty diesel engines and the aviation sector; and

5 (B) the production costs associated with  
6 domestic production of those ultra clean fuel  
7 and prices for consumers.

8 (4) REPORTS.—The Administrator shall submit  
9 to the Committee on Environment and Public Works  
10 and the Committee on Energy and Natural Re-  
11 sources of the Senate and the Committee on Energy  
12 and Commerce of the House of Representatives—

13 (A) not later than 1 year, an interim re-  
14 port on actions taken to carry out this sub-  
15 section; and

16 (B) not later than 2 years, a final report  
17 on actions taken to carry out this subsection.

18 **SEC. 3404. EXISTING REFINERY PERMIT APPLICATION**  
19 **DEADLINE.**

20 Notwithstanding any other provision of law, applica-  
21 tions for a permit for existing refinery applications shall  
22 not be considered to be timely if submitted after 120 days  
23 after the date of the enactment of this Act.

1 **SEC. 3405. REMOVAL OF ADDITIONAL FEE FOR NEW APPLI-**  
2 **CATIONS FOR PERMITS TO DRILL.**

3 The second undesignated paragraph of the matter  
4 under the heading “MANAGEMENT OF LANDS AND  
5 RESOURCES” under the heading “Bureau of Land Man-  
6 agement” of title I of the Department of the Interior, En-  
7 vironment, and Related Agencies Appropriations Act,  
8 2008 (Public Law 110–161; 121 Stat. 2098) is amended  
9 by striking “to be reduced” and all that follows through  
10 “each new application”.

11 **Subtitle F—Alternative Sources of**  
12 **Fuel**

13 **SEC. 3501. YEAR EXTENSION OF ELECTION TO EXPENSE**  
14 **CERTAIN REFINERIES.**

15 (a) IN GENERAL.—Paragraph (1) of section 179C(c)  
16 of the Internal Revenue Code of 1986 (defining qualified  
17 refinery property) is amended—

18 (1) by striking “January 1, 2014” in subpara-  
19 graph (B) and inserting “January 1, 2017”, and

20 (2) by striking “January 1, 2010” each place  
21 it appears in subparagraph (F) and inserting “Janu-  
22 ary 1, 2013”.

23 (b) IMPLEMENTATION THROUGH SECRETARIAL  
24 GUIDANCE.—

25 (1) GUIDANCE.—Paragraph (1) of section  
26 179C(b) of such Code (relating to general rule for

1 election) is amended by inserting “or other guid-  
2 ance” after “regulations”.

3 (2) REPORTING.—Subsection (h) of section  
4 179C of such Code (relating to reporting) is amend-  
5 ed by striking “shall require” and inserting “may,  
6 through guidance, require”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this Act shall apply to property placed in service after De-  
9 cember 31, 2008.

10 (d) REQUIREMENT FOR ISSUANCE OF GUIDANCE.—  
11 Not later than 90 days after the date of the enactment  
12 of this Act, the Secretary of the Treasury shall issue regu-  
13 lations or other guidance to carry out section 179C of the  
14 Internal Revenue Code of 1986 (as amended by this sec-  
15 tion).

16 **SEC. 3502. OPENING OF LANDS TO OIL SHALE LEASING.**

17 (a) REPEAL OF LIMITATION ON USE OF FUNDS.—  
18 Section 433 of division F of the Consolidated Appropria-  
19 tions Act, 2008 (Public Law 110–161; 121 Stat. 2152)  
20 is repealed.

21 (b) ISSUANCE OF REGULATIONS.—The Secretary of  
22 the Interior shall issue all regulations necessary to imple-  
23 ment section 369 of the Energy Policy Act of 2005 (Public  
24 Law 109–58; 42 U.S.C. 15927) with respect to oil shale  
25 by not later than 60 days after the date of the enactment



1 of this Act. Such regulations shall include such safeguards  
2 and assurances as the Secretary considers necessary to  
3 allow States to exercise their regulatory and statutory au-  
4 thorities under State law, consistent with otherwise appli-  
5 cable Federal law.

6 (c) LEASING OF OIL SHALE RESOURCE.—Imme-  
7 diately after issuing regulations under subsection (b), the  
8 Secretary of the Interior shall—

9 (1) offer for leasing for research and develop-  
10 ment of oil shale resources under subsection (c) of  
11 section 369 of the Energy Policy Act of 2005 (Pub-  
12 lic Law 109–58; 42 U.S.C. 15927), additional 160-  
13 acre tracts of lands the Secretary considers nec-  
14 essary to fulfill the research and development objec-  
15 tives of such Act; and

16 (2) offer for leasing for commercial exploration,  
17 development, and production of oil shale resources  
18 under subsection (e) of such section, public lands in  
19 States for which the Secretary finds sufficient sup-  
20 port and interest as required by that subsection.

21 **SEC. 3503. OIL SHALE AND TAR SANDS AMENDMENTS.**

22 (a) REPEAL OF REQUIREMENT TO ESTABLISH PAY-  
23 MENTS.—Section 369(o) of the Energy Policy Act of 2005  
24 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927)  
25 is repealed.

1 (b) TREATMENT OF REVENUES.—Section 21 of the  
2 Mineral Leasing Act (30 U.S.C. 241) is amended by add-  
3 ing at the end the following:

4 “(e) REVENUES.—

5 “(1) IN GENERAL.—Notwithstanding the provi-  
6 sions of section 35, all revenues received from and  
7 under an oil shale or tar sands lease shall be dis-  
8 posed of as provided in this subsection.

9 “(2) ROYALTY RATES FOR COMMERCIAL  
10 LEASES.—

11 “(A) ROYALTY RATES.—The Secretary  
12 shall model the royalty schedule for oil shale  
13 and tar sands leases based on the royalty pro-  
14 gram currently in effect for the production of  
15 synthetic crude oil from oil sands in the Prov-  
16 ince of Alberta, Canada.

17 “(B) REDUCTION.—The Secretary shall re-  
18 duce any royalty otherwise required to be paid  
19 under subparagraph (A) under any oil shale or  
20 tar sands lease on a sliding scale based upon  
21 market price, with a 10 percent reduction if the  
22 average futures price of NYMEX Light Sweet  
23 Crude, or a similar index, drops, for the pre-  
24 vious quarter year, below \$50 (in January 1,  
25 2008, dollars), and an 80 percent reduction if

1 the average price drops below \$30 (in January  
2 1, 2008, dollars) for the quarter previous to the  
3 one in which the production is sold.

4 “(3) DISPOSITION OF REVENUES.—

5 “(A) DEPOSIT.—The Secretary shall de-  
6 posit into a separate account in the Treasury  
7 all revenues derived from any oil shale or tar  
8 sands lease.

9 “(B) ALLOCATIONS TO STATES AND LOCAL  
10 POLITICAL SUBDIVISIONS.—The Secretary shall  
11 allocate 50 percent of the revenues deposited  
12 into the account established under subpara-  
13 graph (A) to the State within the boundaries of  
14 which the leased lands are located, with a por-  
15 tion of that to be paid directly by the Secretary  
16 to the State’s local political subdivisions as pro-  
17 vided in this paragraph.

18 “(C) TRANSMISSION OF ALLOCATIONS.—

19 “(i) IN GENERAL.—Not later than the  
20 last business day of the month after the  
21 month in which the revenues were received,  
22 the Secretary shall transmit—

23 “(I) to each State two-thirds of  
24 such State’s allocations under sub-  
25 paragraph (B), and in accordance

1 with clauses (ii) and (iii) to certain  
2 county-equivalent and municipal polit-  
3 ical subdivisions of such State a total  
4 of one-third of such States allocations  
5 under subparagraph (B), together  
6 with all accrued interest thereon; and

7 “(II) the remaining balance of  
8 such revenues shall be deposited into  
9 the Deficit Reduction Trust Fund cre-  
10 ated by this Act.

11 “(ii) ALLOCATIONS TO CERTAIN  
12 COUNTY-EQUIVALENT POLITICAL SUBDIVI-  
13 SIONS.—The Secretary shall under clause  
14 (i)(I) make equitable allocations of the rev-  
15 enues to county-equivalent political sub-  
16 divisions that the Secretary determines are  
17 closely associated with the leasing and pro-  
18 duction of oil shale and tar sands, under a  
19 formula that the Secretary shall determine  
20 by regulation.

21 “(iii) ALLOCATIONS TO MUNICIPAL  
22 POLITICAL SUBDIVISIONS.—The initial al-  
23 location to each county-equivalent political  
24 subdivision under clause (ii) shall be fur-  
25 ther allocated to the county-equivalent po-

1           litical subdivision and any municipal polit-  
2           ical subdivisions located partially or wholly  
3           within the boundaries of the county-equiva-  
4           lent political subdivision on an equitable  
5           basis under a formula that the Secretary  
6           shall determine by regulation.

7           “(D) INVESTMENT OF DEPOSITS.—The de-  
8           posits in the Treasury account established  
9           under this section shall be invested by the Sec-  
10          retary of the Treasury in securities backed by  
11          the full faith and credit of the United States  
12          having maturities suitable to the needs of the  
13          account and yielding the highest reasonably  
14          available interest rates as determined by the  
15          Secretary of the Treasury.

16          “(E) USE OF FUNDS.—A recipient of  
17          funds under this subsection may use the funds  
18          for any lawful purpose as determined by State  
19          law. Funds allocated under this subsection to  
20          States and local political subdivisions may be  
21          used as matching funds for other Federal pro-  
22          grams without limitation. Funds allocated to  
23          local political subdivisions under this subsection  
24          may not be used in calculation of payments to  
25          such local political subdivisions under programs

1 for payments in lieu of taxes or other similar  
2 programs.

3 “(F) NO ACCOUNTING REQUIRED.—No re-  
4 cipient of funds under this subsection shall be  
5 required to account to the Federal Government  
6 for the expenditure of such funds, except as  
7 otherwise may be required by law.

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

9 “(A) COUNTY-EQUIVALENT POLITICAL  
10 SUBDIVISION.—The term ‘county-equivalent po-  
11 litical subdivision’ means a political jurisdiction  
12 immediately below the level of State govern-  
13 ment, including a county, parish, borough in  
14 Alaska, independent municipality not part of a  
15 county, parish, or borough in Alaska, or other  
16 equivalent subdivision of a State.

17 “(B) MUNICIPAL POLITICAL SUBDIVI-  
18 SION.—The term ‘municipal political subdivi-  
19 sion’ means a municipality located within and  
20 part of a county, parish, borough in Alaska, or  
21 other equivalent subdivision of a State.”.

1 **SEC. 3504. TAX CREDIT FOR CARBON DIOXIDE CAPTURED**  
2 **FROM INDUSTRIAL SOURCES AND USED IN**  
3 **ENHANCED OIL AND NATURAL GAS RECOV-**  
4 **ERY.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 (relating to business credits) is amended by adding  
8 at the end the following new section:

9 **“SEC. 45R. CREDIT FOR CARBON DIOXIDE CAPTURED FROM**  
10 **INDUSTRIAL SOURCES AND USED AS A TER-**  
11 **TIARY INJECTANT IN ENHANCED OIL AND**  
12 **NATURAL GAS RECOVERY.**

13 “(a) GENERAL RULE.—For purposes of section 38,  
14 the captured carbon dioxide tertiary injectant credit for  
15 any taxable year is an amount equal to the product of—

16 “(1) the credit amount, and

17 “(2) the qualified carbon dioxide captured from  
18 industrial sources and used as a tertiary injectant in  
19 qualified enhanced oil and natural gas recovery  
20 which is attributable to the taxpayer.

21 “(b) CREDIT AMOUNT.—For purposes of this sec-  
22 tion—

23 “(1) IN GENERAL.—The credit amount is \$0.75  
24 per 1,000 standard cubic feet.

25 “(2) INFLATION ADJUSTMENT.—In the case of  
26 any taxable year beginning in a calendar year after

1 2009, there shall be substituted for the \$0.75  
2 amount under paragraph (1) an amount equal to the  
3 product of—

4 “(A) \$0.75, multiplied by

5 “(B) the inflation adjustment factor for  
6 such calendar year determined under section  
7 43(b)(3)(B) for such calendar year, determined  
8 by substituting ‘2008’ for ‘1990’.

9 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of  
10 this section—

11 “(1) IN GENERAL.—The term ‘qualified carbon  
12 dioxide’ means carbon dioxide captured from an an-  
13 thropogenic source that—

14 “(A) would otherwise be released into the  
15 atmosphere as industrial emission of green-  
16 house gas,

17 “(B) is measurable at the source of cap-  
18 ture,

19 “(C) is compressed, treated, and trans-  
20 ported via pipeline,

21 “(D) is sold as a tertiary injectant in  
22 qualified enhanced oil and natural gas recovery,  
23 and



1           “(E) is permanently sequestered in geologi-  
2 cal formations as a result of the enhanced oil  
3 and natural gas recovery process.

4           “(2) ANTHROPOGENIC SOURCE.—An anthropo-  
5 genic source of carbon dioxide is an industrial  
6 source, including any of the following types of  
7 plants, and facilities related to such plant—

8           “(A) a coal and natural gas fired electrical  
9 generating power station,

10           “(B) a natural gas processing and treating  
11 plant,

12           “(C) an ethanol plant,

13           “(D) a fertilizer plant, and

14           “(E) a chemical plant.

15           “(3) DEFINITIONS.—

16           “(A) QUALIFIED ENHANCED OIL AND NAT-  
17 URAL GAS RECOVERY.—The term ‘qualified en-  
18 hanced oil and natural gas recovery’ has the  
19 meaning given such term by section 43(c)(2).

20           “(B) TERTIARY INJECTANT.—The term  
21 ‘tertiary injectant’ has the same meaning as  
22 when used within section 193(b)(1).

23           “(d) OTHER DEFINITIONS AND SPECIAL RULES.—

24 For purposes of this section—

1           “(1) ONLY CARBON DIOXIDE CAPTURED WITH-  
2           IN THE UNITED STATES TAKEN INTO ACCOUNT.—  
3           Sales shall be taken into account under this section  
4           only with respect to qualified carbon dioxide of  
5           which is within—

6                   “(A) the United States (within the mean-  
7                   ing of section 638(1)), or

8                   “(B) a possession of the United States  
9                   (within the meaning of section 638(2)).

10           “(2) RECYCLED CARBON DIOXIDE.—The term  
11           ‘qualified carbon dioxide’ includes the initial deposit  
12           of captured carbon dioxide used as a tertiary  
13           injectant. Such term does not include carbon dioxide  
14           that is re-captured, recycled, and re-injected as part  
15           of the enhanced oil and natural gas recovery process.

16           “(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—  
17           Any credit under this section shall be attributable to  
18           the person that captures, treats, compresses, trans-  
19           ports and sells the carbon dioxide for use as a ter-  
20           tiary injectant in enhanced oil and natural gas re-  
21           covery, except to the extent provided in regulations  
22           prescribed by the Secretary.”.

23           (b) CONFORMING AMENDMENT.—Section 38(b) of  
24           such Code (relating to general business credit), as amend-  
25           ed by section 302, is amended by striking “plus” at the

1 end of paragraph (34), by striking the period at the end  
 2 of paragraph (35) and inserting “, plus”, and by adding  
 3 at the end of following new paragraph:

4 “(36) the captured carbon dioxide tertiary  
 5 injectant credit determined under section 45P(a).”.

6 (c) CLERICAL AMENDMENT.—The table of sections  
 7 for subpart B of part IV of subchapter A of chapter 1  
 8 of such Code (relating to other credits) is amended by add-  
 9 ing at the end the following new section:

“Sec. 45R. Credit for carbon dioxide captured from industrial sources and used  
 as a tertiary injectant in enhanced oil and natural gas recov-  
 ery.”.

10 (d) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to taxable years beginning after  
 12 the date of the enactment of this Act.

## 13 **Subtitle G—Domestic Energy**

### 14 **Impact Statements**

#### 15 **SEC. 3601. COMMITTEE REPORTS IN HOUSE OF REP-**

#### 16 **RESENTATIVES REQUIRED TO INCLUDE DO-**

#### 17 **MESTIC ENERGY IMPACT STATEMENTS.**

18 (a) AMENDMENT TO RULE.—Clause 3(d) of rule XIII  
 19 of the Rules of the House of Representatives is amended  
 20 by adding at the end the following new subparagraph:

21 “(4)(A) A statement (if timely submitted to the  
 22 committee by the Comptroller General before the fil-  
 23 ing of the report) for each such bill or joint resolu-  
 24 tion that would have an impact on the governance

1 of public lands, including the outer Continental  
2 Shelf, of the impact of such bill on domestic energy  
3 availability.

4 “(B) Each such statement shall contain—

5 “(i) the physical/geographic size of any  
6 new areas of public lands which are opened up  
7 or closed off for energy exploration; and

8 “(ii) the total amount of cubic feet of dry  
9 natural gas or the total number of barrels of oil  
10 or liquid natural gas, or the total number of  
11 short tons of coal, which could be recovered  
12 from any public lands which are opened up or  
13 closed off for energy exploration.”.

14 (b) EXERCISE OF RULEMAKING POWERS.—The  
15 amendment made by subsection (a) is enacted as an exer-  
16 cise of the rulemaking power of the House of Representa-  
17 tives, and as such shall be considered as part of the Rules  
18 of the House of Representatives, with full recognition of  
19 the constitutional right of the House of Representatives  
20 to change such Rules at any time, in the same manner,  
21 and to the same extent as in the case of any other Rule  
22 of the House of Representatives.

1 **SEC. 3602. DOMESTIC ENERGY IMPACT STATEMENTS.**

2 (a) IN GENERAL.—Section 719 of title 31, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing new subsection:

5 “(i) The Comptroller General shall, to the extent  
6 practicable, prepare for each bill or joint resolution re-  
7 ported by any committee of the House of Representatives  
8 or the Senate that would have an impact on domestic en-  
9 ergy availability, and submit to such committee a domestic  
10 energy impact statement containing—

11 “(1) the physical/geographic size of any new  
12 areas of public lands which are opened up or closed  
13 off for energy exploration; and

14 “(2) the total amount of cubic feet of dry nat-  
15 ural gas or the total number of barrels of oil or liq-  
16 uid natural gas, or the total number of short tons  
17 of coal, which could be recovered from any public  
18 lands which are opened up or closed off for energy  
19 exploration.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall apply to bills and joint resolutions re-  
22 ported by committees of the House of Representatives or  
23 the Senate 90 or more days after the date of the enact-  
24 ment of this Act.

## 1       **Subtitle H—Deficit Reduction**

### 2       **SEC. 3701. DEFICIT REDUCTION TRUST FUND.**

3           (a) IN GENERAL.—Subchapter A of chapter 98 of the  
4 Internal Revenue Code of 1986 is amended by adding at  
5 the end the following new section:

#### 6       **“SEC. 9511. DEFICIT REDUCTION TRUST FUND.**

7           “(a) CREATION.—There is established in the Treas-  
8 ury of the United States a trust fund to be known as the  
9 ‘Deficit Reduction Trust Fund’, consisting of such  
10 amounts as may be appropriated or credited to the Deficit  
11 Reduction Trust Fund as provided in this section.

12           “(b) TRANSFERS.—There are hereby appropriated to  
13 the Deficit Reduction Trust Fund amounts equivalent to  
14 25 percent of all OCS Receipts, as defined in section  
15 9(i)(8) of the Outer Continental Shelf Lands Act (43  
16 U.S.C. 1338), that are derived from leases under that Act  
17 on tracts that would not have been available for leasing  
18 prior to the enactment of the American Energy Innovation  
19 Act and that would otherwise have been deposited in the  
20 General Fund of the Treasury and not allocated to any  
21 other specific use.

22           “(c) EXPENDITURES.—Amounts in the Deficit Re-  
23 duction Trust Fund shall be available as provided in ap-  
24 propriation Acts only for the purpose of reducing the Fed-  
25 eral debt.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 for such subchapter is amended by adding at the end the  
3 following new item:

“Sec. 9511. Deficit Reduction Trust Fund.”.

## 4 **TITLE IV—JOB CREATION**

### 5 **SEC. 4001. SENSE OF CONGRESS.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) A comprehensive energy policy would en-  
8 hance the national security of the United States in  
9 two ways, by reducing our dependency on foreign  
10 sources of fuel and by simultaneously creating tens  
11 of millions of jobs over the next few decades.

12 (2) Opening the full outer Continental Shelf to  
13 energy production would create 36 million jobs over  
14 the next 30 years.

15 (3) Despite its distance from the continental  
16 United States, the opening of just 2,000 acres of  
17 land in the Arctic Coastal plain of Alaska is enough  
18 to supply up to an additional million jobs throughout  
19 the Nation. Millions more jobs will be created in sec-  
20 tors of the economy that make our traditional  
21 sources of energy more efficient and clean.

22 (4) Despite the progress being made in the de-  
23 velopment of new and renewable energy sources and  
24 technologies, for the foreseeable future, there are no  
25 viable substitutes for the widely available, affordable

1 petroleum resources located within the United  
2 States.

3 (5) While support must be given to continue to  
4 encourage the development of alternative energy  
5 sources, Congress must embrace a comprehensive  
6 energy policy that understands fossil fuels will con-  
7 tinue to play a significant role in our energy policy  
8 for at least several more generations.

9 (6) By doing so, the United States will embrace  
10 a realistic plan to reduce our dependency on foreign  
11 sources of energy and ensure our economic security.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-  
13 gress that a comprehensive energy policy that promotes  
14 conservation, production, and innovation will consequently  
15 lead to massive long-term job creation.

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