

110TH CONGRESS
2D SESSION

S. 3126

To provide for the development of certain traditional and alternative energy resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2008

Mr. COLEMAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for the development of certain traditional and alternative energy resources, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Energy Resource Development Act of 2008”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—TRADITIONAL RESOURCES

Sec. 101. Revocation of withdrawal of certain areas of the outer Continental Shelf.

Sec. 102. State authority to protect certain coastal areas.

Sec. 103. Production of oil and natural gas in new producing areas.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

Sec. 201. Energy Independence Trust Fund.

Sec. 202. Loan guarantees for renewable fuel pipelines.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

Sec. 211. Definitions.

Sec. 212. Clean coal-derived fuel program.

Subtitle C—Nuclear Energy

Sec. 221. Incentives for innovative technologies.

Sec. 222. Authorization for Nuclear Power 2010 Program.

Sec. 223. Domestic manufacturing base for nuclear components and equipment.

Sec. 224. Nuclear energy workforce.

Sec. 225. Investment tax credit for investments in nuclear power facilities.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Energy.

4 **TITLE I—TRADITIONAL** 5 **RESOURCES**

6 **SEC. 101. REVOCATION OF WITHDRAWAL OF CERTAIN** 7 **AREAS OF THE OUTER CONTINENTAL SHELF.**

8 The “Memorandum on Withdrawal of Certain Areas
9 of the United States Outer Continental Shelf from Leas-
10 ing Disposition”, 34 Weekly Comp. Pres. Doc. 1111,
11 dated June 12, 1998, is revoked and no longer in effect
12 regarding any area on the outer Continental Shelf covered
13 by sections 104 and 105 of the Department of the Inte-
14 rior, Environment, and Related Agencies Appropriations
15 Act, 2008 (Public Law 110–161; 121 Stat. 2118).

1 **SEC. 102. STATE AUTHORITY TO PROTECT CERTAIN COAST-**
 2 **AL AREAS.**

3 Section 19 of the Outer Continental Shelf Lands Act
 4 (43 U.S.C. 1345) is amended by adding at the end the
 5 following:

6 “(f) APPROVAL BY CERTAIN AFFECTED STATES.—

7 “(1) DEFINITION OF AFFECTED STATE.—In
 8 this subsection, the term ‘affected State’ means a
 9 State that the Secretary, in consultation with the
 10 Administrator of the Environmental Protection
 11 Agency, determines could be affected negatively by
 12 the potential environmental or economic impacts of
 13 a proposed lease sale or proposed development and
 14 production plan under this Act.

15 “(2) NOTICE TO AFFECTED STATES.—Not later
 16 than 30 days before the date of a proposed lease sale
 17 or the publication of a proposed development and
 18 production plan, the Secretary shall submit to the
 19 Governor of each affected State notice of the pro-
 20 posed sale or plan.

21 “(3) AUTHORITIES OF AFFECTED STATES.—
 22 Not later than 60 days after the date on which the
 23 Secretary provides to the Governor of an affected
 24 State notice under paragraph (2), the Governor of
 25 the affected State shall submit to the Secretary a
 26 written response to the proposed sale or plan that—

1 “(A) specifies whether the Governor—

2 “(i) accepts the sale or plan as pro-
3 posed;

4 “(ii) accepts the sale or plan with
5 modification; or

6 “(iii) vetoes the proposed sale or plan;
7 and

8 “(B) in the case of subparagraph (A)(ii),
9 includes a counterproposal that describes—

10 “(i) any proposed modifications to—

11 “(I) the proposed plan; or

12 “(II) the size, time, or location of
13 the proposed sale; and

14 “(ii) any areas off the coast of the
15 State that the Governor recommends for
16 long-term protection in the form of a mor-
17 atorium on leasing for a period of not
18 more than 20 years based on—

19 “(I) any information in existence
20 on the date of the counterproposal
21 concerning the geographical, geologi-
22 cal, and ecological characteristics of
23 the areas proposed for protection;

1 “(II) an equitable sharing of de-
 2 velopmental benefits and environ-
 3 mental risks among the areas;

4 “(III) the location of the areas
 5 with respect to—

6 “(aa) other uses of the sea
 7 and seabed in the areas, includ-
 8 ing fisheries, navigation, existing
 9 or proposed sealanes, potential
 10 sites of deepwater ports; and

11 “(bb) other anticipated uses
 12 of the resources and space of
 13 other areas of the outer Conti-
 14 nental Shelf;

15 “(IV) any relevant laws, goals,
 16 and policies of the State; and

17 “(V) the relative environmental
 18 sensitivity and marine productivity of
 19 other areas of the outer Continental
 20 Shelf.

21 “(4) SECRETARIAL RESPONSE.—

22 “(A) IN GENERAL.—As soon as practicable
 23 after the Secretary receives a counterproposal
 24 under paragraph (3)(B), the Secretary, in con-
 25 sultation with the Secretary of Defense, shall—

1 “(i) approve the counterproposal with-
2 out modification;

3 “(ii) attempt to enter into an agree-
4 ment with the Governor to modify the
5 counterproposal; or

6 “(iii) deny the counterproposal.

7 “(B) APPROVAL OF AGREEMENT.—To be
8 valid, an agreement entered into under subpara-
9 graph (A)(ii) requires the approval of the Gov-
10 ernor, the Secretary, and the Secretary of the
11 Defense.”.

12 **SEC. 103. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
13 **PRODUCING AREAS.**

14 The Outer Continental Shelf Lands Act (43 U.S.C.
15 1331 et seq.) is amended by adding at the end the fol-
16 lowing:

17 **“SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
18 **PRODUCING AREAS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COASTAL POLITICAL SUBDIVISION.—The
21 term ‘coastal political subdivision’ means a political
22 subdivision of a new producing State any part of
23 which political subdivision is—

24 “(A) within the coastal zone (as defined in
25 section 304 of the Coastal Zone Management

1 Act of 1972 (16 U.S.C. 1453)) of the new pro-
2 ducing State as of the date of enactment of this
3 section; and

4 “(B) not more than 200 nautical miles
5 from the geographic center of any leased tract.

6 “(2) MORATORIUM AREA.—

7 “(A) IN GENERAL.—The term ‘moratorium
8 area’ means an area covered by sections 104
9 through 105 of the Department of the Interior,
10 Environment, and Related Agencies Appropria-
11 tions Act, 2008 (Public Law 110–161; 121
12 Stat. 2118).

13 “(B) EXCLUSION.—The term ‘moratorium
14 area’ does not include an area located in the
15 Gulf of Mexico.

16 “(3) NEW PRODUCING AREA.—The term ‘new
17 producing area’ means any moratorium area beyond
18 the submerged land of a new producing State.

19 “(4) NEW PRODUCING STATE.—The term ‘new
20 producing State’ means a State that has received
21 notice of a proposed lease sale for a new producing
22 area under section 19(f)(2).

23 “(5) QUALIFIED OUTER CONTINENTAL SHELF
24 REVENUES.—

1 “(A) IN GENERAL.—The term ‘qualified
 2 outer Continental Shelf revenues’ means all
 3 rentals, royalties, bonus bids, and other sums
 4 due and payable to the United States from
 5 leases entered into on or after the date of en-
 6 actment of this section for new producing areas.

7 “(B) EXCLUSIONS.—The term ‘qualified
 8 outer Continental Shelf revenues’ does not in-
 9 clude—

10 “(i) revenues from a bond or other
 11 surety forfeited for obligations other than
 12 the collection of royalties;

13 “(ii) revenues from civil penalties;

14 “(iii) royalties taken by the Secretary
 15 in-kind and not sold;

16 “(iv) revenues generated from leases
 17 subject to section 8(g); or

18 “(v) any revenues considered qualified
 19 outer Continental Shelf revenues under
 20 section 102 of the Gulf of Mexico Energy
 21 Security Act of 2006 (43 U.S.C. 1331
 22 note; Public Law 109–432).

23 “(b) AVAILABILITY FOR LEASING.—On approval by
 24 the new producing State of a proposed lease sale for a
 25 new producing area under section 19(f), the Secretary

1 shall conduct the proposed lease sale for the new pro-
 2 ducing area.

3 “(c) DISPOSITION OF QUALIFIED OUTER CONTI-
 4 NENTAL SHELF REVENUES FROM NEW PRODUCING
 5 AREAS.—

6 “(1) IN GENERAL.—Notwithstanding section 9
 7 and subject to the other provisions of this sub-
 8 section, for each applicable fiscal year, the Secretary
 9 of the Treasury shall deposit—

10 “(A) 50 percent of qualified outer Conti-
 11 nental Shelf revenues—

12 “(i) in the fund established by section
 13 201 of the Energy Resource Development
 14 Act of 2008; or

15 “(ii) if the Secretary of the Treasury
 16 determines that the fund described in
 17 clause (i) is fully funded, in the general
 18 fund of the Treasury; and

19 “(B) 50 percent of qualified outer Conti-
 20 nental Shelf revenues in a special account in
 21 the Treasury from which the Secretary shall
 22 disburse—

23 “(i) 75 percent to new producing
 24 States in accordance with paragraph (2);
 25 and

1 “(ii) 25 percent to provide financial
 2 assistance to States in accordance with
 3 section 6 of the Land and Water Conserva-
 4 tion Fund Act of 1965 (16 U.S.C. 4601–8),
 5 which shall be considered income to the
 6 Land and Water Conservation Fund for
 7 purposes of section 2 of that Act (16
 8 U.S.C. 4601–5).

9 “(2) ALLOCATION TO NEW PRODUCING STATES
 10 AND COASTAL POLITICAL SUBDIVISIONS.—

11 “(A) ALLOCATION TO NEW PRODUCING
 12 STATES.—Effective for fiscal year 2008 and
 13 each fiscal year thereafter, the amount made
 14 available under paragraph (1)(B)(i) shall be al-
 15 located to each new producing State in amounts
 16 (based on a formula established by the Sec-
 17 retary by regulation) proportional to the
 18 amount of qualified outer Continental Shelf rev-
 19 enues generated in the new producing area off-
 20 shore each State.

21 “(B) PAYMENTS TO COASTAL POLITICAL
 22 SUBDIVISIONS.—

23 “(i) IN GENERAL.—The Secretary
 24 shall pay 20 percent of the allocable share
 25 of each new producing State, as deter-

1 mined under subparagraph (A), to the
2 coastal political subdivisions of the new
3 producing State.

4 “(ii) ALLOCATION.—The amount paid
5 by the Secretary to coastal political sub-
6 divisions shall be allocated to each coastal
7 political subdivision in accordance with
8 subparagraphs (B) and (C) of section
9 31(b)(4).

10 “(3) MINIMUM ALLOCATION.—The amount allo-
11 cated to a new producing State for each fiscal year
12 under paragraph (2) shall be at least 5 percent of
13 the amounts available under for the fiscal year
14 under paragraph (1)(B)(i).

15 “(4) TIMING.—The amounts required to be de-
16 posited under subparagraph (B) of paragraph (1)
17 for the applicable fiscal year shall be made available
18 in accordance with that subparagraph during the fis-
19 cal year immediately following the applicable fiscal
20 year.

21 “(5) AUTHORIZED USES.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B), each new producing State and coast-
24 al political subdivision shall use all amounts re-
25 ceived under paragraph (2) in accordance with

1 all applicable Federal and State laws, only for
2 1 or more of the following purposes:

3 “(i) Projects and activities for the
4 purposes of coastal protection, including
5 conservation, coastal restoration, and hur-
6 ricane protection.

7 “(ii) Mitigation of damage to fish,
8 wildlife, or natural resources.

9 “(iii) Implementation of a federally-
10 approved marine, coastal, or comprehensive
11 conservation management plan.

12 “(iv) Mitigation of the impact of outer
13 Continental Shelf activities through the
14 funding of onshore projects.

15 “(v) Planning assistance and the ad-
16 ministrative costs of complying with this
17 section.

18 “(B) LIMITATION.—Not more than 3 per-
19 cent of amounts received by a new producing
20 State or coastal political subdivision under
21 paragraph (2) may be used for the purposes de-
22 scribed in subparagraph (A)(v).

23 “(6) ADMINISTRATION.—Amounts made avail-
24 able under paragraph (1)(B) shall—

1 “(A) be made available, without further
2 appropriation, in accordance with this sub-
3 section;

4 “(B) remain available until expended; and

5 “(C) be in addition to any amounts appro-
6 priated under—

7 “(i) other provisions of this Act;

8 “(ii) the Land and Water Conserva-
9 tion Fund Act of 1965 (16 U.S.C. 4601–4
10 et seq.); or

11 “(iii) any other provision of law.

12 “(d) DISPOSITION OF QUALIFIED OUTER CONTI-
13 NENTAL SHELF REVENUES FROM OTHER AREAS.—Not-
14 withstanding section 9, for each applicable fiscal year, the
15 terms and conditions of subsection (c) shall apply to the
16 disposition of qualified outer Continental Shelf revenues
17 that—

18 “(1) are derived from oil or gas leasing in an
19 area that is not included in the current 5-year plan
20 of the Secretary for oil or gas leasing; and

21 “(2) are not assumed in the budget of the
22 United States Government submitted by the Presi-
23 dent under section 1105 of title 31, United States
24 Code.

25 “(e) DUE DILIGENCE REQUIRED.—

1 “(1) NEW PRODUCING AREA LEASES.—Each
 2 lease entered into under this section shall provide
 3 that if a lessee fails to initiate development of the
 4 oil or gas resources in the new producing area sub-
 5 ject to the lease by the date that is 2 years after the
 6 date of the issuance of the lease—

7 “(A) the lease shall terminate; and

8 “(B) the Secretary shall conduct a new
 9 lease sale for the new producing area that was
 10 subject to the terminated lease.

11 “(2) EXISTING LEASES.—

12 “(A) IN GENERAL.—Any lease entered into
 13 under any other section of this Act that is in
 14 effect on the date of enactment of this section
 15 shall terminate at the end of the 10-year lease
 16 period specified in the lease.

17 “(B) AVAILABILITY FOR LEASING.—The
 18 Secretary shall conduct a new lease sale for any
 19 area subject to a lease terminated under sub-
 20 paragraph (A) in accordance with this Act.

21 “(C) LEASE REQUIREMENTS.—Any lease
 22 issued under a lease sale conducted under sub-
 23 paragraph (B) shall provide that if a lessee fails
 24 to initiate development of the oil or gas re-
 25 sources in the area subject to the lease by the

date that is 2 years after the date of the
issuance of the lease—

“(i) the lease shall terminate; and

“(ii) the Secretary shall conduct a
new lease sale for the area that was sub-
ject to the terminated lease.”.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

SEC. 201. ENERGY INDEPENDENCE TRUST FUND.

(a) ESTABLISHMENT.—There is established in the
Treasury of the United States a revolving fund, to be
known as the “Energy Independence Trust Fund” (re-
ferred to in this section as the “Fund”), consisting of such
amounts as are deposited in the Fund under section
32(c)(1)(A)(i) of the Outer Continental Shelf Lands Act
(as added by section 102).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on
request by the Secretary, the Secretary of the Treas-
ury shall transfer from the Fund to the Secretary
such amounts as the Secretary determines are nec-
essary to carry out the following:

1 (A) Section 609 of the Public Utility Regu-
2 latory Policies Act of 1978 (7 U.S.C. 918c).

3 (B) Title V of the Toxic Substances Con-
4 trol Act (15 U.S.C. 2695 et seq.).

5 (C) Sections 211(r), 212, and 329 of the
6 Clean Air Act (42 U.S.C. 7545(r), 7546, 7628).

7 (D) The following provisions of the Energy
8 Policy and Conservation Act:

9 (i) Section 324A (42 U.S.C. 6294a).

10 (ii) Section 337(c) (42 U.S.C.
11 6307(c)).

12 (iii) Section 365(f) (42 U.S.C.
13 6325(f)).

14 (iv) Part E of title III (42 U.S.C.
15 6341 et seq.).

16 (v) Section 399A (42 U.S.C. 6371h-
17 1).

18 (E) The following provisions of the Energy
19 Policy Act of 2005:

20 (i) Section 107 (42 U.S.C. 15812).

21 (ii) The amendments made by section
22 123 (119 Stat. 616).

23 (iii) Sections 124 through 127 (42
24 U.S.C. 15821 through 15824).

1 (iv) The amendments made by section
2 128 (119 Stat. 619).

3 (v) Sections 133 and 134 (42 U.S.C.
4 15831, 15832).

5 (vi) Section 140 (42 U.S.C. 15833).

6 (vii) Section 201 (42 U.S.C. 15851).

7 (viii) The amendments made by sec-
8 tion 202 (119 Stat. 651).

9 (ix) The amendments made by section
10 206 (119 Stat. 654).

11 (x) Section 207 (119 Stat. 656).

12 (xi) Sections 208 and 210 (42 U.S.C.
13 15854, 15855).

14 (xii) Sections 242 and 243 (42 U.S.C.
15 15881, 15882).

16 (xiii) The amendments made by sec-
17 tion 251 (119 Stat. 679).

18 (xiv) Section 252 (42 U.S.C. 15891).

19 (xv) Sections 706, 712, 721, and 731
20 (42 U.S.C. 16051, 16062, 16071, 16081).

21 (xvi) Subtitle C of title VII (42 U.S.C.
22 16091 et seq.).

23 (xvii) Sections 751 and 755 through
24 758 (42 U.S.C. 16101, 16103 through
25 16106).

1 (xviii) Section 771 (119 Stat. 834).

2 (xix) Sections 782 and 783 (42
3 U.S.C. 16122, 16123).

4 (xx) Sections 805, 808, 809, and 812
5 (42 U.S.C. 16154, 16157, 16158, 16161).

6 (xxi) Sections 911, 917, 921, and 931
7 (42 U.S.C. 16191, 16197, 16211, 16231).

8 (xxii) The amendments made by sec-
9 tion 941 (119 Stat. 873).

10 (xxiii) Sections 942, 944 through 947,
11 and 963 (42 U.S.C. 16251, 16253 through
12 16256, 16293).

13 (xxiv) Sections 1510, 1514, and 1516
14 (42 U.S.C. 16501, 16502, 16503).

15 (F) The following provisions of the Energy
16 Independence and Security Act of 2007:

17 (i) Sections 131 and 135 (42 U.S.C.
18 17011, 17012).

19 (ii) Sections 207, 223, 229, 230, 234,
20 244, and 246 (42 U.S.C. 17022, 17032,
21 17033, 17034, 17035, 17052, 17053).

22 (iii) Section 243 (121 Stat. 1540).

23 (iv) Section 411 (42 U.S.C. 6872
24 note; Public Law 110–140).

1 (v) Sections 422, 440, 452, 491, and
2 495 (42 U.S.C. 17082, 17096, 17111,
3 17121, 17124).

4 (vi) Section 501 (121 Stat. 1655).

5 (vii) Section 502 (2 U.S.C. 2169).

6 (viii) The amendments made by sec-
7 tion 505 (121 Stat. 1656).

8 (ix) Section 517 (42 U.S.C. 17131).

9 (x) Subtitle E of title V (42 U.S.C.
10 17151 et seq.).

11 (xi) Section 602 (42 U.S.C. 17171).

12 (xii) Sections 604 through 607 (42
13 U.S.C. 17172 through 17175).

14 (xiii) Subtitles B through E of title VI
15 (42 U.S.C. 17191 et seq.) (other than sec-
16 tion 653).

17 (xiv) Sections 703, 705, 707, 708,
18 711, and 712 (42 U.S.C. 17251, 17253,
19 17255, 17256, 17271, 17272).

20 (xv) Sections 805 and 807 (42 U.S.C.
21 17284, 17286).

22 (xvi) Sections 912, 913, 916, 917,
23 925, and 927 (42 U.S.C. 17332, 17333,
24 17336, 17337, 17355, 17357).

25 (G) Section 202.

1 (H) Subtitle C.

2 (2) ADMINISTRATIVE EXPENSES.—An amount
3 not exceeding 5 percent of the amounts in the Fund
4 shall be available for each fiscal year to pay the ad-
5 ministrative expenses necessary to carry out this sec-
6 tion.

7 (c) TRANSFERS OF AMOUNTS.—

8 (1) IN GENERAL.—The amounts required to be
9 transferred to the Fund under this section shall be
10 transferred at least monthly from the general fund
11 of the Treasury to the Fund on the basis of esti-
12 mates made by the Secretary of the Treasury.

13 (2) ADJUSTMENTS.—Proper adjustment shall
14 be made in amounts subsequently transferred to the
15 extent prior estimates were in excess of or less than
16 the amounts required to be transferred.

17 **SEC. 202. LOAN GUARANTEES FOR RENEWABLE FUEL PIPE-**
18 **LINES.**

19 (a) DEFINITIONS.—In this section:

20 (1) COST.—The term “cost” has the meaning
21 given the term “cost of a loan guarantee” in section
22 502(5)(C) of the Federal Credit Reform Act of 1990
23 (2 U.S.C. 661a(5)(C)).

1 (2) ELIGIBLE PROJECT.—The term eligible
2 project means a project described in subsection
3 (b)(1).

4 (3) GUARANTEE.—

5 (A) IN GENERAL.—The term “guarantee”
6 has the meaning given the term “loan guar-
7 antee” in section 502 of the Federal Credit Re-
8 form Act of 1990 (2 U.S.C. 661a).

9 (B) INCLUSION.—The term “guarantee”
10 includes a loan guarantee commitment (as de-
11 fined in section 502 of the Federal Credit Re-
12 form Act of 1990 (2 U.S.C. 661a)).

13 (4) RENEWABLE FUEL.—The term “renewable
14 fuel” has the meaning given the term in section
15 211(o)(1) of the Clean Air Act (42 U.S.C.
16 7545(o)(1)) (as in effect on January 1, 2009).

17 (5) RENEWABLE FUEL PIPELINE.—The term
18 “renewable fuel pipeline” means a common carrier
19 pipeline for transporting renewable fuel.

20 (b) LOAN GUARANTEES.—

21 (1) IN GENERAL.—The Secretary shall make
22 guarantees under this section for projects that pro-
23 vide for the construction of new renewable fuel pipe-
24 lines.

1 (2) ELIGIBILITY.—In determining the eligibility
2 of a project for a guarantee under this section, the
3 Secretary shall consider—

4 (A) the volume of renewable fuel to be
5 moved by the renewable fuel pipeline;

6 (B) the size of the markets to be served by
7 the renewable fuel pipeline;

8 (C) the existence of sufficient storage to
9 facilitate access to the markets served by the
10 renewable fuel pipeline;

11 (D) the proximity of the renewable fuel
12 pipeline to ethanol production facilities;

13 (E) the investment of the entity carrying
14 out the proposed project in terminal infrastruc-
15 ture;

16 (F) the experience of the entity carrying
17 out the proposed project in working with renew-
18 able fuels;

19 (G) the ability of the entity carrying out
20 the proposed project to maintain the quality of
21 the renewable fuel through—

22 (i) the terminal system of the entity;

23 and

24 (ii) the dedicated pipeline system;

1 (H) the ability of the entity carrying out
2 the proposed project to complete the project in
3 a timely manner; and

4 (I) the ability of the entity carrying out the
5 proposed project to secure property rights-of-
6 way in order to move the proposed project for-
7 ward in a timely manner.

8 (3) AMOUNT.—Unless otherwise provided by
9 law, a guarantee by the Secretary under this section
10 shall not exceed an amount equal to 90 percent of
11 the eligible project cost of the renewable fuel pipeline
12 that is the subject of the guarantee, as estimated at
13 the time at which the guarantee is issued or subse-
14 quently modified while the eligible project is under
15 construction.

16 (4) TERMS AND CONDITIONS.—Guarantees
17 under this section shall be provided in accordance
18 with section 1702 of the Energy Policy Act of 2005
19 (42 U.S.C. 16512), except that subsections (b) and
20 (c) of that section shall not apply to guarantees
21 under this section.

22 (5) EXISTING FUNDING AUTHORITY.—The Sec-
23 retary shall make a guarantee under this section
24 under an existing funding authority.

1 (6) FINAL RULE.—Not later than 90 days after
 2 the date of enactment of this Act, the Secretary
 3 shall publish in the Federal Register a final rule di-
 4 recting the Director of the Department of Energy
 5 Loan Guarantee Program Office to initiate the loan
 6 guarantee program under this section in accordance
 7 with this section.

8 (c) FUNDING.—

9 (1) IN GENERAL.—There are authorized to be
 10 appropriated such sums as are necessary to provide
 11 \$4,000,000,000 in guarantees under this section.

12 (2) USE OF OTHER APPROPRIATED FUNDS.—To
 13 the extent that the amounts made available under
 14 title XVII of the Energy Policy Act of 2005 (42
 15 U.S.C. 16511 et seq.) have not been disbursed to
 16 programs under that title, the Secretary may use the
 17 amounts to carry out this section.

18 **Subtitle B—Clean Coal-Derived** 19 **Fuels for Energy Security**

20 **SEC. 211. DEFINITIONS.**

21 In this subtitle:

22 (1) CLEAN COAL-DERIVED FUEL.—

23 (A) IN GENERAL.—The term “clean coal-
 24 derived fuel” means aviation fuel, motor vehicle
 25 fuel, home heating oil, or boiler fuel that is—

1 (i) substantially derived from the coal
2 resources of the United States; and

3 (ii) refined or otherwise processed at a
4 facility located in the United States that
5 captures—

6 (I) at least 50 percent of the car-
7 bon dioxide emissions that would oth-
8 erwise be released at the facility; or

9 (II) if the Secretary determines
10 that it is commercially feasible to cap-
11 ture a higher percentage of carbon di-
12 oxide emissions, a percentage equal to
13 or greater than the percentage of car-
14 bon dioxide emissions determined by
15 the Secretary to be commercially fea-
16 sible of being captured.

17 (B) INCLUSIONS.—The term “clean coal-
18 derived fuel” may include any other resource
19 that is extracted, grown, produced, or recovered
20 in the United States.

21 (2) COVERED FUEL.—The term “covered fuel”
22 means—

23 (A) aviation fuel;

24 (B) motor vehicle fuel;

25 (C) home heating oil; and

1 (D) boiler fuel.

2 (3) SMALL REFINERY.—The term “small refin-
 3 ery” means a refinery for which the average aggre-
 4 gate daily crude oil throughput for a calendar year
 5 (as determined by dividing the aggregate throughput
 6 for the calendar year by the number of days in the
 7 calendar year) does not exceed 75,000 barrels.

8 **SEC. 212. CLEAN COAL-DERIVED FUEL PROGRAM.**

9 (a) PROGRAM.—

10 (1) IN GENERAL.—Not later than 1 year after
 11 the date of enactment of this Act, the President
 12 shall promulgate regulations to ensure that covered
 13 fuel sold or introduced into commerce in the United
 14 States (except in noncontiguous States or terri-
 15 tories), on an annual average basis, contains the ap-
 16 plicable volume of clean coal-derived fuel determined
 17 in accordance with paragraph (4).

18 (2) PROVISIONS OF REGULATIONS.—Regardless
 19 of the date of promulgation, the regulations promul-
 20 gated under paragraph (1)—

21 (A) shall contain compliance provisions ap-
 22 plicable to refineries, blenders, distributors, and
 23 importers, as appropriate, to ensure that—

24 (i) the requirements of this subsection
 25 are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—

Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years

1 2015 through 2022 shall be determined in ac-
2 cordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons)
2015075
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0

3 (B) CALENDAR YEAR 2023 AND THERE-
4 AFTER.—Subject to subparagraph (C), for the
5 purposes of this subsection, the applicable vol-
6 ume for calendar year 2023 and each calendar
7 year thereafter shall be determined by the
8 President, in coordination with the Secretary
9 and the Administrator of the Environmental
10 Protection Agency, based on a review of the im-
11 plementation of the program during calendar
12 years 2015 through 2022, including a review
13 of—

14 (i) the impact of clean coal-derived
15 fuels on the energy security of the United
16 States;

17 (ii) the expected annual rate of future
18 production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate,

1 with respect to the following calendar year, of the
2 volumes of covered fuel projected to be sold or intro-
3 duced into commerce in the United States.

4 (2) DETERMINATION OF APPLICABLE PERCENT-
5 AGES.—

6 (A) IN GENERAL.—Not later than Novem-
7 ber 30 of each of calendar years 2015 through
8 2022, based on the estimate provided under
9 paragraph (1), the President shall determine
10 and publish in the Federal Register, with re-
11 spect to the following calendar year, the clean
12 coal-derived fuel obligation that ensures that
13 the requirements of subsection (a) are met.

14 (B) REQUIRED ELEMENTS.—The clean
15 coal-derived fuel obligation determined for a
16 calendar year under subparagraph (A) shall—

17 (i) be applicable to refineries, blend-
18 ers, and importers, as appropriate;

19 (ii) be expressed in terms of a volume
20 percentage of covered fuel sold or intro-
21 duced into commerce in the United States;
22 and

23 (iii) subject to paragraph (3)(A), con-
24 sist of a single applicable percentage that

1 applies to all categories of persons speci-
2 fied in clause (i).

3 (3) ADJUSTMENTS.—In determining the appli-
4 cable percentage for a calendar year, the President
5 shall make adjustments—

6 (A) to prevent the imposition of redundant
7 obligations on any person specified in para-
8 graph (2)(B)(i); and

9 (B) to account for the use of clean coal-de-
10 rived fuel during the previous calendar year by
11 small refineries that are exempt under sub-
12 section (f).

13 (c) VOLUME CONVERSION FACTORS FOR CLEAN
14 COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

15 (1) IN GENERAL.—For the purpose of sub-
16 section (a), the President shall assign values to spe-
17 cific types of clean coal-derived fuel for the purpose
18 of satisfying the fuel volume requirements of sub-
19 section (a)(4) in accordance with this subsection.

20 (2) ENERGY CONTENT RELATIVE TO DIESEL
21 FUEL.—For clean coal-derived fuels, 1 gallon of the
22 clean coal-derived fuel shall be considered to be the
23 equivalent of 1 gallon of diesel fuel multiplied by the
24 ratio that—

1 (A) the number of British thermal units of
2 energy produced by the combustion of 1 gallon
3 of the clean coal-derived fuel (as measured
4 under conditions determined by the Secretary);
5 bears to

6 (B) the number of British thermal units of
7 energy produced by the combustion of 1 gallon
8 of diesel fuel (as measured under conditions de-
9 termined by the Secretary to be comparable to
10 conditions described in subparagraph (A)).

11 (d) CREDIT PROGRAM.—

12 (1) IN GENERAL.—The President, in consulta-
13 tion with the Secretary and the Administrator of the
14 Environmental Protection Agency, shall implement a
15 credit program to manage the clean coal-derived fuel
16 requirement of this section in a manner consistent
17 with the credit program established by the amend-
18 ment made by section 1501(a)(2) of the Energy Pol-
19 icy Act of 2005 (Public Law 109–58; 119 Stat.
20 1067).

21 (2) MARKET TRANSPARENCY.—In carrying out
22 the credit program under this subsection, the Presi-
23 dent shall facilitate price transparency in markets
24 for the sale and trade of credits, with due regard for

the public interest, the integrity of those markets,
fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States;
or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically-produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days

1 after the date on which the petition is received by
2 the President.

3 (3) TERMINATION OF WAIVERS.—A waiver
4 granted under paragraph (1) shall terminate after 1
5 year, but may be renewed by the President after
6 consultation with the Secretary and the Adminis-
7 trator of the Environmental Protection Agency.

8 (f) SMALL REFINERIES.—

9 (1) TEMPORARY EXEMPTION.—

10 (A) IN GENERAL.—The requirements of
11 subsection (a) shall not apply to small refineries
12 until calendar year 2018.

13 (B) EXTENSION OF EXEMPTION.—

14 (i) STUDY BY SECRETARY.—Not later
15 than December 31, 2013, the Secretary
16 shall submit to the President and Congress
17 a report describing the results of a study
18 to determine whether compliance with the
19 requirements of subsection (a) would im-
20 pose a disproportionate economic hardship
21 on small refineries.

22 (ii) EXTENSION OF EXEMPTION.—In
23 the case of a small refinery that the Sec-
24 retary determines under clause (i) would
25 be subject to a disproportionate economic

1 hardship if required to comply with sub-
 2 section (a), the President shall extend the
 3 exemption under subparagraph (A) for the
 4 small refinery for a period of not less than
 5 2 additional years.

6 (2) PETITIONS BASED ON DISPROPORTIONATE
 7 ECONOMIC HARDSHIP.—

8 (A) EXTENSION OF EXEMPTION.—A small
 9 refinery may at any time petition the President
 10 for an extension of the exemption under para-
 11 graph (1) for the reason of disproportionate
 12 economic hardship.

13 (B) EVALUATION OF PETITIONS.—In eval-
 14 uating a petition under subparagraph (A), the
 15 President, in consultation with the Secretary,
 16 shall consider the findings of the study under
 17 paragraph (1)(B) and other economic factors.

18 (C) DEADLINE FOR ACTION ON PETI-
 19 TIONS.—The President shall act on any petition
 20 submitted by a small refinery for a hardship ex-
 21 emption not later than 90 days after the date
 22 of receipt of the petition.

23 (3) OPT-IN FOR SMALL REFINERIES.—A small
 24 refinery shall be subject to the requirements of sub-
 25 section (a) if the small refinery notifies the Presi-

1 dent that the small refinery waives the exemption
2 under paragraph (1).

3 (g) PENALTIES AND ENFORCEMENT.—

4 (1) CIVIL PENALTIES.—

5 (A) IN GENERAL.—Any person that vio-
6 lates a regulation promulgated under subsection
7 (a), or that fails to furnish any information re-
8 quired under such a regulation, shall be liable
9 to the United States for a civil penalty of not
10 more than the total of—

11 (i) \$25,000 for each day of the viola-
12 tion; and

13 (ii) the amount of economic benefit or
14 savings received by the person resulting
15 from the violation, as determined by the
16 President.

17 (B) COLLECTION.—Civil penalties under
18 subparagraph (A) shall be assessed by, and col-
19 lected in a civil action brought by, the Secretary
20 or such other officer of the United States as is
21 designated by the President.

22 (2) INJUNCTIVE AUTHORITY.—

23 (A) IN GENERAL.—The district courts of
24 the United States shall have jurisdiction to—

- 1 (i) restrain a violation of a regulation
 2 promulgated under subsection (a);
 3 (ii) award other appropriate relief;
 4 and
 5 (iii) compel the furnishing of informa-
 6 tion required under the regulation.

7 (B) ACTIONS.—An action to restrain such
 8 violations and compel such actions shall be
 9 brought by and in the name of the United
 10 States.

11 (C) SUBPOENAS.—In the action, a sub-
 12 poena for a witness who is required to attend
 13 a district court in any district may apply in any
 14 other district.

15 (h) EFFECTIVE DATE.—Except as otherwise specifi-
 16 cally provided in this section, this section takes effect on
 17 January 1, 2016.

18 **Subtitle C—Nuclear Energy**

19 **SEC. 221. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

20 (a) DEFINITION OF PROJECT COST.—Section 1701
 21 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is
 22 amended by adding at the end the following:

23 “(6) PROJECT COST.—

24 “(A) IN GENERAL.—The term ‘project
 25 cost’ means any cost associated with the devel-

opment, planning, design, engineering, permitting and licensing, construction, commissioning, start-up, shakedown, and financing of a facility.

“(B) INCLUSIONS.—The term ‘project cost’ includes—

“(i) reasonable escalation and contingencies;

“(ii) the cost of and fees for a guarantee;

“(iii) reasonably required reserve funds;

“(iv) initial working capital; and

“(v) interest accrued during construction.”.

(b) TERMS AND CONDITIONS; AMOUNT.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsections (b) and (c) and inserting the following:

“(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

“(1) IN GENERAL.—No guarantee shall be made unless—

“(A) the Secretary has received from the borrower and deposited in the Treasury a payment in full for the cost of the obligation;

1 “(B) an appropriation for the cost has
2 been made in lieu of a payment being made; or

3 “(C) a combination of actions described in
4 subparagraphs (A) and (B) has been carried
5 out such that, when combined, the actions are
6 sufficient to cover the cost of the obligation.

7 “(2) RELATION TO OTHER LAWS.—Section
8 504(b) of the Federal Credit Reform Act of 1990 (2
9 U.S.C. 661c(b)) shall not apply to a loan guarantee
10 made in accordance with paragraph (1)(B).

11 “(c) AMOUNT.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 the Secretary shall guarantee 100 percent of the ob-
14 ligation for a facility that is the subject of the guar-
15 antee, or a lesser amount if requested by the bor-
16 rower.

17 “(2) LIMITATION.—The total amount of loans
18 guaranteed for a facility by the Secretary shall not
19 exceed 80 percent of the total cost of the facility, as
20 estimated at the time at which the guarantee is
21 issued.”.

22 (c) FEES.—Section 1702(h) of the Energy Policy Act
23 of 2005 (42 U.S.C. 16512(h)) is amended by striking
24 paragraph (2) and inserting the following:

1 “(2) AVAILABILITY.—Fees collected under this
2 subsection shall—

3 “(A) be deposited by the Secretary into a
4 special fund in the Treasury, to be known as
5 the ‘Incentives For Innovative Technologies
6 Fund’; and

7 “(B) remain available to the Secretary for
8 expenditure, without further appropriation or
9 fiscal year limitation, for administrative ex-
10 penses incurred in carrying out this title.”.

11 (d) REPORT TO CONGRESS.—Section 1702 of the En-
12 ergy Policy Act of 2005 (42 U.S.C. 16512) is amended
13 by adding at the end the following:

14 “(k) REPORT TO CONGRESS.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this subsection and annu-
17 ally thereafter, the Secretary shall submit to Con-
18 gress a report that summarizes the applications for
19 loan guarantees received, loan guarantees approved
20 and rejected, and justifications for rejections of loan
21 guarantees, under this title.

22 “(2) TERMINATION OF AUTHORITY.—Beginning
23 with fiscal year 2018, the Secretary shall provide, in
24 the annual report submitted for each fiscal year
25 under paragraph (1), a recommendation on whether

1 all or part of the loan guarantee program under this
 2 title should be terminated.”.

3 **SEC. 222. AUTHORIZATION FOR NUCLEAR POWER 2010 PRO-**
 4 **GRAM.**

5 Section 952 of the Energy Policy Act of 2005 (42
 6 U.S.C. 16272) is amended by striking subsection (c) and
 7 inserting the following:

8 “(c) NUCLEAR POWER 2010 PROGRAM.—

9 “(1) IN GENERAL.—The Secretary shall carry
 10 out a Nuclear Power 2010 Program to position the
 11 United States to commence construction of new nu-
 12 clear power plants by not later than—

13 “(A) calendar year 2010; or

14 “(B) such first calendar year after cal-
 15 endar year 2010 as is practicable.

16 “(2) SCOPE OF PROGRAM.—The Nuclear Power
 17 2010 Program shall support the objectives of—

18 “(A) demonstrating the licensing process
 19 for new nuclear power plants, including the Nu-
 20 clear Regulatory Commission process for ob-
 21 taining—

22 “(i) early site permits;

23 “(ii) combined construction or oper-
 24 ating licenses; and

25 “(iii) design certifications; and

1 “(B) conducting first-of-a-kind design and
 2 engineering work on at least 2 advanced nu-
 3 clear reactor designs sufficient to bring those
 4 designs to a state of design completion suffi-
 5 cient to allow development of firm cost esti-
 6 mates.

7 “(3) COST-SHARING.—The Nuclear Power 2010
 8 Program shall be carried out through the use of
 9 cost-sharing with the private sector.

10 “(4) AUTHORIZATION OF APPROPRIATIONS.—
 11 There are authorized to be appropriated to the Sec-
 12 retary to carry out the Nuclear Power 2010 Pro-
 13 gram—

14 “(A) \$182,800,000 for fiscal year 2009;

15 “(B) \$159,600,000 for fiscal year 2010;

16 “(C) \$135,600,000 for fiscal year 2011;

17 “(D) \$46,900,000 for fiscal year 2012;

18 and

19 “(E) \$2,200,000 for fiscal year 2013.”.

20 **SEC. 223. DOMESTIC MANUFACTURING BASE FOR NUCLEAR**
 21 **COMPONENTS AND EQUIPMENT.**

22 (a) ESTABLISHMENT OF INTERAGENCY WORKING
 23 GROUP.—

24 (1) PURPOSES.—The purposes of this section
 25 are—

1 (A) to increase the competitiveness of the
2 United States nuclear energy products and
3 services industries;

4 (B) to identify the stimulus or incentives
5 necessary to cause United States manufacturers
6 of nuclear energy products to expand manufac-
7 turing capacity;

8 (C) to facilitate the export of United
9 States nuclear energy products and services;

10 (D) to reduce the trade deficit of the
11 United States through the export of United
12 States nuclear energy products and services;

13 (E) to retain and create nuclear energy
14 manufacturing and related service jobs in the
15 United States;

16 (F) to integrate the objectives described in
17 subparagraphs (A) through (E), in a manner
18 consistent with the interests of the United
19 States, into the foreign policy of the United
20 States; and

21 (G) to authorize funds for increasing
22 United States capacity to manufacture nuclear
23 energy products and supply nuclear energy
24 services.

25 (2) ESTABLISHMENT.—

1 (A) IN GENERAL.—There is established an
2 interagency working group (referred to in this
3 section as the “Working Group”) that, in con-
4 sultation with representative industry organiza-
5 tions and manufacturers of nuclear energy
6 products, shall make recommendations to co-
7 ordinate the actions and programs of the Fed-
8 eral Government in order to promote increasing
9 domestic manufacturing capacity and export of
10 domestic nuclear energy products and services.

11 (B) COMPOSITION.—The Working Group
12 shall be composed of—

13 (i) the Secretary (or a designee), who
14 shall serve as Chairperson of the Working
15 Group; and

16 (ii) representatives, appointed by the
17 head of each applicable agency or depart-
18 ment, of—

19 (I) the Department of Energy;

20 (II) the Department of Com-
21 merce;

22 (III) the Department of Defense;

23 (IV) the Department of Treas-
24 ury;

25 (V) the Department of State;

- 1 (VI) the Environmental Protec-
2 tion Agency;
3 (VII) the United States Agency
4 for International Development;
5 (VIII) the Export-Import Bank
6 of the United States;
7 (IX) the Trade and Development
8 Agency;
9 (X) the Small Business Adminis-
10 tration;
11 (XI) the Office of the United
12 States Trade Representative; and
13 (XII) other Federal agencies, as
14 determined by the President.

15 (3) DUTIES OF WORKING GROUP.—The Work-
16 ing Group shall—

17 (A) not later than 180 days after the date
18 of enactment of this Act, identify the actions
19 necessary to promote the safe development and
20 application in foreign countries of nuclear en-
21 ergy products and services—

22 (i) to increase electricity generation
23 from nuclear energy sources through devel-
24 opment of new generation facilities;

1 (ii) to improve the efficiency, safety,
2 and reliability of existing nuclear gener-
3 ating facilities through modifications; and

4 (iii) enhance the safe treatment, han-
5 dling, storage, and disposal of used nuclear
6 fuel;

7 (B) not later than 180 days after the date
8 of enactment of this Act, identify—

9 (i) mechanisms (including tax stimuli
10 for investment, loans and loan guarantees,
11 and grants) necessary for United States
12 companies to increase—

13 (I) the capacity of the companies
14 to produce or provide nuclear energy
15 products and services; and

16 (II) exports of nuclear energy
17 products and services; and

18 (ii) administrative or legislative initia-
19 tives that are necessary—

20 (I) to encourage United States
21 companies to increase the manufac-
22 turing capacity of the companies for
23 nuclear energy products;

24 (II) to provide technical and fi-
25 nancial assistance and support to

1 small and mid-sized businesses to es-
2 tablish quality assurance programs in
3 accordance with domestic and inter-
4 national nuclear quality assurance
5 code requirements;

6 (III) to encourage, through fi-
7 nancial incentives, private sector cap-
8 ital investment to expand manufac-
9 turing capacity; and

10 (IV) to provide technical assist-
11 ance and financial incentives to small
12 and mid-sized businesses to develop
13 the workforce necessary to increase
14 manufacturing capacity and meet do-
15 mestic and international nuclear qual-
16 ity assurance code requirements;

17 (C) not later than 270 days after the date
18 of enactment of this Act, submit to Congress a
19 report that describes the findings of the Work-
20 ing Group under subparagraphs (A) and (B),
21 including recommendations for new legislative
22 authority, as necessary; and

23 (D) encourage the agencies represented by
24 membership in the Working Group—

1 (i) to provide technical training and
2 education for international development
3 personnel and local users in other coun-
4 tries;

5 (ii) to provide financial and technical
6 assistance to nonprofit institutions that
7 support the marketing and export efforts
8 of domestic companies that provide nuclear
9 energy products and services;

10 (iii) to develop nuclear energy projects
11 in foreign countries;

12 (iv) to provide technical assistance
13 and training materials to loan officers of
14 the World Bank, international lending in-
15 stitutions, commercial and energy attaches
16 at embassies of the United States, and
17 other appropriate personnel in order to
18 provide information about nuclear energy
19 products and services to foreign govern-
20 ments or other potential project sponsors;

21 (v) to support, through financial in-
22 centives, private sector efforts to commer-
23 cialize and export nuclear energy products
24 and services in accordance with the subsidy

1 codes of the World Trade Organization;
 2 and
 3 (vi) to augment budgets for trade and
 4 development programs in order to support
 5 prefeasibility or feasibility studies for
 6 projects that use nuclear energy products
 7 and services.

8 (4) PERSONNEL AND SERVICE MATTERS.—The
 9 Secretary and the heads of agencies represented by
 10 membership in the Working Group shall detail such
 11 personnel and furnish such services to the Working
 12 Group, with or without reimbursement, as are nec-
 13 essary to carry out the functions of the Working
 14 Group.

15 (5) AUTHORIZATION OF APPROPRIATIONS.—
 16 There is authorized to be appropriated to the Sec-
 17 retary to carry out this subsection \$20,000,000 for
 18 each of fiscal years 2009 and 2010.

19 (b) CREDIT FOR QUALIFYING NUCLEAR POWER
 20 MANUFACTURING.—

21 (1) CREDIT FOR QUALIFYING NUCLEAR POWER
 22 MANUFACTURING.—Subpart E of part IV of sub-
 23 chapter A of chapter 1 of the Internal Revenue Code
 24 is amended by inserting after section 48B the fol-
 25 lowing new section:

1 **“SEC. 48C. QUALIFYING NUCLEAR POWER MANUFAC-**
 2 **TURING CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
 4 qualifying nuclear power manufacturing credit for any
 5 taxable year is an amount equal to 20 percent of the quali-
 6 fied investment for such taxable year.

7 “(b) QUALIFIED INVESTMENT.—

8 “(1) IN GENERAL.—For purposes of subsection
 9 (a), the qualified investment for any taxable year is
 10 the basis of eligible property placed in service by the
 11 taxpayer during such taxable year—

12 “(A) which is either part of a qualifying
 13 nuclear power manufacturing project or is
 14 qualifying nuclear power manufacturing equip-
 15 ment;

16 “(B)(i) the construction, reconstruction, or
 17 erection of which is completed by the taxpayer;
 18 or

19 “(ii) which is acquired by the taxpayer if
 20 the original use of such property commences
 21 with the taxpayer;

22 “(C) with respect to which depreciation (or
 23 amortization in lieu of depreciation) is allow-
 24 able; and

25 “(D) which is placed in service on or be-
 26 fore December 31, 2015.

1 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
2 PROPERTY.—Rules similar to section 48(a)(4) shall
3 apply for purposes of this section.

4 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
5 TURES RULES MADE APPLICABLE.—Rules similar to
6 the rules of subsections (c)(4) and (d) of section 46
7 (as in effect on the day before the enactment of the
8 Revenue Reconciliation Act of 1990) shall apply for
9 purposes of this section.

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

11 “(1) QUALIFYING NUCLEAR POWER MANUFAC-
12 TURING PROJECT.—The term ‘qualifying nuclear
13 power manufacturing project’ means any project
14 which is designed primarily to enable the taxpayer to
15 produce or test equipment necessary for the con-
16 struction or operation of a nuclear power plant.

17 “(2) QUALIFYING NUCLEAR POWER MANUFAC-
18 TURING EQUIPMENT.—The term ‘qualifying nuclear
19 power manufacturing equipment’ means machine
20 tools and other similar equipment, including com-
21 puters and other peripheral equipment, acquired or
22 constructed primarily to enable the taxpayer to
23 produce or test equipment necessary for the con-
24 struction or operation of a nuclear power plant.

1 “(3) PROJECT.—The term ‘project’ includes
2 any building constructed to house qualifying nuclear
3 power manufacturing equipment.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) ADDITIONAL INVESTMENT CREDIT.—

6 Section 46 of such Code is amended by—

7 (i) striking “and” at the end of para-
8 graph (3);

9 (ii) striking the period at the end of
10 paragraph (4) and inserting “, and”; and

11 (iii) inserting after paragraph (4) the
12 following new paragraph:

13 “(5) the qualifying nuclear power manufac-
14 turing credit.”.

15 (B) APPLICATION OF SECTION 49.—Sub-
16 paragraph (C) of section 49(a)(1) of such Code
17 is amended by—

18 (i) striking “and” at the end of clause
19 (iii);

20 (ii) striking the period at the end of
21 clause (iv) and inserting “, and”; and

22 (iii) inserting after clause (iv) the fol-
23 lowing new clause:

24 “(v) the basis of any property which
25 is part of a qualifying nuclear power equip-

1 ment manufacturing project under section
2 48C.”.

3 (C) TABLE OF SECTIONS.—The table of
4 sections for such subpart E is amended by in-
5 serting after the item relating to section 48B
6 the following new item:

“Sec. 48C. Qualifying nuclear power manufacturing credit.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property—

9 (1) the construction, reconstruction, or erection
10 of which of began after the date of enactment of this
11 Act, or

12 (2) which was acquired by the taxpayer on or
13 after the date of enactment of this Act and not pur-
14 suant to a binding contract which was in effect on
15 the day prior to the date of enactment.

16 **SEC. 224. NUCLEAR ENERGY WORKFORCE.**

17 Section 1101 of the Energy Policy Act of 2005 (42
18 U.S.C. 16411) is amended—

19 (1) by redesignating subsection (d) as sub-
20 section (e); and

21 (2) by inserting after subsection (c) the fol-
22 lowing:

23 “(d) WORKFORCE TRAINING.—

24 “(1) IN GENERAL.—The Secretary of Labor, in
25 cooperation with the Secretary of Energy, shall pro-

1 mulgate regulations to implement a program to pro-
 2 vide workforce training to meet the high demand for
 3 workers skilled in the nuclear utility and nuclear en-
 4 ergy products and services industries.

5 “(2) CONSULTATION.—In carrying out this sub-
 6 section, the Secretary of Labor shall consult with
 7 representatives of the nuclear utility and nuclear en-
 8 ergy products and services industries, and organized
 9 labor, concerning skills that are needed in those in-
 10 dustries.

11 “(3) AUTHORIZATION OF APPROPRIATIONS.—
 12 There are authorized to be appropriated to the Sec-
 13 retary of Labor, in coordination with the Secretary
 14 of Education and the Secretary of Energy, to carry
 15 out this subsection \$20,000,000 for each of fiscal
 16 years 2009 through 2012.”.

17 **SEC. 225. INVESTMENT TAX CREDIT FOR INVESTMENTS IN**
 18 **NUCLEAR POWER FACILITIES.**

19 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-
 20 TIES.—Section 46 of the Internal Revenue Code of 1986,
 21 as amended by this title, is amended by—

- 22 (1) striking “and” at the end of paragraph (4);
 23 (2) striking the period at the end of paragraph
 24 (5) and inserting “, and”; and

1 (3) inserting after paragraph (5) the following
2 new paragraph:

3 “(5) the nuclear power facility construction
4 credit.”.

5 (b) NUCLEAR POWER FACILITY CONSTRUCTION
6 CREDIT.—Subpart E of part IV of subchapter A of chap-
7 ter 1 of the Internal Revenue Code of 1986, as amended
8 by this title, is amended by inserting after section 48C
9 the following new section:

10 **“SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION**
11 **CREDIT.**

12 “(a) IN GENERAL.—For purposes of section 46, the
13 nuclear power facility construction credit for any taxable
14 year is 10 percent of the qualified nuclear power facility
15 expenditures with respect to a qualified nuclear power fa-
16 cility.

17 “(b) WHEN EXPENDITURES TAKEN INTO AC-
18 COUNT.—

19 “(1) IN GENERAL.—Qualified nuclear power fa-
20 cility expenditures shall be taken into account for
21 the taxable year in which the qualified nuclear power
22 facility is placed in service.

23 “(2) COORDINATION WITH SUBSECTION (C).—
24 The amount which would (but for this paragraph) be
25 taken into account under paragraph (1) with respect

to any qualified nuclear power facility shall be reduced (but not below zero) by any amount of qualified nuclear power facility expenditures taken into account under subsection (c) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

“(c) PROGRESS EXPENDITURES.—

“(1) IN GENERAL.—A taxpayer may elect to take into account qualified nuclear power facility expenditures—

“(A) SELF-CONSTRUCTED PROPERTY.—In the case of a qualified nuclear power facility which is a self-constructed facility, in the taxable year for which such expenditures are properly chargeable to capital account with respect to such facility; and

“(B) ACQUIRED FACILITY.—In the case of a qualified nuclear facility which is not self-constructed property, in the taxable year in which such expenditures are paid.

“(2) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

1 “(A) COMPONENT PARTS, ETC.—Property
 2 which is not self-constructed property and
 3 which is to be a component part of, or is other-
 4 wise to be included in, any facility to which this
 5 subsection applies shall be taken into account in
 6 accordance with paragraph (1)(B);

7 “(B) CERTAIN BORROWING DIS-
 8 REGARDED.—Any amount borrowed directly or
 9 indirectly by the taxpayer on a nonrecourse
 10 basis from the person constructing the facility
 11 for the taxpayer shall not be treated as an
 12 amount expended for such facility; and

13 “(C) LIMITATION FOR FACILITIES OR COM-
 14 PONENTS WHICH ARE NOT SELF-CON-
 15 STRUCTED.—

16 “(i) IN GENERAL.—In the case of a
 17 facility or a component of a facility which
 18 is not self-constructed, the amount taken
 19 into account under paragraph (1)(B) for
 20 any taxable year shall not exceed the
 21 amount which represents the portion of the
 22 overall cost to the taxpayer of the facility
 23 or component of a facility which is prop-
 24 erly attributable to the portion of the facil-

ity or component which is completed during such taxable year.

“(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of a facility or component of a facility which is not self-constructed, if for the taxable year—

“(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year; or

“(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

“(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction com-

1 pleted during any taxable year shall be made on
 2 the basis of engineering or architectural esti-
 3 mates or on the basis of cost accounting
 4 records. Unless the taxpayer establishes other-
 5 wise by clear and convincing evidence, the con-
 6 struction shall be deemed to be completed not
 7 more rapidly than ratably over the normal con-
 8 struction period.

9 “(E) NO PROGRESS EXPENDITURES FOR
 10 CERTAIN PRIOR PERIODS.—No qualified nuclear
 11 facility expenditures shall be taken into account
 12 under this subsection for any period before the
 13 first day of the first taxable year to which an
 14 election under this subsection applies.

15 “(F) NO PROGRESS EXPENDITURES FOR
 16 PROPERTY FOR YEAR IT IS PLACED IN SERVICE,
 17 ETC.—In the case of any qualified nuclear facil-
 18 ity, no qualified nuclear facility expenditures
 19 shall be taken into account under this sub-
 20 section for the earlier of—

21 “(i) the taxable year in which the fa-
 22 cility is placed in service; or

23 “(ii) the first taxable year for which
 24 recapture is required under section

1 50(a)(2) with respect to such facility, or
2 for any taxable year thereafter.

3 “(3) SELF-CONSTRUCTED.—For purposes of
4 this subsection—

5 “(A) The term ‘self-constructed facility’
6 means any facility if it is reasonable to believe
7 that more than half of the qualified nuclear fa-
8 cility expenditures for such facility will be made
9 directly by the taxpayer.

10 “(B) A component of a facility shall be
11 treated as not self-constructed if the cost of the
12 component is at least 5 percent of the expected
13 cost of the facility and the component is ac-
14 quired by the taxpayer.

15 “(4) ELECTION.—An election shall be made
16 under this section for a qualified nuclear power facil-
17 ity by claiming the nuclear power facility construc-
18 tion credit for expenditures described in paragraph
19 (1) on a tax return filed by the due date for such
20 return (taking into account extensions). Such an
21 election shall apply to the taxable year for which
22 made and all subsequent taxable years. Such an
23 election, once made, may be revoked only with the
24 consent of the Secretary.

1 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) QUALIFIED NUCLEAR POWER FACILITY.—

4 The term ‘qualified nuclear power facility’ means an
5 advanced nuclear power facility, as defined in section
6 45J, the construction of which was approved by the
7 Nuclear Regulatory Commission on or before De-
8 cember 31, 2013.

9 “(2) QUALIFIED NUCLEAR POWER FACILITY
10 EXPENDITURES.—

11 “(A) IN GENERAL.—The term ‘qualified
12 nuclear power facility expenditures’ means any
13 amount properly chargeable to capital ac-
14 count—

15 “(i) with respect to a qualified nuclear
16 power facility;

17 “(ii) for which depreciation is allow-
18 able under section 168; and

19 “(iii) which are incurred before the
20 qualified nuclear power facility is placed in
21 service or in connection with the placement
22 of such facility in service.

23 “(B) PRE-EFFECTIVE DATE EXPENDI-
24 TURES.—Qualified nuclear power facility ex-
25 penditures do not include any expenditures in-

1 curred by the taxpayer before January 1, 2007,
 2 unless such expenditures constitute less than 20
 3 percent of the total qualified nuclear power fa-
 4 cility expenditures (determined without regard
 5 to this subparagraph) for the qualified nuclear
 6 power facility.

7 “(3) DELAYS AND SUSPENSION OF CONSTRUC-
 8 TION.—

9 “(A) IN GENERAL.—For purposes of ap-
 10 plying this section and section 50, a nuclear
 11 power facility that is under construction shall
 12 cease to be treated as a facility that will be a
 13 qualified nuclear power facility as of the earlier
 14 of—

15 “(i) the date on which the taxpayer
 16 decides to terminate construction of the fa-
 17 cility; or

18 “(ii) the last day of any 24 month pe-
 19 riod in which the taxpayer has failed to
 20 incur qualified nuclear power facility ex-
 21 penditures totaling at least 20 percent of
 22 the expected total cost of the nuclear
 23 power facility.

24 “(B) AUTHORITY TO WAIVE.—The Sec-
 25 retary may waive the application of clause (ii)

of subparagraph (A) if the Secretary determines that the taxpayer intended to continue the construction of the qualified nuclear power facility and the expenditures were not incurred for reasons outside the control of the taxpayer.

“(C) RESUMPTION OF CONSTRUCTION.—If a nuclear power facility that is under construction ceases to be a qualified nuclear power facility by reason of paragraph (2) and work is subsequently resumed on the construction of such facility—

“(i) the date work is subsequently resumed shall be treated as the date that construction began for purposes of paragraph (1); and

“(ii) if the facility is a qualified nuclear power facility, the qualified nuclear power facility expenditures shall be determined without regard to any delay or temporary termination of construction of the facility.”.

(c) PROVISIONS RELATING TO CREDIT RECAPTURE.—

(1) PROGRESS EXPENDITURE RECAPTURE RULES.—

1 (A) BASIC RULES.—Subparagraph (A) of
2 section 50(a)(2) of the Internal Revenue Code
3 of 1986 is amended to read as follows:

4 “(A) IN GENERAL.—If during any taxable
5 year any building to which section 47(d) applied
6 or any facility to which section 48D(c) applied
7 ceases (by reason of sale or other disposition,
8 cancellation or abandonment of contract, or
9 otherwise) to be, with respect to the taxpayer,
10 property which, when placed in service, will be
11 a qualified rehabilitated building or a qualified
12 nuclear power facility, then the tax under this
13 chapter for such taxable year shall be increased
14 by an amount equal to the aggregate decrease
15 in the credits allowed under section 38 for all
16 prior taxable years which would have resulted
17 solely from reducing to zero the credit deter-
18 mined under this subpart with respect to such
19 building or facility.”.

20 (B) AMENDMENT TO EXCESS CREDIT RE-
21 CAPTURE RULE.—Subparagraph (B) of section
22 50(a)(2) of such Code is amended by—

23 (i) inserting “or paragraph (2) of sec-
24 tion 48D(b)” after “paragraph (2) of sec-
25 tion 47(b)”;

1 (ii) inserting “or section 48D(b)(1)”
 2 after “section 47(b)(1)”; and

3 (iii) inserting “or facility” after
 4 “building”.

5 (C) AMENDMENT OF SALE AND LEASE-
 6 BACK RULE.—Subparagraph (C) of section
 7 50(a)(2) of such Code is amended by—

8 (i) inserting “or section 48D(c)” after
 9 “section 47(d)”; and

10 (ii) inserting “or qualified nuclear
 11 power facility expenditures” after “quali-
 12 fied rehabilitation expenditures”.

13 (D) OTHER AMENDMENT.—Subparagraph
 14 (D) of section 50(a)(2) of such Code is amend-
 15 ed by inserting “or section 48D(c)” after “sec-
 16 tion 47(d)”.

17 (d) NO BASIS ADJUSTMENT.—Section 50(c) of the
 18 Internal Revenue Code of 1986 is amended by inserting
 19 at the end thereof the following new paragraph:

20 “(6) NUCLEAR POWER FACILITY CONSTRUC-
 21 TION CREDIT.—Paragraphs (1) and (2) shall not
 22 apply to the nuclear power facility construction cred-
 23 it.”.

24 (e) TECHNICAL AMENDMENTS.—The table of sec-
 25 tions for subpart E of part IV of subchapter A of chapter

1 1 of the Internal Revenue Code of 1986, as amended by
2 this subtitle, is amended by inserting after the item relat-
3 ing to section 48C the following new item:

“Sec. 48D. Nuclear power facility construction credit.”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall be effective for expenditures incurred and
6 property placed in service in taxable years beginning after
7 the date of enactment of this Act.

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