

111TH CONGRESS  
1ST SESSION

# H. R. 2846

To increase energy independence and job creation by increasing safe American energy production, encouraging the development of alternative and renewable energy, and promoting greater efficiencies and conservation for a cleaner environment.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2009

Mr. BOEHNER (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mr. AUSTRIA, Mrs. BACHMANN, Mr. BACHUS, Mr. BARTON of Texas, Mrs. BIGGERT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BLUNT, Mr. BONNER, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BROWN of South Carolina, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mr. CASSIDY, Mr. CHAFFETZ, Mr. COBLE, Mr. COLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. CULBERSON, Mr. DREIER, Mr. DUNCAN, Ms. FALLIN, Mr. FLEMING, Mr. FORBES, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GOODLATTE, Ms. GRANGER, Mr. GRAVES, Mr. HALL of Texas, Mr. HARPER, Mr. HASTINGS of Washington, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. HUNTER, Mr. ISSA, Ms. JENKINS, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. LATTA, Mr. LEE of New York, Mr. LUETKEMEYER, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCCARTHY of California, Mr. MCCAUL, Mr. MCHENRY, Mrs. McMORRIS RODGERS, Mrs. MYRICK, Mrs. MILLER of Michigan, Mr. NEUGEBAUER, Mr. NUNES, Mr. OLSON, Mr. PENCE, Mr. PITTS, Mr. POE of Texas, Mr. PRICE of Georgia, Mr. REHBERG, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. ROGERS of Kentucky, Mr. ROONEY, Mr. SCALISE, Mrs. SCHMIDT, Mr. SCHOCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SMITH of Texas, Mr. SOUDER, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. TIAHRT, Mr. TIBERI, Mr. TURNER, Mr. UPTON, Mr. WAMP, and Mr. COFFMAN of Colorado) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Ways and Means, Energy and Commerce, Armed Services, Oversight and Government Reform, and Science and Technology, 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

# A BILL

To increase energy independence and job creation by increasing safe American energy production, encouraging the development of alternative and renewable energy, and promoting greater efficiencies and conservation for a cleaner environment.

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 “American Energy Act”.

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

Sec. 1. Short title; table of contents.

## TITLE I—AMERICAN ENERGY

### Subtitle A—OCS

- Sec. 101. Short title.
- Sec. 102. Policy.
- Sec. 103. Leasing program considered approved.
- Sec. 104. Lease sales.
- Sec. 105. Prohibitions on surface occupancy.
- Sec. 106. Definitions under the Submerged Lands Act.
- Sec. 107. Seaward boundaries of States.
- Sec. 108. Exceptions from confirmation and establishment of States’ title,  
power, and rights.
- Sec. 109. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 110. Determination of adjacent zones and planning areas.
- Sec. 111. Administration of leasing.
- Sec. 112. Grant of leases by Secretary.
- Sec. 113. Disposition of receipts.
- Sec. 114. Reservation of lands and rights.
- Sec. 115. Outer Continental Shelf leasing program.
- Sec. 116. Coordination with Adjacent States.
- Sec. 117. Environmental studies.
- Sec. 118. Outer Continental Shelf incompatible use.
- Sec. 119. Repurchase of certain leases.
- Sec. 120. Offsite environmental mitigation.
- Sec. 121. OCS regional headquarters.

- Sec. 122. Leases for areas located within 12 nautical miles of California or Florida.
- Sec. 123. Coastal impact assistance.
- Sec. 124. Repeal of the Gulf of Mexico Energy Security Act of 2006.

#### Subtitle B—ANWR

- Sec. 141. Short title.
- Sec. 142. Definitions.
- Sec. 143. Leasing program for lands within the Coastal Plain.
- Sec. 144. Lease sales.
- Sec. 145. Grant of leases by the Secretary.
- Sec. 146. Lease terms and conditions.
- Sec. 147. Coastal Plain environmental protection.
- Sec. 148. Expedited judicial review.
- Sec. 149. Federal and State distribution of revenues.
- Sec. 150. Rights-of-way across the Coastal Plain.
- Sec. 151. Conveyance.
- Sec. 152. Local government impact aid and community service assistance.

#### Subtitle C—Oil Shale

- Sec. 161. Oil shale.

#### Subtitle D—Refinery Permit Process Schedule

- Sec. 171. Short title.
- Sec. 172. Definitions.
- Sec. 173. State assistance.
- Sec. 174. Refinery process coordination and procedures.
- Sec. 175. Designation of closed military bases.
- Sec. 176. Savings clause.
- Sec. 177. Refinery revitalization repeal.

### TITLE II—CONSERVATION AND EFFICIENCY

#### Subtitle A—Tax Incentives for Fuel Efficiency

- Sec. 201. Extension of credit for alternative fuel vehicles.
- Sec. 202. Extension of alternative fuel vehicle refueling property credit.
- Sec. 203. Extension of credit for new qualified plug-in electric drive motor vehicles.

#### Subtitle B—Tapping America’s Ingenuity and Creativity

- Sec. 211. Definitions.
- Sec. 212. Statement of policy.
- Sec. 213. Prize authority.
- Sec. 214. Eligibility.
- Sec. 215. Intellectual property.
- Sec. 216. Waiver of liability.
- Sec. 217. Authorization of appropriations.
- Sec. 218. Next generation automobile prize program.
- Sec. 219. Advanced battery manufacturing incentive program.

#### Subtitle C—Home and Business Tax Incentives

- Sec. 221. Extension of credit for energy efficient appliances.

- Sec. 222. Extension of credit for nonbusiness energy property.
- Sec. 223. Extension of credit for residential energy efficient property.
- Sec. 224. Extension of new energy efficient home credit.
- Sec. 225. Extension of energy efficient commercial buildings deduction.
- Sec. 226. Extension of special rule to implement FERC and State electric restructuring policy.
- Sec. 227. Home energy audits.
- Sec. 228. Accelerated recovery period for depreciation of smart meters.

### TITLE III—NEW AND EXPANDING TECHNOLOGIES

#### Subtitle A—Alternative Fuels

- Sec. 301. Repeal.
- Sec. 302. Government auction of long-term put option contracts on coal-to-liquid fuel produced by qualified coal-to-liquid facilities.
- Sec. 303. Standby loans for qualifying coal-to-liquids projects.

#### Subtitle B—Tax Provisions

- Sec. 311. Extension of renewable electricity, refined coal, and Indian coal production credit.
- Sec. 312. Extension of energy credit.
- Sec. 313. Extension and modification of credit for clean renewable energy bonds.
- Sec. 314. Extension of credits for biodiesel and renewable diesel.

#### Subtitle C—American Renewable and Alternative Energy Trust Fund

- Sec. 321. American Renewable and Alternative Energy Trust Fund.

### TITLE IV—NUCLEAR

- Sec. 401. Streamline the regulatory process.
- Sec. 402. Increase the supply of uranium.
- Sec. 403. Recycle and safely store spent nuclear fuel.
- Sec. 404. Confidence in availability of waste disposal.
- Sec. 405. Preferential treatment for certain nuclear reactors and related articles.
- Sec. 406. National Nuclear Energy Council.
- Sec. 407. Expansion of energy investment tax credit to include nuclear and clean-coal equipment.

### TITLE V—ENVIRONMENTAL REVIEW; GREENHOUSE GASES

- Sec. 501. Environmental review for renewable energy projects.
- Sec. 502. Greenhouse gas regulation under Clean Air Act.
- Sec. 503. Prohibition of consideration of impact of greenhouse gas.

### TITLE VI—LEGAL REFORM

- Sec. 601. Findings.
- Sec. 602. Exclusive jurisdiction over causes and claims relating to covered energy projects.
- Sec. 603. Time for filing complaint.
- Sec. 604. District court for the District of Columbia deadline.
- Sec. 605. Ability to seek appellate review.
- Sec. 606. Deadline for appeal to the Supreme Court.

Sec. 607. Limitation on scope of review and relief.

Sec. 608. Legal fees.

Sec. 609. Exclusion.

Sec. 610. Covered energy project defined.

# 1       **TITLE I—AMERICAN ENERGY**

## 2                               **Subtitle A—OCS**

### 3   **SEC. 101. SHORT TITLE.**

4           This subtitle may be cited as the “Deep Ocean En-  
5   ergy Resources Act of 2009”.

### 6   **SEC. 102. POLICY.**

7           It is the policy of the United States that—

8                       (1) the United States is blessed with abundant  
9           energy resources on the outer Continental Shelf and  
10          has developed a comprehensive framework of envi-  
11          ronmental laws and regulations and fostered the de-  
12          velopment of state-of-the-art technology that allows  
13          for the responsible development of these resources  
14          for the benefit of its citizenry;

15                      (2) Adjacent States are required by the cir-  
16          cumstances to commit significant resources in sup-  
17          port of exploration, development, and production ac-  
18          tivities for mineral resources on the outer Conti-  
19          nental Shelf, and it is fair and proper for a portion  
20          of the receipts from such activities to be shared with  
21          Adjacent States and their local coastal governments;  
22          and

1           (3) among other bodies of inland waters, the  
2           Great Lakes, Long Island Sound, Delaware Bay,  
3           Chesapeake Bay, Albemarle Sound, San Francisco  
4           Bay, and Puget Sound are not part of the outer  
5           Continental Shelf, and are not subject to leasing by  
6           the Federal Government for the exploration, develop-  
7           ment, and production of any mineral resources that  
8           might lie beneath them.

9   **SEC. 103. LEASING PROGRAM CONSIDERED APPROVED.**

10          (a) IN GENERAL.—The Draft Proposed Outer Conti-  
11          nental Shelf Oil and Gas Leasing Program 2010–2015 re-  
12          leased by the Secretary of the Interior (referred to in this  
13          section as the “Secretary”) under section 18 of the Outer  
14          Continental Shelf Lands Act (43 U.S.C. 1344) is consid-  
15          ered to have been approved by the Secretary as a final  
16          oil and gas leasing program under that section, and is con-  
17          sidered to be in full compliance with and in accordance  
18          with all requirements of the Outer Continental Shelf  
19          Lands Act, National Environmental Policy Act, Endan-  
20          gered Species Act, Clean Air Act, Marine Mammals Pro-  
21          tection Act, the Oil Pollution Control Act, and all other  
22          applicable laws.

23          (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—  
24          The Secretary is considered to have issued a legally suffi-  
25          cient final environmental impact statement for the pro-

1 gram described in subsection (a) in accordance with all  
2 requirements under section 102(2)(C) of the National En-  
3 vironmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)),  
4 and all other applicable laws.

5 **SEC. 104. LEASE SALES.**

6 (a) OUTER CONTINENTAL SHELF.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), not later than 30 days after the date of  
9 enactment of this Act and every 270 days thereafter,  
10 the Secretary of the Interior (referred to in this sec-  
11 tion as the “Secretary”) shall conduct a lease sale  
12 in each outer Continental Shelf planning region for  
13 which the Secretary determines that there is a com-  
14 mercial interest in purchasing Federal oil and gas  
15 leases for production on the outer Continental Shelf.

16 (2) SUBSEQUENT DETERMINATIONS AND  
17 SALES.—If the Secretary determines that there is  
18 not a commercial interest in purchasing Federal oil  
19 and gas leases for production on the outer Conti-  
20 nental Shelf in a planning area under this sub-  
21 section, not later than 2 years after the date of en-  
22 actment of the determination and every 2 years  
23 thereafter, the Secretary shall—

24 (A) solicit if there is commercial interest in  
25 purchasing Federal oil and gas leases for pro-

1           duction on the outer Continental Shelf in the  
2           planning area; and

3                   (B) if the Secretary determines that there  
4           is a commercial interest described in subpara-  
5           graph (A), conduct a lease sale in the planning  
6           area.

7           (b) RENEWABLE ENERGY AND MARICULTURE.—The  
8           Secretary may conduct commercial lease sales of re-  
9           sources—

10                   (1) to produce renewable energy (as defined in  
11           section 203(b) of the Energy Policy Act of 2005 (42  
12           U.S.C. 15852(b))); or

13                   (2) to cultivate marine organisms in the natural  
14           habitat of the organisms.

15 **SEC. 105. PROHIBITIONS ON SURFACE OCCUPANCY.**

16           (a) REGULATIONS.—

17                   (1) IN GENERAL.—The Secretary of the Inte-  
18           rior shall promulgate regulations that establish man-  
19           agement of the surface occupancy of the portion of  
20           the Outer Continental Shelf near the coastline to the  
21           effect that—

22                           (A) the coastal State shall have sole au-  
23           thority to restrict or allow surface facilities  
24           above the waterline for the purpose of produc-  
25           tion of oil or gas resources in any area that is



1 within 12 nautical miles seaward from the  
2 coastline of any coastal State, in any area of  
3 the Outer Continental Shelf that has not been  
4 made available for oil and gas leasing after  
5 January 1, 2001, in a final notice of sale;

6 (B) unless permanent surface occupancy is  
7 authorized by the coastal State, only sub-sur-  
8 face production facilities may be installed for  
9 areas that are located beyond 12 nautical miles  
10 but not more than 25 nautical miles seaward  
11 from the coastline of any coastal State, in any  
12 area of the Outer Continental Shelf that has  
13 not been made available for oil and gas leasing  
14 after January 1, 2001, in a final notice of sale;  
15 and

16 (C) new offshore production facilities are  
17 encouraged and the impacts on coastal vistas  
18 are minimized, to the extent practical; and

19 (D) onshore facilities that facilitate the de-  
20 velopment and production of the resources of  
21 the Outer Continental Shelf within 12 nautical  
22 miles seaward of the coastline are allowed.

23 (2) TEMPORARY ACTIVITIES NOT AFFECTED.—

24 Nothing in these regulations shall restrict temporary

1 surface activities related to operations associated  
2 with Outer Continental Shelf oil and gas leases.

3 **SEC. 106. DEFINITIONS UNDER THE SUBMERGED LANDS**

4 **ACT.**

5 Section 2 of the Submerged Lands Act (43 U.S.C.  
6 1301) is amended—

7 (1) in subparagraph (2) of paragraph (a) by  
8 striking all after “seaward to a line” and inserting  
9 “twelve nautical miles distant from the coast line of  
10 such State;”;

11 (2) by striking out paragraph (b) and redesignig-  
12 nating the subsequent paragraphs in order as para-  
13 graphs (b) through (g);

14 (3) by striking the period at the end of para-  
15 graph (g) (as so redesignated) and inserting “;  
16 and”;

17 (4) by adding the following: “(i) The term ‘Sec-  
18 retary’ means the Secretary of the Interior.”; and

19 (5) by defining “State” as it is defined in sec-  
20 tion 2(r) of the Outer Continental Shelf Lands Act  
21 (43 U.S.C. 1331(r)).

22 **SEC. 107. SEAWARD BOUNDARIES OF STATES.**

23 Section 4 of the Submerged Lands Act (43 U.S.C.  
24 1312) is amended—

1           (1) in the first sentence by striking “original”,  
2           and in the same sentence by striking “three geo-  
3           graphical” and inserting “twelve nautical”; and

4           (2) by striking all after the first sentence and  
5           inserting the following: “Extension and delineation  
6           of lateral offshore State boundaries under the provi-  
7           sions of this Act shall follow the lines used to deter-  
8           mine the Adjacent Zones of coastal States under the  
9           Outer Continental Shelf Lands Act to the extent  
10          such lines extend twelve nautical miles for the near-  
11          est coastline.”

12 **SEC. 108. EXCEPTIONS FROM CONFIRMATION AND ESTAB-**  
13                           **LISHMENT OF STATES’ TITLE, POWER, AND**  
14                           **RIGHTS.**

15          Section 5 of the Submerged Lands Act (43 U.S.C.  
16 1313) is amended—

17           (1) by redesignating paragraphs (a) through (c)  
18           in order as paragraphs (1) through (3);

19           (2) by inserting “(a)” before “There is ex-  
20           cepted”; and

21           (3) by inserting at the end the following:

22          “(b) EXCEPTION OF OIL AND GAS MINERAL  
23 RIGHTS.—There is excepted from the operation of sections  
24 3 and 4 all of the oil and gas mineral rights for lands  
25 beneath the navigable waters that are located within the

1 expanded offshore State seaward boundaries established  
2 under this Act. These oil and gas mineral rights shall re-  
3 main Federal property and shall be considered to be part  
4 of the Federal outer Continental Shelf for purposes of the  
5 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et  
6 seq.) and subject to leasing under the authority of that  
7 Act and to laws applicable to the leasing of the oil and  
8 gas resources of the Federal outer Continental Shelf. All  
9 existing Federal oil and gas leases within the expanded  
10 offshore State seaward boundaries shall continue un-  
11 changed by the provisions of this Act, except as otherwise  
12 provided herein. However, a State may exercise all of its  
13 sovereign powers of taxation within the entire extent of  
14 its expanded offshore State boundaries.”.

15 **SEC. 109. DEFINITIONS UNDER THE OUTER CONTINENTAL**  
16 **SHELF LANDS ACT.**

17 Section 2 of the Outer Continental Shelf Lands Act  
18 (43 U.S.C. 1331) is amended—

19 (1) by amending paragraph (f) to read as fol-  
20 lows:

21 “(f) The term ‘affected State’ means the ‘Adjacent  
22 State’.”;

23 (2) by striking the semicolon at the end of each  
24 of paragraphs (a) through (o) and inserting a pe-  
25 riod;

1           (3) by striking “; and” at the end of paragraph  
2           (p) and inserting a period;

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

4           “(r) The term ‘Adjacent State’ means, with respect  
5 to any program, plan, lease sale, leased tract or other ac-  
6 tivity, proposed, conducted, or approved pursuant to the  
7 provisions of this Act, any State the laws of which are  
8 declared, pursuant to section 4(a)(2), to be the law of the  
9 United States for the portion of the outer Continental  
10 Shelf on which such program, plan, lease sale, leased tract  
11 or activity appertains or is, or is proposed to be, con-  
12 ducted. For purposes of this paragraph, the term ‘State’  
13 includes the Commonwealth of Puerto Rico, the Common-  
14 wealth of the Northern Mariana Islands, the Virgin Is-  
15 lands, American Samoa, Guam, and the other Territories  
16 of the United States.

17          “(s) The term ‘Adjacent Zone’ means, with respect  
18 to any program, plan, lease sale, leased tract, or other ac-  
19 tivity, proposed, conducted, or approved pursuant to the  
20 provisions of this Act, the portion of the outer Continental  
21 Shelf for which the laws of a particular Adjacent State  
22 are declared, pursuant to section 4(a)(2), to be the law  
23 of the United States.

24          “(t) The term ‘miles’ means statute miles.

1       “(u) The term ‘coastline’ has the same meaning as  
2 the term ‘coast line’ as defined in section 2(c) of the Sub-  
3 merged Lands Act (43 U.S.C. 1301(c)).

4       “(v) The term ‘Neighboring State’ means a coastal  
5 State having a common boundary at the coastline with the  
6 Adjacent State.”; and

7           (5) in paragraph (a), by inserting after “con-  
8 trol” the following: “or lying within the United  
9 States exclusive economic zone adjacent to the Terri-  
10 tories of the United States”.

11 **SEC. 110. DETERMINATION OF ADJACENT ZONES AND**  
12 **PLANNING AREAS.**

13       Section 4(a)(2)(A) of the Outer Continental Shelf  
14 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the  
15 first sentence by striking “, and the President” and all  
16 that follows through the end of the sentence and inserting  
17 the following: “. The lines extending seaward and defining  
18 each State’s Adjacent Zone, and each OCS Planning Area,  
19 are as indicated on the maps for each outer Continental  
20 Shelf region entitled ‘Alaska OCS Region State Adjacent  
21 Zone and OCS Planning Areas’, ‘Pacific OCS Region  
22 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of  
23 Mexico OCS Region State Adjacent Zones and OCS Plan-  
24 ning Areas’, and ‘Atlantic OCS Region State Adjacent  
25 Zones and OCS Planning Areas’, all of which are dated

1 September 2005 and on file in the Office of the Director,  
2 Minerals Management Service.”.

3 **SEC. 111. ADMINISTRATION OF LEASING.**

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

7 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A  
8 LEASE.—Any lessee of a producing lease may relinquish  
9 to the Secretary any portion of a lease that the lessee has  
10 no interest in producing and that the Secretary finds is  
11 geologically prospective. In return for any such relinquish-  
12 ment, the Secretary shall provide to the lessee a royalty  
13 incentive for the portion of the lease retained by the lessee,  
14 in accordance with regulations promulgated by the Sec-  
15 retary to carry out this subsection. The Secretary shall  
16 publish final regulations implementing this subsection  
17 within 365 days after the date of the enactment of the  
18 Deep Ocean Energy Resources Act of 2009.”.

19 **SEC. 112. GRANT OF LEASES BY SECRETARY.**

20 Section 8 of the Outer Continental Shelf Lands Act  
21 (43 U.S.C. 1337) is amended—

22 (1) by adding at the end of subsection (b) the  
23 following:

24 “The Secretary may issue more than one lease for  
25 a given tract if each lease applies to a separate and dis-

1 tinct range of vertical depths, horizontal surface area, or  
2 a combination of the two. The Secretary may issue regula-  
3 tions that the Secretary determines are necessary to man-  
4 age such leases consistent with the purposes of this Act.”;

5 (2) by amending subsection (p)(2)(B) to read  
6 as follows:

7 “(B) The Secretary shall provide for the  
8 payment to coastal States, and their local coast-  
9 al governments, of 75 percent of Federal re-  
10 cepts from projects authorized under this sec-  
11 tion located partially or completely within the  
12 area extending seaward of State submerged  
13 lands out to 4 marine leagues from the coast-  
14 line, and the payment to coastal States of 50  
15 percent of the receipts from projects completely  
16 located in the area more than 4 marine leagues  
17 from the coastline. Payments shall be based on  
18 a formula established by the Secretary by rule-  
19 making no later than 180 days after the date  
20 of the enactment of the Deep Ocean Energy  
21 Resources Act of 2009 that provides for equi-  
22 table distribution, based on proximity to the  
23 project, among coastal States that have coast-  
24 line that is located within 200 miles of the geo-  
25 graphic center of the project.”;



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

2 “(q) REMOVAL OF RESTRICTIONS ON JOINT BIDDING  
3 IN CERTAIN AREAS OF THE OUTER CONTINENTAL  
4 SHELF.—Restrictions on joint bidders shall no longer  
5 apply to tracts located in the Alaska OCS Region. Such  
6 restrictions shall not apply to tracts in other OCS regions  
7 determined to be ‘frontier tracts’ or otherwise ‘high cost  
8 tracts’ under final regulations that shall be published by  
9 the Secretary by not later than 365 days after the date  
10 of the enactment of the Deep Ocean Energy Resources  
11 Act of 2009.

12 “(r) ROYALTY SUSPENSION PROVISIONS.—After the  
13 date of the enactment of the Deep Ocean Energy Re-  
14 sources Act of 2009, price thresholds shall apply to any  
15 royalty suspension volumes granted by the Secretary. Un-  
16 less otherwise set by Secretary by regulation or for a par-  
17 ticular lease sale, the price thresholds shall be \$40.50 for  
18 oil (January 1, 2006, dollars) and \$6.75 for natural gas  
19 (January 1, 2006, dollars).

20 “(s) CONSERVATION OF RESOURCES FEES.—Not  
21 later than one year after the date of the enactment of the  
22 Deep Ocean Energy Resources Act of 2009, the Secretary  
23 by regulation shall establish a conservation of resources  
24 fee for nonproducing leases that will apply to new and ex-  
25 isting leases which shall be set at \$3.75 per acre per year.

1 This fee shall apply from and after October 1, 2009, and  
2 shall be treated as offsetting receipts.”;

3 (4) by striking subsection (a)(3)(A) and redesi-  
4 gnating the subsequent subparagraphs as subpara-  
5 graphs (A) and (B), respectively;

6 (5) in subsection (a)(3)(A) (as so redesignated)  
7 by striking “In the Western” and all that follows  
8 through “the Secretary” the first place it appears  
9 and inserting “The Secretary”; and

10 (6) effective October 1, 2009, in subsection  
11 (g)—

12 (A) by striking all after “(g)”, except para-  
13 graph (3);

14 (B) by striking the last sentence of para-  
15 graph (3); and

16 (C) by striking “(3)”.

17 **SEC. 113. DISPOSITION OF RECEIPTS.**

18 Section 9 of the Outer Continental Shelf Lands Act  
19 (43 U.S.C. 1338) is amended—

20 (1) by designating the existing text as sub-  
21 section (a);

22 (2) in subsection (a) (as so designated) by in-  
23 serting “, if not paid as otherwise provided in this  
24 title” after “receipts”; and

25 (3) by adding the following:

1       “(b) TREATMENT OF OCS RECEIPTS FROM TRACTS  
2 COMPLETELY WITHIN 100 MILES OF THE COASTLINE.—

3           “(1) DEPOSIT.—The Secretary shall deposit  
4 into a separate account in the Treasury the portion  
5 of OCS Receipts for each fiscal year that will be  
6 shared under paragraphs (2), (3), and (4).

7           “(2) PHASED-IN RECEIPTS SHARING.—

8           “(A) Beginning October 1, 2009, the Sec-  
9 retary shall share OCS Receipts derived from  
10 the following areas:

11           “(i) Lease tracts located on portions  
12 of the Gulf of Mexico OCS Region com-  
13 pletely beyond 4 marine leagues from any  
14 coastline and completely within 100 miles  
15 of any coastline that were available for  
16 leasing under the 2002–2007 5-Year OCS  
17 Oil and Gas Leasing Program.

18           “(ii) Lease tracts in production prior  
19 to October 1, 2009, completely beyond 4  
20 marine leagues from any coastline and  
21 completely within 100 miles of any coast-  
22 line located on portions of the OCS that  
23 were not available for leasing under the  
24 2002–2007 5-Year OCS Oil and Gas Leas-  
25 ing Program.

1           “(iii) Lease tracts for which leases are  
2           issued prior to October 1, 2009, located in  
3           the Alaska OCS Region completely beyond  
4           4 marine leagues from any coastline and  
5           completely within 100 miles of the coast-  
6           line.

7           “(B) The Secretary shall share the fol-  
8           lowing percentages of OCS Receipts from the  
9           leases described in subparagraph (A) derived  
10          during the fiscal year indicated:

11                   “(i) For fiscal year 2010, 5 percent.

12                   “(ii) For fiscal year 2011, 8 percent.

13                   “(iii) For fiscal year 2012, 11 per-  
14                   cent.

15                   “(iv) For fiscal year 2013, 14 percent.

16                   “(v) For fiscal year 2014, 17 percent.

17                   “(vi) For fiscal year 2015, 20 percent.

18                   “(vii) For fiscal year 2016, 23 per-  
19                   cent.

20                   “(viii) For fiscal year 2017, 26 per-  
21                   cent.

22                   “(ix) For fiscal year 2018, 29 percent.

23                   “(x) For fiscal year 2019, 32 percent.

24                   “(xi) For fiscal year 2020, 35 percent.

1                   “(xii) For fiscal year 2021 and each  
2                   subsequent fiscal year, 37.5 percent.

3                   “(C) The provisions of this paragraph shall  
4                   not apply to leases that could not have been  
5                   issued but for section 5(k) of this Act or section  
6                   106(2) of the Deep Ocean Energy Resources  
7                   Act of 2009.

8                   “(3) IMMEDIATE RECEIPTS SHARING.—Begin-  
9                   ning October 1, 2009, the Secretary shall share  
10                  37.50 percent of OCS Receipts derived from all  
11                  leases located completely beyond 4 marine leagues  
12                  from any coastline and completely within 100 miles  
13                  of any coastline not included within the provisions of  
14                  paragraph (2), and 90 percent of the balance of  
15                  such OCS Receipts shall be deposited into the Amer-  
16                  ican Renewable and Alternative Energy Trust Fund  
17                  established by section 321 of the American Energy  
18                  Act.

19                  “(4) RECEIPTS SHARING FROM TRACTS WITHIN  
20                  4 MARINE LEAGUES OF ANY COASTLINE.—

21                  “(A) AREAS DESCRIBED IN PARAGRAPH  
22                  (2).—Beginning October 1, 2009, and con-  
23                  tinuing through September 30, 2011, the Sec-  
24                  retary shall share 25 percent of OCS Receipts  
25                  derived from all leases located within 4 marine

1 leagues from any coastline within areas de-  
2 scribed in paragraph (2). For each fiscal year  
3 after September 30, 2011, the Secretary shall  
4 increase the percent shared in 5 percent incre-  
5 ments each fiscal year until the sharing rate for  
6 all leases located within 4 marine leagues from  
7 any coastline within areas described in para-  
8 graph (2) becomes 75 percent.

9 “(B) AREAS NOT DESCRIBED IN PARA-  
10 GRAPH (2).—Beginning October 1, 2009, the  
11 Secretary shall share 75 percent of OCS re-  
12 ceipts derived from all leases located completely  
13 or partially within 4 marine leagues from any  
14 coastline within areas not described paragraph  
15 (2).

16 “(5) ALLOCATIONS.—The Secretary shall allo-  
17 cate the OCS Receipts deposited into the separate  
18 account established by paragraph (1) that are  
19 shared under paragraphs (2), (3), and (4) as follows:

20 “(A) BONUS BIDS.—Deposits derived from  
21 bonus bids from a leased tract, including inter-  
22 est thereon, shall be allocated at the end of  
23 each fiscal year to the Adjacent State.

24 “(B) ROYALTIES.—Deposits derived from  
25 royalties from a leased tract, including interest

1           thereon, shall be allocated at the end of each  
2           fiscal year to the Adjacent State and any other  
3           producing State or States with a leased tract  
4           within its Adjacent Zone within 100 miles of its  
5           coastline that generated royalties during the fis-  
6           cal year, if the other producing State or States  
7           have a coastline point within 300 miles of any  
8           portion of the leased tract, in which case the  
9           amount allocated for the leased tract shall be—

10                   “(i) one-third to the Adjacent State;

11                   and

12                   “(ii) two-thirds to each producing  
13                   State, including the Adjacent State, in-  
14                   versely proportional to the distance be-  
15                   tween the nearest point on the coastline of  
16                   the producing State and the geographic  
17                   center of the leased tract.

18           “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS  
19 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE  
20 COASTLINE.—

21                   “(1) DEPOSIT.—The Secretary shall deposit  
22                   into a separate account in the Treasury the portion  
23                   of OCS Receipts for each fiscal year that will be  
24                   shared under paragraphs (2) and (3).

25                   “(2) PHASED-IN RECEIPTS SHARING.—

1           “(A) Beginning October 1, 2009, the Sec-  
2           retary shall share OCS Receipts derived from  
3           the following areas:

4                   “(i) Lease tracts located on portions  
5                   of the Gulf of Mexico OCS Region partially  
6                   or completely beyond 100 miles of any  
7                   coastline that were available for leasing  
8                   under the 2002–2007 5-Year OCS Oil and  
9                   Gas Leasing Program.

10                   “(ii) Lease tracts in production prior  
11                   to October 1, 2009, partially or completely  
12                   beyond 100 miles of any coastline located  
13                   on portions of the OCS that were not  
14                   available for leasing under the 2002–2007  
15                   5-Year OCS Oil and Gas Leasing Pro-  
16                   gram.

17                   “(iii) Lease tracts for which leases are  
18                   issued prior to October 1, 2009, located in  
19                   the Alaska OCS Region partially or com-  
20                   pletely beyond 100 miles of the coastline.

21           “(B) The Secretary shall share the fol-  
22           lowing percentages of OCS Receipts from the  
23           leases described in subparagraph (A) derived  
24           during the fiscal year indicated:

25                   “(i) For fiscal year 2010, 5 percent.



1                   “(ii) For fiscal year 2011, 8 percent.

2                   “(iii) For fiscal year 2012, 11 per-  
3 cent.

4                   “(iv) For fiscal year 2013, 14 percent.

5                   “(v) For fiscal year 2014, 17 percent.

6                   “(vi) For fiscal year 2015, 20 percent.

7                   “(vii) For fiscal year 2016, 23 per-  
8 cent.

9                   “(viii) For fiscal year 2017, 26 per-  
10 cent.

11                   “(ix) For fiscal year 2018, 29 percent.

12                   “(x) For fiscal year 2019, 32 percent.

13                   “(xi) For fiscal year 2020, 35 percent.

14                   “(xii) For fiscal year 2021 and each  
15 subsequent fiscal year, 37.5 percent.

16                   “(C) The provisions of this paragraph shall  
17 not apply to leases that could not have been  
18 issued but for section 5(k) of this Act or section  
19 106(2) of the Deep Ocean Energy Resources  
20 Act of 2009.

21                   “(3) IMMEDIATE RECEIPTS SHARING.—Begin-  
22 ning October 1, 2009, the Secretary shall share 37.5  
23 percent of OCS Receipts derived on and after Octo-  
24 ber 1, 2009, from all leases located partially or com-  
25 pletely beyond 100 miles of any coastline not in-

1       cluded within the provisions of paragraph (2), except  
2       that the Secretary shall only share 25 percent of  
3       such OCS Receipts derived from all such leases  
4       within a State’s Adjacent Zone if no leasing is al-  
5       lowed within any portion of that State’s Adjacent  
6       Zone located completely within 100 miles of any  
7       coastline.

8               “(4) ALLOCATIONS.—The Secretary shall allo-  
9       cate the OCS Receipts deposited into the separate  
10      account established by paragraph (1) that are  
11      shared under paragraphs (2) and (3) as follows:

12              “(A) BONUS BIDS.—Deposits derived from  
13      bonus bids from a leased tract, including inter-  
14      est thereon, shall be allocated at the end of  
15      each fiscal year to the Adjacent State.

16              “(B) ROYALTIES.—Deposits derived from  
17      royalties from a leased tract, including interest  
18      thereon, shall be allocated at the end of each  
19      fiscal year to the Adjacent State and any other  
20      producing State or States with a leased tract  
21      within its Adjacent Zone partially or completely  
22      beyond 100 miles of its coastline that generated  
23      royalties during the fiscal year, if the other pro-  
24      ducing State or States have a coastline point  
25      within 300 miles of any portion of the leased

1 tract, in which case the amount allocated for  
2 the leased tract shall be—

3 “(i) one-third to the Adjacent State;

4 and

5 “(ii) two-thirds to each producing  
6 State, including the Adjacent State, in-  
7 versely proportional to the distance be-  
8 tween the nearest point on the coastline of  
9 the producing State and the geographic  
10 center of the leased tract.

11 “(d) TRANSMISSION OF ALLOCATIONS.—

12 “(1) IN GENERAL.—Not later than 90 days  
13 after the end of each fiscal year, the Secretary shall  
14 transmit—

15 “(A) to each State 60 percent of such  
16 State’s allocations under subsections (b)(5)(A),  
17 (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the im-  
18 mediate prior fiscal year;

19 “(B) to each coastal county-equivalent and  
20 municipal political subdivisions of such State a  
21 total of 40 percent of such State’s allocations  
22 under subsections (b)(5)(A), (b)(5)(B),  
23 (c)(4)(A), and (c)(4)(B), together with all ac-  
24 crued interest thereon; and

1           “(C) the remaining allocations under sub-  
2           sections (b)(5) and (c)(4), together with all ac-  
3           crued interest thereon.

4           “(2) ALLOCATIONS TO COASTAL COUNTY-  
5           EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-  
6           retary shall make an initial allocation of the OCS  
7           Receipts to be shared under paragraph (1)(B) as fol-  
8           lows:

9           “(A) 25 percent shall be allocated to coast-  
10          al county-equivalent political subdivisions that  
11          are completely more than 25 miles landward of  
12          the coastline and at least a part of which lies  
13          not more than 75 miles landward from the  
14          coastline, with the allocation among such coast-  
15          al county-equivalent political subdivisions based  
16          on population.

17          “(B) 75 percent shall be allocated to coast-  
18          al county-equivalent political subdivisions that  
19          are completely or partially less than 25 miles  
20          landward of the coastline, with the allocation  
21          among such coastal county-equivalent political  
22          subdivisions to be further allocated as follows:

23                  “(i) 25 percent shall be allocated  
24                  based on the ratio of such coastal county-  
25                  equivalent political subdivision’s population

1 to the coastal population of all coastal  
2 county-equivalent political subdivisions in  
3 the State.

4 “(ii) 25 percent shall be allocated  
5 based on the ratio of such coastal county-  
6 equivalent political subdivision’s coastline  
7 miles to the coastline miles of all coastal  
8 county-equivalent political subdivisions in  
9 the State as calculated by the Secretary.  
10 In such calculations, coastal county-equa-  
11 lent political subdivisions without a coast-  
12 line shall be considered to have 50 percent  
13 of the average coastline miles of the coast-  
14 al county-equivalent political subdivisions  
15 that do have coastlines.

16 “(iii) 25 percent shall be allocated to  
17 all coastal county-equivalent political sub-  
18 divisions having a coastline point within  
19 300 miles of the leased tract for which  
20 OCS Receipts are being shared based on a  
21 formula that allocates the funds based on  
22 such coastal county-equivalent political  
23 subdivision’s relative distance from the  
24 leased tract.

1           “(iv) 25 percent shall be allocated to  
2 all coastal county-equivalent political sub-  
3 divisions having a coastline point within  
4 300 miles of the leased tract for which  
5 OCS Receipts are being shared based on  
6 the relative level of outer Continental Shelf  
7 oil and gas activities in a coastal political  
8 subdivision compared to the level of outer  
9 Continental Shelf activities in all coastal  
10 political subdivisions in the State. The Sec-  
11 retary shall define the term ‘outer Conti-  
12 nental Shelf oil and gas activities’ for pur-  
13 poses of this subparagraph to include, but  
14 not be limited to, construction of vessels,  
15 drillships, and platforms involved in explo-  
16 ration, production, and development on the  
17 outer Continental Shelf; support and sup-  
18 ply bases, ports, and related activities; of-  
19 fices of geologists, geophysicists, engineers,  
20 and other professionals involved in support  
21 of exploration, production, and develop-  
22 ment of oil and gas on the outer Conti-  
23 nental Shelf; pipelines and other means of  
24 transporting oil and gas production from  
25 the outer Continental Shelf; and processing

1                   and refining of oil and gas production from  
2                   the outer Continental Shelf. For purposes  
3                   of this subparagraph, if a coastal county-  
4                   equivalent political subdivision does not  
5                   have a coastline, its coastal point shall be  
6                   the point on the coastline closest to it.

7                   “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-  
8                   LITICAL SUBDIVISIONS.—The initial allocation to  
9                   each coastal county-equivalent political subdivision  
10                  under paragraph (2) shall be further allocated to the  
11                  coastal county-equivalent political subdivision and  
12                  any coastal municipal political subdivisions located  
13                  partially or wholly within the boundaries of the  
14                  coastal county-equivalent political subdivision as fol-  
15                  lows:

16                  “(A) One-third shall be allocated to the  
17                  coastal county-equivalent political subdivision.

18                  “(B) Two-thirds shall be allocated on a per  
19                  capita basis to the municipal political subdivi-  
20                  sions and the county-equivalent political sub-  
21                  division, with the allocation to the latter based  
22                  upon its population not included within the  
23                  boundaries of a municipal political subdivision.

24                  “(e) INVESTMENT OF DEPOSITS.—Amounts depos-  
25                  ited under this section shall be invested by the Secretary

1 of the Treasury in securities backed by the full faith and  
2 credit of the United States having maturities suitable to  
3 the needs of the account in which they are deposited and  
4 yielding the highest reasonably available interest rates as  
5 determined by the Secretary of the Treasury.

6 “(f) USE OF FUNDS.—A recipient of funds under this  
7 section may use the funds for one or more of the following:

8 “(1) To reduce in-State college tuition at public  
9 institutions of higher learning and otherwise support  
10 public education, including career technical edu-  
11 cation.

12 “(2) To make transportation infrastructure im-  
13 provements.

14 “(3) To reduce taxes.

15 “(4) To promote, fund, and provide for—

16 “(A) coastal or environmental restoration;

17 “(B) fish, wildlife, and marine life habitat  
18 enhancement;

19 “(C) waterways construction and mainte-  
20 nance;

21 “(D) levee construction and maintenance  
22 and shore protection; and

23 “(E) marine and oceanographic education  
24 and research.

25 “(5) To promote, fund, and provide for—



1           “(A) infrastructure associated with energy  
2 production activities conducted on the outer  
3 Continental Shelf;

4           “(B) energy demonstration projects;

5           “(C) supporting infrastructure for shore-  
6 based energy projects;

7           “(D) State geologic programs, including  
8 geologic mapping and data storage programs,  
9 and State geophysical data acquisition;

10          “(E) State seismic monitoring programs,  
11 including operation of monitoring stations;

12          “(F) development of oil and gas resources  
13 through enhanced recovery techniques;

14          “(G) alternative energy development, in-  
15 cluding bio fuels, coal-to-liquids, oil shale, tar  
16 sands, geothermal, geopressure, wind, waves,  
17 currents, hydro, solar, and other renewable en-  
18 ergy;

19          “(H) energy efficiency and conservation  
20 programs; and

21          “(I) front-end engineering and design for  
22 facilities that produce liquid fuels from hydro-  
23 carbons and other biological matter.

24          “(6) To promote, fund, and provide for—

1           “(A) historic preservation programs and  
2           projects;

3           “(B) natural disaster planning and re-  
4           sponse; and

5           “(C) hurricane and natural disaster insur-  
6           ance programs.

7           “(7) For any other purpose as determined by  
8           State law.

9           “(g) NO ACCOUNTING REQUIRED.—No recipient of  
10          funds under this section shall be required to account to  
11          the Federal Government for the expenditure of such  
12          funds, except as otherwise may be required by law. How-  
13          ever, States may enact legislation providing for accounting  
14          for and auditing of such expenditures. Further, funds allo-  
15          cated under this section to States and political subdivi-  
16          sions may be used as matching funds for other Federal  
17          programs.

18          “(h) EFFECT OF FUTURE LAWS.—Enactment of any  
19          future Federal statute that has the effect, as determined  
20          by the Secretary, of restricting any Federal agency from  
21          spending appropriated funds, or otherwise preventing it  
22          from fulfilling its pre-existing responsibilities as of the  
23          date of enactment of the statute, unless such responsibil-  
24          ities have been reassigned to another Federal agency by  
25          the statute with no prevention of performance, to issue

1 any permit or other approval impacting on the OCS oil  
2 and gas leasing program, or any lease issued thereunder,  
3 or to implement any provision of this Act shall automati-  
4 cally prohibit any sharing of OCS Receipts under this sec-  
5 tion directly with the States, and their coastal political  
6 subdivisions, for the duration of the restriction. The Sec-  
7 retary shall make the determination of the existence of  
8 such restricting effects within 30 days of a petition by any  
9 outer Continental Shelf lessee or producing State.

10 “(i) DEFINITIONS.—In this section:

11 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL  
12 SUBDIVISION.—The term ‘coastal county-equivalent  
13 political subdivision’ means a political jurisdiction  
14 immediately below the level of State government, in-  
15 cluding a county, parish, borough in Alaska, inde-  
16 pendent municipality not part of a county, parish, or  
17 borough in Alaska, or other equivalent subdivision of  
18 a coastal State, that lies within the coastal zone.

19 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-  
20 SION.—The term ‘coastal municipal political subdivi-  
21 sion’ means a municipality located within and part  
22 of a county, parish, borough in Alaska, or other  
23 equivalent subdivision of a State, all or part of which  
24 coastal municipal political subdivision lies within the  
25 coastal zone.

1           “(3) COASTAL POPULATION.—The term ‘coastal  
2           population’ means the population of all coastal coun-  
3           ty-equivalent political subdivisions, as determined by  
4           the most recent official data of the Census Bureau.

5           “(4) COASTAL ZONE.—The term ‘coastal zone’  
6           means that portion of a coastal State, including the  
7           entire territory of any coastal county-equivalent po-  
8           litical subdivision at least a part of which lies, within  
9           75 miles landward from the coastline, or a greater  
10          distance as determined by State law enacted to im-  
11          plement this section.

12          “(5) BONUS BIDS.—The term ‘bonus bids’  
13          means all funds received by the Secretary to issue  
14          an outer Continental Shelf minerals lease.

15          “(6) ROYALTIES.—The term ‘royalties’ means  
16          all funds received by the Secretary from production  
17          of oil or natural gas, or the sale of production taken  
18          in-kind, from an outer Continental Shelf minerals  
19          lease.

20          “(7) PRODUCING STATE.—The term ‘producing  
21          State’ means an Adjacent State having an Adjacent  
22          Zone containing leased tracts from which OCS Re-  
23          ceipts were derived.

1           “(8) OCS RECEIPTS.—The term ‘OCS Receipts’  
2           means bonus bids, royalties, and conservation of re-  
3           sources fees.”.

4 **SEC. 114. RESERVATION OF LANDS AND RIGHTS.**

5           Section 12 of the Outer Continental Shelf Lands Act  
6 (43 U.S.C. 1341) is amended by adding at the end the  
7 following:

8           “(g) PROHIBITION ON LEASING EAST OF THE MILI-  
9 TARY MISSION LINE.—

10           “(1) Notwithstanding any other provision of  
11 law, from and after the enactment of the Deep  
12 Ocean Energy Resources Act of 2009, prior to Janu-  
13 ary 1, 2022, no area of the outer Continental Shelf  
14 located in the Gulf of Mexico east of the military  
15 mission line may be offered for leasing for oil and  
16 gas or natural gas unless a waiver is issued by the  
17 Secretary of Defense. If such a waiver is granted,  
18 62.5 percent of the OCS Receipts from a lease with-  
19 in such area issued because of such waiver shall be  
20 paid annually to the National Guards of all States  
21 having a point within 1000 miles of such a lease, al-  
22 located among the States on a per capita basis using  
23 the entire population of such States.

24           “(2) In this subsection, the term ‘military mis-  
25 sion line’ means a line located at 86 degrees, 41

1 minutes West Longitude, and extending south from  
2 the coast of Florida to the outer boundary of United  
3 States territorial waters in the Gulf of Mexico.”.

4 **SEC. 115. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

5 Section 18 of the Outer Continental Shelf Lands Act  
6 (43 U.S.C. 1344) is amended—

7 (1) in subsection (a), by adding at the end of  
8 paragraph (3) the following: “The Secretary shall, in  
9 each 5-Year Program, include lease sales that when  
10 viewed as a whole propose to offer for oil and gas  
11 leasing at least 75 percent of the available unleased  
12 acreage within each OCS Planning Area. Available  
13 unleased acreage is that portion of the outer Conti-  
14 nental Shelf that is not under lease at the time of  
15 the proposed lease sale, and has not otherwise been  
16 made unavailable for leasing by law.”;

17 (2) in subsection (c), by striking so much as  
18 precedes paragraph (3) and inserting the following:

19 “(c)(1) During the preparation of any proposed leas-  
20 ing program under this section, the Secretary shall con-  
21 sider and analyze leasing throughout the entire outer Con-  
22 tinental Shelf without regard to any other law affecting  
23 such leasing. During this preparation the Secretary shall  
24 invite and consider suggestions from any interested Fed-  
25 eral agency, including the Attorney General, in consulta-

1 tion with the Federal Trade Commission, and from the  
2 Governor of any coastal State. The Secretary may also in-  
3 vite or consider any suggestions from the executive of any  
4 local government in a coastal State that have been pre-  
5 viously submitted to the Governor of such State, and from  
6 any other person. Further, the Secretary shall consult  
7 with the Secretary of Defense regarding military oper-  
8 ational needs in the outer Continental Shelf. The Sec-  
9 retary shall work with the Secretary of Defense to resolve  
10 any conflicts that might arise regarding offering any area  
11 of the outer Continental Shelf for oil and gas leasing. If  
12 the Secretaries are not able to resolve all such conflicts,  
13 any unresolved issues shall be elevated to the President  
14 for resolution.

15       “(2) After the consideration and analysis required by  
16 paragraph (1), including the consideration of the sugges-  
17 tions received from any interested Federal agency, the  
18 Federal Trade Commission, the Governor of any coastal  
19 State, any local government of a coastal State, and any  
20 other person, the Secretary shall publish in the Federal  
21 Register a proposed leasing program accompanied by a  
22 draft environmental impact statement prepared pursuant  
23 to the National Environmental Policy Act of 1969. After  
24 the publishing of the proposed leasing program and during  
25 the comment period provided for on the draft environ-

1 mental impact statement, the Secretary shall submit a  
2 copy of the proposed program to the Governor of each af-  
3 fected State for review and comment. The Governor may  
4 solicit comments from those executives of local govern-  
5 ments in the Governor's State that the Governor, in the  
6 discretion of the Governor, determines will be affected by  
7 the proposed program. If any comment by such Governor  
8 is received by the Secretary at least 15 days prior to sub-  
9 mission to the Congress pursuant to paragraph (3) and  
10 includes a request for any modification of such proposed  
11 program, the Secretary shall reply in writing, granting or  
12 denying such request in whole or in part, or granting such  
13 request in such modified form as the Secretary considers  
14 appropriate, and stating the Secretary's reasons therefor.  
15 All such correspondence between the Secretary and the  
16 Governor of any affected State, together with any addi-  
17 tional information and data relating thereto, shall accom-  
18 pany such proposed program when it is submitted to the  
19 Congress.”; and

20 (3) by adding at the end the following:

21 “(i) PROJECTION OF STATE ADJACENT ZONE RE-  
22 SOURCES AND STATE AND LOCAL GOVERNMENT SHARES  
23 OF OCS RECEIPTS.—Concurrent with the publication of  
24 the scoping notice at the beginning of the development of  
25 each 5-Year Outer Continental Shelf Oil and Gas Leasing



1 Program, or as soon thereafter as possible, the Secretary  
2 shall—

3 “(1) provide to each Adjacent State a current  
4 estimate of proven and potential oil and gas re-  
5 sources located within the State’s Adjacent Zone;  
6 and

7 “(2) provide to each Adjacent State, and coast-  
8 al political subdivisions thereof, a best-efforts projec-  
9 tion of the OCS Receipts that the Secretary expects  
10 will be shared with each Adjacent State, and its  
11 coastal political subdivisions, using the assumption  
12 that the unleased tracts within the State’s Adjacent  
13 Zone are fully made available for leasing, including  
14 long-term projected OCS Receipts. In addition, the  
15 Secretary shall include a macroeconomic estimate of  
16 the impact of such leasing on the national economy  
17 and each State’s economy, including investment,  
18 jobs, revenues, personal income, and other cat-  
19 egories.”.

20 **SEC. 116. COORDINATION WITH ADJACENT STATES.**

21 Section 19 of the Outer Continental Shelf Lands Act  
22 (43 U.S.C. 1345) is amended—

23 (1) in subsection (a) in the first sentence by in-  
24 serting “, for any tract located within the Adjacent  
25 State’s Adjacent Zone,” after “government”; and

1           (2) by adding the following:

2           “(f)(1) No Federal agency may permit or otherwise  
3 approve, without the concurrence of the Adjacent State,  
4 the construction of a crude oil or petroleum products (or  
5 both) pipeline within the part of the Adjacent State’s Ad-  
6 jacent Zone that is withdrawn from oil and gas leasing,  
7 except that such a pipeline may be approved, without such  
8 Adjacent State’s concurrence, to pass through such Adja-  
9 cent Zone if at least 50 percent of the production pro-  
10 jected to be carried by the pipeline within its first 10 years  
11 of operation is from areas of the Adjacent State’s Adja-  
12 cent Zone.

13           “(2) No State may prohibit the construction within  
14 its Adjacent Zone or its State waters of a natural gas pipe-  
15 line that will transport natural gas produced from the  
16 outer Continental Shelf. However, an Adjacent State may  
17 prevent a proposed natural gas pipeline landing location  
18 if it proposes two alternate landing locations in the Adja-  
19 cent State, acceptable to the Adjacent State, located with-  
20 in 50 miles on either side of the proposed landing loca-  
21 tion.”.

22 **SEC. 117. ENVIRONMENTAL STUDIES.**

23           Section 20(d) of the Outer Continental Shelf Lands  
24 Act (43 U.S.C. 1346) is amended—

25           (1) by inserting “(1)” after “(d)”; and

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

2 “(2) For all programs, lease sales, leases, and  
3 actions under this Act, the following shall apply re-  
4 garding the application of the National Environ-  
5 mental Policy Act of 1969:

6 “(A) Granting or directing lease suspen-  
7 sions and the conduct of all preliminary activi-  
8 ties on outer Continental Shelf tracts, including  
9 seismic activities, are categorically excluded  
10 from the need to prepare either an environ-  
11 mental assessment or an environmental impact  
12 statement, and the Secretary shall not be re-  
13 quired to analyze whether any exceptions to a  
14 categorical exclusion apply for activities con-  
15 ducted under the authority of this Act.

16 “(B) The environmental impact statement  
17 developed in support of each 5-Year Oil and  
18 Gas Leasing Program provides the environ-  
19 mental analysis for all lease sales to be con-  
20 ducted under the program and such sales shall  
21 not be subject to further environmental anal-  
22 ysis.

23 “(C) Exploration plans shall not be subject  
24 to any requirement to prepare an environmental  
25 impact statement, and the Secretary may find

1 that exploration plans are eligible for categor-  
2 ical exclusion due to the impacts already being  
3 considered within an environmental impact  
4 statement or due to mitigation measures in-  
5 cluded within the plan.

6 “(D) Within each OCS Planning Area,  
7 after the preparation of the first development  
8 and production plan environmental impact  
9 statement for a leased tract within the Area, fu-  
10 ture development and production plans for  
11 leased tracts within the Area shall only require  
12 the preparation of an environmental assessment  
13 unless the most recent development and produc-  
14 tion plan environmental impact statement with-  
15 in the Area was finalized more than 10 years  
16 prior to the date of the approval of the plan, in  
17 which case an environmental impact statement  
18 shall be required.”.

19 **SEC. 118. OUTER CONTINENTAL SHELF INCOMPATIBLE**  
20 **USE.**

21 (a) IN GENERAL.—No Federal agency may permit  
22 construction or operation (or both) of any facility, or des-  
23 ignate or maintain a restricted transportation corridor or  
24 operating area on the Federal outer Continental Shelf or  
25 in State waters, that will be incompatible with, as deter-

1 mined by the Secretary of the Interior, oil and gas leasing  
2 and substantially full exploration and production of tracts  
3 that are geologically prospective for oil or natural gas (or  
4 both).

5 (b) EXCEPTIONS.—Subsection (a) shall not apply to  
6 any facility, transportation corridor, or operating area the  
7 construction, operation, designation, or maintenance of  
8 which is or will be—

9 (1) located in an area of the outer Continental  
10 Shelf that is unavailable for oil and gas leasing by  
11 operation of law;

12 (2) used for a military readiness activity (as de-  
13 fined in section 315(f) of Public Law 107–314; 16  
14 U.S.C. 703 note); or

15 (3) required in the national interest, as deter-  
16 mined by the President.

17 **SEC. 119. REPURCHASE OF CERTAIN LEASES.**

18 (a) AUTHORITY TO REPURCHASE AND CANCEL CER-  
19 TAIN LEASES.—The Secretary of the Interior shall repur-  
20 chase and cancel any Federal oil and gas, geothermal,  
21 coal, oil shale, tar sands, or other mineral lease, whether  
22 onshore or offshore, but not including any outer Conti-  
23 nental Shelf oil and gas leases that were subject to litiga-  
24 tion in the Court of Federal Claims on January 1, 2006,  
25 if the Secretary finds that such lease qualifies for repur-

1 chase and cancellation under the regulations authorized  
2 by this section.

3 (b) REGULATIONS.—Not later than 365 days after  
4 the date of the enactment of this Act, the Secretary shall  
5 publish a final regulation stating the conditions under  
6 which a lease referred to in subsection (a) would qualify  
7 for repurchase and cancellation, and the process to be fol-  
8 lowed regarding repurchase and cancellation. Such regula-  
9 tion shall include, but not be limited to, the following:

10 (1) The Secretary shall repurchase and cancel  
11 a lease after written request by the lessee upon a  
12 finding by the Secretary that—

13 (A) a request by the lessee for a required  
14 permit or other approval complied with applica-  
15 ble law, except the Coastal Zone Management  
16 Act of 1972 (16 U.S.C. 1451 et seq.), and  
17 terms of the lease and such permit or other ap-  
18 proval was denied;

19 (B) a Federal agency failed to act on a re-  
20 quest by the lessee for a required permit, other  
21 approval, or administrative appeal within a reg-  
22 ulatory or statutory time-frame associated with  
23 the requested action, whether advisory or man-  
24 datory, or if none, within 180 days; or

1           (C) a Federal agency attached a condition  
2 of approval, without agreement by the lessee, to  
3 a required permit or other approval if such con-  
4 dition of approval was not mandated by Federal  
5 statute or regulation in effect on the date of  
6 lease issuance, or was not specifically allowed  
7 under the terms of the lease.

8           (2) A lessee shall not be required to exhaust ad-  
9 ministrative remedies regarding a permit request,  
10 administrative appeal, or other required request for  
11 approval for the purposes of this section.

12           (3) The Secretary shall make a final agency de-  
13 cision on a request by a lessee under this section  
14 within 180 days of request.

15           (4) Compensation to a lessee to repurchase and  
16 cancel a lease under this section shall be the amount  
17 that a lessee would receive in a restitution case for  
18 a material breach of contract.

19           (5) Compensation shall be in the form of a  
20 check or electronic transfer from the Department of  
21 the Treasury from funds deposited into miscella-  
22 neous receipts under the authority of the same Act  
23 that authorized the issuance of the lease being re-  
24 purchased.

1           (6) Failure of the Secretary to make a final  
2           agency decision on a request by a lessee under this  
3           section within 180 days of request shall result in a  
4           10 percent increase in the compensation due to the  
5           lessee if the lease is ultimately repurchased.

6           (c) NO PREJUDICE.—This section shall not be inter-  
7           preted to prejudice any other rights that the lessee would  
8           have in the absence of this section.

9           **SEC. 120. OFFSITE ENVIRONMENTAL MITIGATION.**

10          Notwithstanding any other provision of law, any per-  
11          son conducting activities under the Mineral Leasing Act  
12          (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30  
13          U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-  
14          quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16  
15          U.S.C. 552 et seq.), the General Mining Act of 1872 (30  
16          U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.  
17          601 et seq.), or the Outer Continental Shelf Lands Act  
18          (43 U.S.C. 1331 et seq.), may in satisfying any mitigation  
19          requirements associated with such activities propose miti-  
20          gation measures on a site away from the area impacted  
21          and the Secretary of the Interior shall accept these pro-  
22          posed measures if the Secretary finds that they generally  
23          achieve the purposes for which mitigation measures apper-  
24          tained.



1 **SEC. 121. OCS REGIONAL HEADQUARTERS.**

2 Not later than July 1, 2011, the Secretary of the In-  
3 terior shall establish the headquarters for the Atlantic  
4 OCS Region, the headquarters for the Gulf of Mexico OCS  
5 Region, and the headquarters for the Pacific OCS Region  
6 within a State bordering the Atlantic OCS Region, a State  
7 bordering the Gulf of Mexico OCS Region, and a State  
8 bordering the Pacific OCS Region. Such Atlantic and Pa-  
9 cific OCS Regions headquarters shall be located within 25  
10 miles of the coastline and each Minerals Management  
11 Service OCS regional headquarters shall be the permanent  
12 duty station for all Minerals Management Service per-  
13 sonnel that on a daily basis spend on average 60 percent  
14 or more of their time in performance of duties in support  
15 of the activities of the respective Region, except that the  
16 Minerals Management Service may house regional inspec-  
17 tion staff in other locations. Each OCS Region shall each  
18 be led by a Regional Director who shall be an employee  
19 within the Senior Executive Service.

20 **SEC. 122. LEASES FOR AREAS LOCATED WITHIN 12 NAU-**  
21 **TICAL MILES OF CALIFORNIA OR FLORIDA.**

22 (a) **AUTHORIZATION TO CANCEL AND EXCHANGE**  
23 **CERTAIN EXISTING OIL AND GAS LEASES.—**

24 (1) **AUTHORITY.—**Within 2 years after the date  
25 of enactment of this Act, the lessee of an existing oil  
26 and gas lease for an area located completely within

1 12 nautical miles of the coastline within the Cali-  
2 fornia or Florida Adjacent Zones shall have the op-  
3 tion, without compensation, of exchanging such lease  
4 for a new oil and gas lease having a primary term  
5 of 5 years. For the area subject to the new lease, the  
6 lessee may select any unleased tract on the outer  
7 Continental Shelf that is in an area available for  
8 leasing.

9 (2) ADMINISTRATIVE PROCESS.—The Secretary  
10 of the Interior shall establish a reasonable adminis-  
11 trative process to implement paragraph (1). Ex-  
12 changes and conversions under subsection (a), in-  
13 cluding the issuance of new leases, shall not be con-  
14 sidered to be major Federal actions for purposes of  
15 the National Environmental Policy Act of 1969 (42  
16 U.S.C. 4321 et seq.). Further, such actions con-  
17 ducted in accordance with this section are deemed to  
18 be in compliance all provisions of the Outer Conti-  
19 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

20 (3) OPERATING RESTRICTIONS.—A new lease  
21 issued in exchange for an existing lease under this  
22 section shall be subject to such national defense op-  
23 erating stipulations on the OCS tract covered by the  
24 new lease as may be applicable upon issuance.

1           (4) PRIORITY.—The Secretary shall give pri-  
2           ority in the lease exchange process based on the  
3           amount of the original bonus bid paid for the  
4           issuance of each lease to be exchanged. The Sec-  
5           retary shall allow leases covering partial tracts to be  
6           exchanged for leases covering full tracts conditioned  
7           upon payment of additional bonus bids on a per-acre  
8           basis as determined by the average per acre of the  
9           original bonus bid per acre for the partial tract  
10          being exchanged.

11          (b) FURTHER LEASE CANCELLATION AND EX-  
12          CHANGE PROVISIONS.—

13           (1) CANCELLATION OF LEASE.—As part of the  
14          lease exchange process under this section, the Sec-  
15          retary shall cancel a lease that is exchanged under  
16          this section.

17           (2) CONSENT OF LESSEES.—All lessees holding  
18          an interest in a lease must consent to cancellation  
19          of their leasehold interests in order for the lease to  
20          be cancelled and exchanged under this section.

21           (3) WAIVER OF RIGHTS.—As a prerequisite to  
22          the exchange of a lease under this section, the lessee  
23          must waive any rights to bring any litigation against  
24          the United States related to the transaction.



1           (2) SECRETARY.—The term “Secretary”, except  
2           as otherwise provided, means the Secretary of the  
3           Interior or the Secretary’s designee.

4 **SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE**  
5 **COASTAL PLAIN.**

6           (a) IN GENERAL.—The Secretary shall take such ac-  
7           tions as are necessary—

8           (1) to establish and implement, in accordance  
9           with this subtitle and acting through the Director of  
10          the Bureau of Land Management in consultation  
11          with the Director of the United States Fish and  
12          Wildlife Service, a competitive oil and gas leasing  
13          program that will result in an environmentally sound  
14          program for the exploration, development, and pro-  
15          duction of the oil and gas resources of the Coastal  
16          Plain; and

17          (2) to administer the provisions of this subtitle  
18          through regulations, lease terms, conditions, restric-  
19          tions, prohibitions, stipulations, and other provisions  
20          that ensure the oil and gas exploration, development,  
21          and production activities on the Coastal Plain will  
22          result in no significant adverse effect on fish and  
23          wildlife, their habitat, subsistence resources, and the  
24          environment, including, in furtherance of this goal,  
25          by requiring the application of the best commercially

1 available technology for oil and gas exploration, de-  
2 velopment, and production to all exploration, devel-  
3 opment, and production operations under this sub-  
4 title in a manner that ensures the receipt of fair  
5 market value by the public for the mineral resources  
6 to be leased.

7 (b) REPEAL.—

8 (1) REPEAL.—Section 1003 of the Alaska Na-  
9 tional Interest Lands Conservation Act of 1980 (16  
10 U.S.C. 3143) is repealed.

11 (2) CONFORMING AMENDMENT.—The table of  
12 contents in section 1 of such Act is amended by  
13 striking the item relating to section 1003.

14 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
15 TAIN OTHER LAWS.—

16 (1) COMPATIBILITY.—For purposes of the Na-  
17 tional Wildlife Refuge System Administration Act of  
18 1966 (16 U.S.C. 668dd et seq.), the oil and gas  
19 leasing program and activities authorized by this  
20 section in the Coastal Plain are deemed to be com-  
21 patible with the purposes for which the Arctic Na-  
22 tional Wildlife Refuge was established, and no fur-  
23 ther findings or decisions are required to implement  
24 this determination.

1           (2) ADEQUACY OF THE DEPARTMENT OF THE  
2 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT  
3 STATEMENT.—The “Final Legislative Environ-  
4 mental Impact Statement” (April 1987) on the  
5 Coastal Plain prepared pursuant to section 1002 of  
6 the Alaska National Interest Lands Conservation  
7 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
8 of the National Environmental Policy Act of 1969  
9 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
10 quirements under the National Environmental Policy  
11 Act of 1969 that apply with respect to prelease ac-  
12 tivities, including actions authorized to be taken by  
13 the Secretary to develop and promulgate the regula-  
14 tions for the establishment of a leasing program au-  
15 thorized by this subtitle before the conduct of the  
16 first lease sale.

17           (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
18 TIONS.—Before conducting the first lease sale under  
19 this subtitle, the Secretary shall prepare an environ-  
20 mental impact statement under the National Envi-  
21 ronmental Policy Act of 1969 with respect to the ac-  
22 tions authorized by this subtitle that are not re-  
23 ferred to in paragraph (2). Notwithstanding any  
24 other law, the Secretary is not required to identify  
25 nonleasing alternative courses of action or to analyze

1 the environmental effects of such courses of action.  
2 The Secretary shall only identify a preferred action  
3 for such leasing and a single leasing alternative, and  
4 analyze the environmental effects and potential miti-  
5 gation measures for those two alternatives. The  
6 identification of the preferred action and related  
7 analysis for the first lease sale under this subtitle  
8 shall be completed within 18 months after the date  
9 of enactment of this Act. The Secretary shall only  
10 consider public comments that specifically address  
11 the Secretary's preferred action and that are filed  
12 within 20 days after publication of an environmental  
13 analysis. Notwithstanding any other law, compliance  
14 with this paragraph is deemed to satisfy all require-  
15 ments for the analysis and consideration of the envi-  
16 ronmental effects of proposed leasing under this sub-  
17 title.

18 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
19 ITY.—Nothing in this subtitle shall be considered to ex-  
20 pand or limit State and local regulatory authority.

21 (e) SPECIAL AREAS.—

22 (1) IN GENERAL.—The Secretary, after con-  
23 sultation with the State of Alaska, the city of  
24 Kaktovik, and the North Slope Borough, may des-  
25 ignate up to a total of 45,000 acres of the Coastal



1 Plain as a Special Area if the Secretary determines  
2 that the Special Area is of such unique character  
3 and interest so as to require special management  
4 and regulatory protection. The Secretary shall des-  
5 ignate as such a Special Area the Sadlerochit Spring  
6 area, comprising approximately 4,000 acres.

7 (2) MANAGEMENT.—Each such Special Area  
8 shall be managed so as to protect and preserve the  
9 area’s unique and diverse character including its  
10 fish, wildlife, and subsistence resource values.

11 (3) EXCLUSION FROM LEASING OR SURFACE  
12 OCCUPANCY.—The Secretary may exclude any Spe-  
13 cial Area from leasing. If the Secretary leases a Spe-  
14 cial Area, or any part thereof, for purposes of oil  
15 and gas exploration, development, production, and  
16 related activities, there shall be no surface occu-  
17 pancy of the lands comprising the Special Area.

18 (4) DIRECTIONAL DRILLING.—Notwithstanding  
19 the other provisions of this subsection, the Secretary  
20 may lease all or a portion of a Special Area under  
21 terms that permit the use of horizontal drilling tech-  
22 nology from sites on leases located outside the Spe-  
23 cial Area.

24 (f) LIMITATION ON CLOSED AREAS.—The Sec-  
25 retary’s sole authority to close lands within the Coastal

1 Plain to oil and gas leasing and to exploration, develop-  
2 ment, and production is that set forth in this subtitle.

3 (g) REGULATIONS.—

4 (1) IN GENERAL.—The Secretary shall pre-  
5 scribe such regulations as may be necessary to carry  
6 out this subtitle, including rules and regulations re-  
7 lating to protection of the fish and wildlife, their  
8 habitat, subsistence resources, and environment of  
9 the Coastal Plain, by no later than 15 months after  
10 the date of enactment of this Act.

11 (2) REVISION OF REGULATIONS.—The Sec-  
12 retary shall periodically review and, if appropriate,  
13 revise the rules and regulations issued under sub-  
14 section (a) to reflect any significant biological, envi-  
15 ronmental, or engineering data that come to the Sec-  
16 retary's attention.

17 **SEC. 144. LEASE SALES.**

18 (a) IN GENERAL.—Lands may be leased pursuant to  
19 this subtitle to any person qualified to obtain a lease for  
20 deposits of oil and gas under the Mineral Leasing Act (30  
21 U.S.C. 181 et seq.).

22 (b) PROCEDURES.—The Secretary shall, by regula-  
23 tion, establish procedures for—

24 (1) receipt and consideration of sealed nomina-  
25 tions for any area in the Coastal Plain for inclusion

1 in, or exclusion (as provided in subsection (c)) from,  
2 a lease sale;

3 (2) the holding of lease sales after such nomina-  
4 tion process; and

5 (3) public notice of and comment on designa-  
6 tion of areas to be included in, or excluded from, a  
7 lease sale.

8 (c) LEASE SALE BIDS.—Bidding for leases under  
9 this subtitle shall be by sealed competitive cash bonus bids.

10 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first  
11 lease sale under this subtitle, the Secretary shall offer for  
12 lease those tracts the Secretary considers to have the  
13 greatest potential for the discovery of hydrocarbons, tak-  
14 ing into consideration nominations received pursuant to  
15 subsection (b)(1), but in no case less than 200,000 acres.

16 (e) TIMING OF LEASE SALES.—The Secretary  
17 shall—

18 (1) conduct the first lease sale under this sub-  
19 title within 22 months after the date of the enact-  
20 ment of this Act;

21 (2) evaluate the bids in such sale and issue  
22 leases resulting from such sale, within 90 days after  
23 the date of the completion of such sale; and

1           (3) conduct additional sales so long as sufficient  
2           interest in development exists to warrant, in the Sec-  
3           retary's judgment, the conduct of such sales.

4 **SEC. 145. GRANT OF LEASES BY THE SECRETARY.**

5           (a) IN GENERAL.—The Secretary may grant to the  
6           highest responsible qualified bidder in a lease sale con-  
7           ducted pursuant to section 144 any lands to be leased on  
8           the Coastal Plain upon payment by the lessee of such  
9           bonus as may be accepted by the Secretary.

10          (b) SUBSEQUENT TRANSFERS.—No lease issued  
11          under this subtitle may be sold, exchanged, assigned, sub-  
12          let, or otherwise transferred except with the approval of  
13          the Secretary. Prior to any such approval the Secretary  
14          shall consult with, and give due consideration to the views  
15          of, the Attorney General.

16 **SEC. 146. LEASE TERMS AND CONDITIONS.**

17          (a) IN GENERAL.—An oil or gas lease issued pursu-  
18          ant to this subtitle shall—

19                (1) provide for the payment of a royalty of not  
20                less than 12½ percent in amount or value of the  
21                production removed or sold from the lease, as deter-  
22                mined by the Secretary under the regulations appli-  
23                cable to other Federal oil and gas leases;

24                (2) provide that the Secretary may close, on a  
25                seasonal basis, portions of the Coastal Plain to ex-

1       ploratory drilling activities as necessary to protect  
2       caribou calving areas and other species of fish and  
3       wildlife;

4           (3) require that the lessee of lands within the  
5       Coastal Plain shall be fully responsible and liable for  
6       the reclamation of lands within the Coastal Plain  
7       and any other Federal lands that are adversely af-  
8       fected in connection with exploration, development,  
9       production, or transportation activities conducted  
10      under the lease and within the Coastal Plain by the  
11      lessee or by any of the subcontractors or agents of  
12      the lessee;

13          (4) provide that the lessee may not delegate or  
14      convey, by contract or otherwise, the reclamation re-  
15      sponsibility and liability to another person without  
16      the express written approval of the Secretary;

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

1           (6) contain terms and conditions relating to  
2 protection of fish and wildlife, their habitat, subsist-  
3 ence resources, and the environment as required  
4 pursuant to section 143(a)(2);

5           (7) provide that the lessee, its agents, and its  
6 contractors use best efforts to provide a fair share,  
7 as determined by the level of obligation previously  
8 agreed to in the 1974 agreement implementing sec-  
9 tion 29 of the Federal Agreement and Grant of  
10 Right of Way for the Operation of the Trans-Alaska  
11 Pipeline, of employment and contracting for Alaska  
12 Natives and Alaska Native Corporations from  
13 throughout the State;

14           (8) prohibit the export of oil produced under  
15 the lease; and

16           (9) contain such other provisions as the Sec-  
17 retary determines necessary to ensure compliance  
18 with the provisions of this subtitle and the regula-  
19 tions issued under this subtitle.

20           (b) PROJECT LABOR AGREEMENTS.—The Secretary,  
21 as a term and condition of each lease under this subtitle  
22 and in recognizing the Government’s proprietary interest  
23 in labor stability and in the ability of construction labor  
24 and management to meet the particular needs and condi-  
25 tions of projects to be developed under the leases issued

1 pursuant to this subtitle and the special concerns of the  
2 parties to such leases, shall require that the lessee and  
3 its agents and contractors negotiate to obtain a project  
4 labor agreement for the employment of laborers and me-  
5 chanics on production, maintenance, and construction  
6 under the lease.

7 **SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

8 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
9 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—  
10 The Secretary shall, consistent with the requirements of  
11 section 143, administer the provisions of this subtitle  
12 through regulations, lease terms, conditions, restrictions,  
13 prohibitions, stipulations, and other provisions that—

14 (1) ensure the oil and gas exploration, develop-  
15 ment, and production activities on the Coastal Plain  
16 will result in no significant adverse effect on fish  
17 and wildlife, their habitat, and the environment;

18 (2) require the application of the best commer-  
19 cially available technology for oil and gas explo-  
20 ration, development, and production on all new ex-  
21 ploration, development, and production operations;  
22 and

23 (3) ensure that the maximum amount of sur-  
24 face acreage covered by production and support fa-  
25 cilities, including airstrips and any areas covered by

1 gravel berms or piers for support of pipelines, does  
2 not exceed 2,000 acres on the Coastal Plain.

3 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

4 The Secretary shall also require, with respect to any pro-  
5 posed drilling and related activities, that—

6 (1) a site-specific analysis be made of the prob-  
7 able effects, if any, that the drilling or related activi-  
8 ties will have on fish and wildlife, their habitat, sub-  
9 sistence resources, and the environment;

10 (2) a plan be implemented to avoid, minimize,  
11 and mitigate (in that order and to the extent prac-  
12 ticable) any significant adverse effect identified  
13 under paragraph (1); and

14 (3) the development of the plan shall occur  
15 after consultation with the agency or agencies hav-  
16 ing jurisdiction over matters mitigated by the plan.

17 (c) REGULATIONS TO PROTECT COASTAL PLAIN  
18 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
19 AND THE ENVIRONMENT.—Before implementing the leas-  
20 ing program authorized by this subtitle, the Secretary  
21 shall prepare and promulgate regulations, lease terms,  
22 conditions, restrictions, prohibitions, stipulations, and  
23 other measures designed to ensure that the activities un-  
24 dertaken on the Coastal Plain under this subtitle are con-



1 ducted in a manner consistent with the purposes and envi-  
2 ronmental requirements of this subtitle.

3 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
4 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
5 proposed regulations, lease terms, conditions, restrictions,  
6 prohibitions, and stipulations for the leasing program  
7 under this subtitle shall require compliance with all appli-  
8 cable provisions of Federal and State environmental law,  
9 and shall also require the following:

10 (1) Standards at least as effective as the safety  
11 and environmental mitigation measures set forth in  
12 items 1 through 29 at pages 167 through 169 of the  
13 “Final Legislative Environmental Impact State-  
14 ment” (April 1987) on the Coastal Plain.

15 (2) Seasonal limitations on exploration, develop-  
16 ment, and related activities, where necessary, to  
17 avoid significant adverse effects during periods of  
18 concentrated fish and wildlife breeding, denning,  
19 nesting, spawning, and migration.

20 (3) That exploration activities, except for sur-  
21 face geological studies, be limited to the period be-  
22 tween approximately November 1 and May 1 each  
23 year and that exploration activities shall be sup-  
24 ported, if necessary, by ice roads, winter trails with  
25 adequate snow cover, ice pads, ice airstrips, and air

1 transport methods, except that such exploration ac-  
2 tivities may occur at other times if the Secretary  
3 finds that such exploration will have no significant  
4 adverse effect on the fish and wildlife, their habitat,  
5 and the environment of the Coastal Plain.

6 (4) Design safety and construction standards  
7 for all pipelines and any access and service roads,  
8 that—

9 (A) minimize, to the maximum extent pos-  
10 sible, adverse effects upon the passage of mi-  
11 gratory species such as caribou; and

12 (B) minimize adverse effects upon the flow  
13 of surface water by requiring the use of cul-  
14 verts, bridges, and other structural devices.

15 (5) Prohibitions on general public access and  
16 use on all pipeline access and service roads.

17 (6) Stringent reclamation and rehabilitation re-  
18 quirements, consistent with the standards set forth  
19 in this subtitle, requiring the removal from the  
20 Coastal Plain of all oil and gas development and  
21 production facilities, structures, and equipment upon  
22 completion of oil and gas production operations, ex-  
23 cept that the Secretary may exempt from the re-  
24 quirements of this paragraph those facilities, struc-  
25 tures, or equipment that the Secretary determines

1 would assist in the management of the Arctic Na-  
2 tional Wildlife Refuge and that are donated to the  
3 United States for that purpose.

4 (7) Appropriate prohibitions or restrictions on  
5 access by all modes of transportation.

6 (8) Appropriate prohibitions or restrictions on  
7 sand and gravel extraction.

8 (9) Consolidation of facility siting.

9 (10) Appropriate prohibitions or restrictions on  
10 use of explosives.

11 (11) Avoidance, to the extent practicable, of  
12 springs, streams, and river system; the protection of  
13 natural surface drainage patterns, wetlands, and ri-  
14 parian habitats; and the regulation of methods or  
15 techniques for developing or transporting adequate  
16 supplies of water for exploratory drilling.

17 (12) Avoidance or minimization of air traffic-re-  
18 lated disturbance to fish and wildlife.

19 (13) 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 an annual waste management report, a haz-  
23 ardous materials tracking system, and a prohibition  
24 on chlorinated solvents, in accordance with applica-  
25 ble Federal and State environmental law.

1           (14) Fuel storage and oil spill contingency plan-  
2           ning.

3           (15) Research, monitoring, and reporting re-  
4           quirements.

5           (16) Field crew environmental briefings.

6           (17) Avoidance of significant adverse effects  
7           upon subsistence hunting, fishing, and trapping by  
8           subsistence users.

9           (18) Compliance with applicable air and water  
10          quality standards.

11          (19) Appropriate seasonal and safety zone des-  
12          ignations around well sites, within which subsistence  
13          hunting and trapping shall be limited.

14          (20) Reasonable stipulations for protection of  
15          cultural and archeological resources.

16          (21) All other protective environmental stipula-  
17          tions, restrictions, terms, and conditions deemed  
18          necessary by the Secretary.

19          (e) CONSIDERATIONS.—In preparing and promul-  
20          gating regulations, lease terms, conditions, restrictions,  
21          prohibitions, and stipulations under this section, the Sec-  
22          retary shall consider the following:

23                 (1) The stipulations and conditions that govern  
24                 the National Petroleum Reserve-Alaska leasing pro-  
25                 gram, as set forth in the 1999 Northeast National

1 Petroleum Reserve-Alaska Final Integrated Activity  
2 Plan/Environmental Impact Statement.

3 (2) The environmental protection standards  
4 that governed the initial Coastal Plain seismic explo-  
5 ration program under parts 37.31 to 37.33 of title  
6 50, Code of Federal Regulations.

7 (3) The land use stipulations for exploratory  
8 drilling on the KIC-ASRC private lands that are set  
9 forth in appendix 2 of the August 9, 1983, agree-  
10 ment between Arctic Slope Regional Corporation and  
11 the United States.

12 (f) FACILITY CONSOLIDATION PLANNING.—

13 (1) IN GENERAL.—The Secretary shall, after  
14 providing for public notice and comment, prepare  
15 and update periodically a plan to govern, guide, and  
16 direct the siting and construction of facilities for the  
17 exploration, development, production, and transpor-  
18 tation of Coastal Plain oil and gas resources.

19 (2) OBJECTIVES.—The plan shall have the fol-  
20 lowing objectives:

21 (A) Avoiding unnecessary duplication of fa-  
22 cilities and activities.

23 (B) Encouraging consolidation of common  
24 facilities and activities.

1           (C) Locating or confining facilities and ac-  
2           tivities to areas that will minimize impact on  
3           fish and wildlife, their habitat, and the environ-  
4           ment.

5           (D) Utilizing existing facilities wherever  
6           practicable.

7           (E) Enhancing compatibility between wild-  
8           life values and development activities.

9           (g) ACCESS TO PUBLIC LANDS.—The Secretary  
10 shall—

11           (1) manage public lands in the Coastal Plain  
12           subject to subsections (a) and (b) of section 811 of  
13           the Alaska National Interest Lands Conservation  
14           Act (16 U.S.C. 3121); and

15           (2) ensure that local residents shall have rea-  
16           sonable access to public lands in the Coastal Plain  
17           for traditional uses.

18 **SEC. 148. EXPEDITED JUDICIAL REVIEW.**

19           (a) FILING OF COMPLAINT.—

20           (1) DEADLINE.—Subject to paragraph (2), any  
21           complaint seeking judicial review of any provision of  
22           this subtitle or any action of the Secretary under  
23           this subtitle shall be filed—

1 (A) except as provided in subparagraph  
2 (B), within the 60-day period beginning on the  
3 date of the action being challenged; or

4 (B) in the case of a complaint based solely  
5 on grounds arising after such period, within 60  
6 days after the complainant knew or reasonably  
7 should have known of the grounds for the com-  
8 plaint.

9 (2) VENUE.—Any complaint seeking judicial re-  
10 view of any provision of this subtitle or any action  
11 of the Secretary under this subtitle may be filed only  
12 in the United States District Court for the District  
13 of Columbia.

14 (3) LIMITATION ON SCOPE OF CERTAIN RE-  
15 VIEW.—Judicial review of a Secretarial decision to  
16 conduct a lease sale under this subtitle, including  
17 the environmental analysis thereof, shall be limited  
18 to whether the Secretary has complied with the  
19 terms of this subtitle and shall be based upon the  
20 administrative record of that decision. The Sec-  
21 retary's identification of a preferred course of action  
22 to enable leasing to proceed and the Secretary's  
23 analysis of environmental effects under this subtitle  
24 shall be presumed to be correct unless shown other-

1 wise by clear and convincing evidence to the con-  
2 trary.

3 (b) LIMITATION ON OTHER REVIEW.—Actions of the  
4 Secretary with respect to which review could have been  
5 obtained under this section shall not be subject to judicial  
6 review in any civil or criminal proceeding for enforcement.

7 **SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**  
8

9 (a) IN GENERAL.—Notwithstanding any other provi-  
10 sion of law, of the amount of adjusted bonus, rental, and  
11 royalty revenues from Federal oil and gas leasing and op-  
12 erations authorized under this subtitle—

13 (1) 50 percent shall be paid to the State of  
14 Alaska; and

15 (2) except as provided in section 152(d), 90  
16 percent of the balance shall be deposited into the  
17 American Renewable and Alternative Energy Trust  
18 Fund established by section 321.

19 (b) PAYMENTS TO ALASKA.—Payments to the State  
20 of Alaska under this section shall be made semiannually.

21 **SEC. 150. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

22 (a) IN GENERAL.—The Secretary shall issue rights-  
23 of-way and easements across the Coastal Plain for the  
24 transportation of oil and gas—



1           (1) except as provided in paragraph (2), under  
2           section 28 of the Mineral Leasing Act (30 U.S.C.  
3           185), without regard to title XI of the Alaska Na-  
4           tional Interest Lands Conservation Act (30 U.S.C.  
5           3161 et seq.); and

6           (2) under title XI of the Alaska National Inter-  
7           est Lands Conservation Act (30 U.S.C. 3161 et  
8           seq.), for access authorized by sections 1110 and  
9           1111 of that Act (16 U.S.C. 3170 and 3171).

10          (b) **TERMS AND CONDITIONS.**—The Secretary shall  
11 include in any right-of-way or easement issued under sub-  
12 section (a) such terms and conditions as may be necessary  
13 to ensure that transportation of oil and gas does not result  
14 in a significant adverse effect on the fish and wildlife, sub-  
15 sistence resources, their habitat, and the environment of  
16 the Coastal Plain, including requirements that facilities be  
17 sited or designed so as to avoid unnecessary duplication  
18 of roads and pipelines.

19          (c) **REGULATIONS.**—The Secretary shall include in  
20 regulations under section 143(g) provisions granting  
21 rights-of-way and easements described in subsection (a)  
22 of this section.

23 **SEC. 151. CONVEYANCE.**

24          In order to maximize Federal revenues by removing  
25 clouds on title to lands and clarifying land ownership pat-

1 terns within the Coastal Plain, the Secretary, notwith-  
2 standing the provisions of section 1302(h)(2) of the Alas-  
3 ka National Interest Lands Conservation Act (16 U.S.C.  
4 3192(h)(2)), shall convey—

5           (1) to the Kaktovik Inupiat Corporation the  
6 surface estate of the lands described in paragraph 1  
7 of Public Land Order 6959, to the extent necessary  
8 to fulfill the Corporation's entitlement under sec-  
9 tions 12 and 14 of the Alaska Native Claims Settle-  
10 ment Act (43 U.S.C. 1611 and 1613) in accordance  
11 with the terms and conditions of the Agreement be-  
12 tween the Department of the Interior, the United  
13 States Fish and Wildlife Service, the Bureau of  
14 Land Management, and the Kaktovik Inupiat Cor-  
15 poration effective January 22, 1993; and

16           (2) to the Arctic Slope Regional Corporation  
17 the remaining subsurface estate to which it is enti-  
18 tled pursuant to the August 9, 1983, agreement be-  
19 tween the Arctic Slope Regional Corporation and the  
20 United States of America.

21 **SEC. 152. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
22 **NITY SERVICE ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

24           (1) IN GENERAL.—The Secretary may use  
25 amounts available from the Coastal Plain Local Gov-

1       ernment Impact Aid Assistance Fund established by  
2       subsection (d) to provide timely financial assistance  
3       to entities that are eligible under paragraph (2) and  
4       that are directly impacted by the exploration for or  
5       production of oil and gas on the Coastal Plain under  
6       this subtitle.

7               (2) ELIGIBLE ENTITIES.—The North Slope  
8       Borough, the City of Kaktovik, and any other bor-  
9       rough, municipal subdivision, village, or other com-  
10      munity in the State of Alaska that is directly im-  
11      pacted by exploration for, or the production of, oil  
12      or gas on the Coastal Plain under this subtitle, as  
13      determined by the Secretary, shall be eligible for fi-  
14      nancial assistance under this section.

15       (b) USE OF ASSISTANCE.—Financial assistance  
16      under this section may be used only for—

17               (1) planning for mitigation of the potential ef-  
18      fects of oil and gas exploration and development on  
19      environmental, social, cultural, recreational, and sub-  
20      sistence values;

21               (2) implementing mitigation plans and main-  
22      taining mitigation projects;

23               (3) developing, carrying out, and maintaining  
24      projects and programs that provide new or expanded  
25      public facilities and services to address needs and

1 problems associated with such effects, including fire-  
2 fighting, police, water, waste treatment, medivac,  
3 and medical services; and

4 (4) establishment of a coordination office, by  
5 the North Slope Borough, in the City of Kaktovik,  
6 which shall—

7 (A) coordinate with and advise developers  
8 on local conditions, impact, and history of the  
9 areas utilized for development; and

10 (B) provide to the Committee on Natural  
11 Resources of the House of Representatives and  
12 the Committee on Energy and Natural Re-  
13 sources of the Senate an annual report on the  
14 status of coordination between developers and  
15 the communities affected by development.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—Any community that is eligi-  
18 ble for assistance under this section may submit an  
19 application for such assistance to the Secretary, in  
20 such form and under such procedures as the Sec-  
21 retary may prescribe by regulation.

22 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
23 community located in the North Slope Borough may  
24 apply for assistance under this section either directly

1 to the Secretary or through the North Slope Bor-  
2 ough.

3 (3) APPLICATION ASSISTANCE.—The Secretary  
4 shall work closely with and assist the North Slope  
5 Borough and other communities eligible for assist-  
6 ance under this section in developing and submitting  
7 applications for assistance under this section.

8 (d) ESTABLISHMENT OF FUND.—

9 (1) IN GENERAL.—There is established in the  
10 Treasury the Coastal Plain Local Government Im-  
11 pact Aid Assistance Fund.

12 (2) USE.—Amounts in the fund may be used  
13 only for providing financial assistance under this  
14 section.

15 (3) DEPOSITS.—Subject to paragraph (4), there  
16 shall be deposited into the fund amounts received by  
17 the United States as revenues derived from rents,  
18 bonuses, and royalties from Federal leases and lease  
19 sales authorized under this subtitle.

20 (4) LIMITATION ON DEPOSITS.—The total  
21 amount in the fund may not exceed \$11,000,000.

22 (5) INVESTMENT OF BALANCES.—The Sec-  
23 retary of the Treasury shall invest amounts in the  
24 fund in interest bearing government securities.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
2 vide financial assistance under this section there is author-  
3 ized to be appropriated to the Secretary from the Coastal  
4 Plain Local Government Impact Aid Assistance Fund  
5 \$5,000,000 for each fiscal year.

## 6 **Subtitle C—Oil Shale**

### 7 **SEC. 161. OIL SHALE.**

8 (a) FINDINGS.—Congress finds that oil shale re-  
9 sources located within the United States—

10 (1) total almost 2 trillion barrels of oil in place;

11 (2) are a strategically important domestic re-  
12 source that should be developed on an accelerated  
13 basis to reduce our growing reliance on politically  
14 and economically unstable sources of foreign oil im-  
15 ports;

16 (3) are one of the best resources available for  
17 advancing American technology and creating Amer-  
18 ican jobs; and

19 (4) will be a critically important component of  
20 the Nation’s transportation fuel sector in particular,  
21 by providing a secure domestic source of aviation  
22 fuel for both commercial and military uses.

23 (b) ADDITIONAL RESEARCH AND DEVELOPMENT  
24 LEASE SALES.—The Secretary of the Interior shall hold  
25 a lease sale within 180 days after the date of enactment

1 of this Act offering an additional 10 parcels for lease for  
2 research, development, and demonstration of oil shale re-  
3 sources, under the terms offered in the solicitation of bids  
4 for such leases published on January 15, 2009 (74 Fed.  
5 Reg. 10).

6 (c) APPLICATION OF REGULATIONS.—The oil shale  
7 management final rules published by the Department of  
8 the Interior on November 18, 2008 (73 Fed. Reg. 223),  
9 shall apply to all commercial leasing for the management  
10 of federally owned oil shale, and any associated minerals,  
11 located on Federal lands.

12 (d) REDUCED PAYMENTS TO ENSURE PRODUC-  
13 TION.—The Secretary of the Interior may temporarily re-  
14 duce royalties, fees, rentals, bonus, or other payments for  
15 leases of Federal lands for the development and produc-  
16 tion of oil shale resources as necessary to incentivize and  
17 encourage development of such resources, if the Secretary  
18 determines that the royalties, fees, rentals, bonus bids,  
19 and other payments otherwise authorized by law are hin-  
20 dering production of such resources.

## 21 **Subtitle D—Refinery Permit**

### 22 **Process Schedule**

#### 23 **SEC. 171. SHORT TITLE.**

24 This subtitle may be cited as the “Refinery Permit  
25 Process Schedule Act”.

1 **SEC. 172. DEFINITIONS.**

2 For purposes of this subtitle—

3 (1) the term “Administrator” means the Ad-  
4 ministrator of the Environmental Protection Agency;

5 (2) the term “applicant” means a person who  
6 (with the approval of the governor of the State, or  
7 in the case of Native American tribes or tribal terri-  
8 tories the designated leader of the tribe or tribal  
9 community, where the proposed refinery would be lo-  
10 cated) is seeking a Federal refinery authorization;

11 (3) the term “biomass” has the meaning given  
12 that term in section 932(a)(1) of the Energy Policy  
13 Act of 2005;

14 (4) the term “Federal refinery authorization”—

15 (A) means any authorization required  
16 under Federal law, whether administered by a  
17 Federal or State administrative agency or offi-  
18 cial, with respect to siting, construction, expan-  
19 sion, or operation of a refinery; and

20 (B) includes any permits, licenses, special  
21 use authorizations, certifications, opinions, or  
22 other approvals required under Federal law  
23 with respect to siting, construction, expansion,  
24 or operation of a refinery;

25 (5) the term “refinery” means—



1 (A) a facility designed and operated to re-  
2 ceive, load, unload, store, transport, process,  
3 and refine crude oil by any chemical or physical  
4 process, including distillation, fluid catalytic  
5 cracking, hydrocracking, coking, alkylation,  
6 etherification, polymerization, catalytic reform-  
7 ing, isomerization, hydrotreating, blending, and  
8 any combination thereof, in order to produce  
9 gasoline or distillate;

10 (B) a facility designed and operated to re-  
11 ceive, load, unload, store, transport, process,  
12 and refine coal by any chemical or physical  
13 process, including liquefaction, in order to  
14 produce gasoline or diesel as its primary out-  
15 put; or

16 (C) a facility designed and operated to re-  
17 ceive, load, unload, store, transport, process (in-  
18 cluding biochemical, photochemical, and bio-  
19 technology processes), and refine biomass in  
20 order to produce biofuel; and

21 (6) the term “State” means a State, the Dis-  
22 trict of Columbia, the Commonwealth of Puerto  
23 Rico, and any other territory or possession of the  
24 United States.

1 **SEC. 173. STATE ASSISTANCE.**

2 (a) STATE ASSISTANCE.—At the request of a gov-  
3 ernor of a State, or in the case of Native American tribes  
4 or tribal territories the designated leader of the tribe or  
5 tribal community, the Administrator is authorized to pro-  
6 vide financial assistance to that State or tribe or tribal  
7 community to facilitate the hiring of additional personnel  
8 to assist the State or tribe or tribal community with exper-  
9 tise in fields relevant to consideration of Federal refinery  
10 authorizations.

11 (b) OTHER ASSISTANCE.—At the request of a gov-  
12 ernor of a State, or in the case of Native American tribes  
13 or tribal territories the designated leader of the tribe or  
14 tribal community, a Federal agency responsible for a Fed-  
15 eral refinery authorization shall provide technical, legal,  
16 or other nonfinancial assistance to that State or tribe or  
17 tribal community to facilitate its consideration of Federal  
18 refinery authorizations.

19 **SEC. 174. REFINERY PROCESS COORDINATION AND PROCE-**  
20 **DURES.**

21 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

22 (1) IN GENERAL.—The President shall appoint  
23 a Federal coordinator to perform the responsibilities  
24 assigned to the Federal coordinator under this sub-  
25 title.

1           (2) OTHER AGENCIES.—Each Federal and  
2 State agency or official required to provide a Fed-  
3 eral refinery authorization shall cooperate with the  
4 Federal coordinator.

5 (b) FEDERAL REFINERY AUTHORIZATIONS.—

6           (1) MEETING PARTICIPANTS.—Not later than  
7 30 days after receiving a notification from an appli-  
8 cant that the applicant is seeking a Federal refinery  
9 authorization pursuant to Federal law, the Federal  
10 coordinator appointed under subsection (a) shall  
11 convene a meeting of representatives from all Fed-  
12 eral and State agencies responsible for a Federal re-  
13 finery authorization with respect to the refinery. The  
14 governor of a State shall identify each agency of  
15 that State that is responsible for a Federal refinery  
16 authorization with respect to that refinery.

17           (2) MEMORANDUM OF AGREEMENT.—(A) Not  
18 later than 90 days after receipt of a notification de-  
19 scribed in paragraph (1), the Federal coordinator  
20 and the other participants at a meeting convened  
21 under paragraph (1) shall establish a memorandum  
22 of agreement setting forth the most expeditious co-  
23 ordinated schedule possible for completion of all  
24 Federal refinery authorizations with respect to the  
25 refinery, consistent with the full substantive and

1 procedural review required by Federal law. If a Fed-  
2 eral or State agency responsible for a Federal refin-  
3 ery authorization with respect to the refinery is not  
4 represented at such meeting, the Federal coordinator  
5 shall ensure that the schedule accommodates those  
6 Federal refinery authorizations, consistent with Fed-  
7 eral law. In the event of conflict among Federal re-  
8 finery authorization scheduling requirements, the re-  
9 quirements of the Environmental Protection Agency  
10 shall be given priority.

11 (B) Not later than 15 days after completing the  
12 memorandum of agreement, the Federal coordinator  
13 shall publish the memorandum of agreement in the  
14 Federal Register.

15 (C) The Federal coordinator shall ensure that  
16 all parties to the memorandum of agreement are  
17 working in good faith to carry out the memorandum  
18 of agreement, and shall facilitate the maintenance of  
19 the schedule established therein.

20 (e) CONSOLIDATED RECORD.—The Federal coordi-  
21 nator shall, with the cooperation of Federal and State ad-  
22 ministrative agencies and officials, maintain a complete  
23 consolidated record of all decisions made or actions taken  
24 by the Federal coordinator or by a Federal administrative  
25 agency or officer (or State administrative agency or officer

1 acting under delegated Federal authority) with respect to  
2 any Federal refinery authorization. Such record shall be  
3 the record for judicial review under subsection (d) of deci-  
4 sions made or actions taken by Federal and State adminis-  
5 trative agencies and officials, except that, if the Court de-  
6 termines that the record does not contain sufficient infor-  
7 mation, the Court may remand the proceeding to the Fed-  
8 eral coordinator for further development of the consoli-  
9 dated record.

10 (d) REMEDIES.—

11 (1) IN GENERAL.—The United States District  
12 Court for the district in which the proposed refinery  
13 is located shall have exclusive jurisdiction over any  
14 civil action for the review of the failure of an agency  
15 or official to act on a Federal refinery authorization  
16 in accordance with the schedule established pursuant  
17 to the memorandum of agreement.

18 (2) STANDING.—If an applicant or a party to  
19 a memorandum of agreement alleges that a failure  
20 to act described in paragraph (1) has occurred and  
21 that such failure to act would jeopardize timely com-  
22 pletion of the entire schedule as established in the  
23 memorandum of agreement, such applicant or other  
24 party may bring a cause of action under this sub-  
25 section.

1           (3) COURT ACTION.—If an action is brought  
2           under paragraph (2), the Court shall review whether  
3           the parties to the memorandum of agreement have  
4           been acting in good faith, whether the applicant has  
5           been cooperating fully with the agencies that are re-  
6           sponsible for issuing a Federal refinery authoriza-  
7           tion, and any other relevant materials in the consoli-  
8           dated record. Taking into consideration those fac-  
9           tors, if the Court finds that a failure to act de-  
10          scribed in paragraph (1) has occurred, and that such  
11          failure to act would jeopardize timely completion of  
12          the entire schedule as established in the memo-  
13          randum of agreement, the Court shall establish a  
14          new schedule that is the most expeditious coordi-  
15          nated schedule possible for completion of pro-  
16          ceedings, consistent with the full substantive and  
17          procedural review required by Federal law. The  
18          court may issue orders to enforce any schedule it es-  
19          tablishes under this paragraph.

20           (4) FEDERAL COORDINATOR'S ACTION.—When  
21          any civil action is brought under this subsection, the  
22          Federal coordinator shall immediately file with the  
23          Court the consolidated record compiled by the Fed-  
24          eral coordinator pursuant to subsection (c).

1           (5) EXPEDITED REVIEW.—The Court shall set  
2           any civil action brought under this subsection for ex-  
3           pedited consideration.

4 **SEC. 175. DESIGNATION OF CLOSED MILITARY BASES.**

5           (a) DESIGNATION REQUIREMENT.—Not later than  
6 90 days after the date of enactment of this Act, the Presi-  
7 dent shall designate no less than 3 closed military installa-  
8 tions, or portions thereof, as potentially suitable for the  
9 construction of a refinery. At least 1 such site shall be  
10 designated as potentially suitable for construction of a re-  
11 finery to refine biomass in order to produce biofuel.

12          (b) REDEVELOPMENT AUTHORITY.—The redevelop-  
13 ment authority for each installation designated under sub-  
14 section (a), in preparing or revising the redevelopment  
15 plan for the installation, shall consider the feasibility and  
16 practicability of siting a refinery on the installation.

17          (c) MANAGEMENT AND DISPOSAL OF REAL PROP-  
18 erty.—The Secretary of Defense, in managing and dis-  
19 posing of real property at an installation designated under  
20 subsection (a) pursuant to the base closure law applicable  
21 to the installation, shall give substantial deference to the  
22 recommendations of the redevelopment authority, as con-  
23 tained in the redevelopment plan for the installation, re-  
24 garding the siting of a refinery on the installation. The  
25 management and disposal of real property at a closed mili-

1 tary installation or portion thereof found to be suitable  
2 for the siting of a refinery under subsection (a) shall be  
3 carried out in the manner provided by the base closure  
4 law applicable to the installation.

5 (d) DEFINITIONS.—For purposes of this section—

6 (1) the term “base closure law” means the De-  
7 fense Base Closure and Realignment Act of 1990  
8 (part A of title XXIX of Public Law 101–510; 10  
9 U.S.C. 2687 note) and title II of the Defense Au-  
10 thorization Amendments and Base Closure and Re-  
11 alignment Act (Public Law 100–526; 10 U.S.C.  
12 2687 note); and

13 (2) the term “closed military installation”  
14 means a military installation closed or approved for  
15 closure pursuant to a base closure law.

16 **SEC. 176. SAVINGS CLAUSE.**

17 Nothing in this subtitle shall be construed to affect  
18 the application of any environmental or other law, or to  
19 prevent any party from bringing a cause of action under  
20 any environmental or other law, including citizen suits.

21 **SEC. 177. REFINERY REVITALIZATION REPEAL.**

22 Subtitle H of title III of the Energy Policy Act of  
23 2005 and the items relating thereto in the table of con-  
24 tents of such Act are repealed.



1     **TITLE II—CONSERVATION AND**  
2                     **EFFICIENCY**  
3     **Subtitle A—Tax Incentives for Fuel**  
4                     **Efficiency**

5     **SEC. 201. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL**  
6                     **VEHICLES.**

7             Paragraph (4) of section 30B(j) of the Internal Rev-  
8     enue Code of 1986 is amended by striking “December 31,  
9     2010” and inserting “December 31, 2020”.

10    **SEC. 202. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**  
11                     **FUELING PROPERTY CREDIT.**

12             Paragraph (1) of section 30C(g) of the Internal Rev-  
13     enue Code of 1986 is amended—

14                 (1) by striking “hydrogen,” and inserting “hy-  
15     drogen or alternative fuels (as defined in section  
16     30B(e)(4)(B)),”, and

17                 (2) by striking “December 31, 2014” and in-  
18     serting “December 31, 2020”.

19    **SEC. 203. EXTENSION OF CREDIT FOR NEW QUALIFIED**  
20                     **PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

21             (a) IN GENERAL.—Section 30D of the Internal Rev-  
22     enue Code of 1986 is amended by adding at the end the  
23     following new subsection:

24                 “(g) TERMINATION.—This section shall not apply to  
25     property placed in service after December 31, 2020.”.

1 (b) REPEAL OF LIMITATION ON NUMBER OF NEW  
2 QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES  
3 ELIGIBLE FOR CREDIT.—Section 30D of such Code, as  
4 amended by subsection (a), is amended by striking sub-  
5 section (e) and redesignating subsections (f) and (g) as  
6 subsections (e) and (f), respectively.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 1016(a)(37) of such Code is amend-  
9 ed by striking “section 30D(f)(1)” and inserting  
10 “section 30D(e)(1)”.

11 (2) Section 6501(m) of such Code is amended  
12 by striking “section 30D(e)(4)” and inserting “sec-  
13 tion 30D(e)(4)”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to vehicles acquired after Decem-  
16 ber 31, 2009.

17 **Subtitle B—Tapping America’s**  
18 **Ingenuity and Creativity**

19 **SEC. 211. DEFINITIONS.**

20 In this subtitle:

21 (1) ADMINISTERING ENTITY.—The term “ad-  
22 ministering entity” means the entity with which the  
23 Secretary enters into an agreement under section  
24 214(c).

1           (2) DEPARTMENT.—The term “Department”  
2 means the Department of Energy.

3           (3) SECRETARY.—The term “Secretary” means  
4 the Secretary of Energy.

5 **SEC. 212. STATEMENT OF POLICY.**

6           It is the policy of the United States to provide incen-  
7 tives to encourage the development and implementation of  
8 innovative energy technologies and new energy sources  
9 that will reduce our reliance on foreign energy.

10 **SEC. 213. PRIZE AUTHORITY.**

11           (a) IN GENERAL.—The Secretary shall carry out a  
12 program to competitively award cash prizes in conformity  
13 with this subtitle to advance the research, development,  
14 demonstration, and commercial application of innovative  
15 energy technologies and new energy sources.

16           (b) ADVERTISING AND SOLICITATION OF COMPETI-  
17 TORS.—

18           (1) ADVERTISING.—The Secretary shall widely  
19 advertise prize competitions to encourage broad par-  
20 ticipation in the program carried out under sub-  
21 section (a), including individuals, universities, com-  
22 munities, and large and small businesses.

23           (2) ANNOUNCEMENT THROUGH FEDERAL REG-  
24 ISTER NOTICE.—The Secretary shall announce each  
25 prize competition by publishing a notice in the Fed-

1       eral Register. This notice shall include essential ele-  
2       ments of the competition such as the subject of the  
3       competition, the duration of the competition, the eli-  
4       gibility requirements for participation in the com-  
5       petition, the process for participants to register for  
6       the competition, the amount of the prize, and the  
7       criteria for awarding the prize.

8       (c) ADMINISTERING THE COMPETITION.—The Sec-  
9       retary may enter into an agreement with a private, non-  
10      profit entity to administer the prize competitions, subject  
11      to the provisions of this subtitle. The administering entity  
12      shall perform the following functions:

13           (1) Advertise the competition and its results.

14           (2) Raise funds from private entities and indi-  
15      viduals to pay for administrative costs and cash  
16      prizes.

17           (3) Develop, in consultation with and subject to  
18      the final approval of the Secretary, criteria to select  
19      winners based upon the goal of safely and ade-  
20      quately storing nuclear used fuel.

21           (4) Determine, in consultation with and subject  
22      to the final approval of the Secretary, the appro-  
23      priate amount of the awards.

24           (5) Protect against the administering entity's  
25      unauthorized use or disclosure of a registered par-

1        ticipant’s intellectual property, trade secrets, and  
2        confidential business information. Any information  
3        properly identified as trade secrets or confidential  
4        business information that is submitted by a partici-  
5        pant as part of a competitive program under this  
6        subtitle may be withheld from public disclosure.

7            (6) Develop and promulgate sufficient rules to  
8        define the parameters of designing and proposing in-  
9        novative energy technologies and new energy sources  
10       with input from industry, citizens, and corporations  
11       familiar with such activities.

12        (d) FUNDING SOURCES.—Prizes under this subtitle  
13       may consist of Federal appropriated funds, funds provided  
14       by the administering entity, or funds raised through  
15       grants or donations. The Secretary may accept funds from  
16       other Federal agencies for such cash prizes and, notwith-  
17       standing section 3302(b) of title 31, United States Code,  
18       may use such funds for the cash prize program. Other  
19       than publication of the names of prize sponsors, the Sec-  
20       retary may not give any special consideration to any pri-  
21       vate sector entity or individual in return for a donation  
22       to the Secretary or administering entity.

23        (e) ANNOUNCEMENT OF PRIZES.—The Secretary  
24       may not publish a notice required by subsection (b)(2)  
25       until all the funds needed to pay out the announced

1 amount of the prize have been appropriated to the Depart-  
2 ment or the Department has received from the admin-  
3 istering entity a written commitment to provide all nec-  
4 essary funds.

5 **SEC. 214. ELIGIBILITY.**

6 To be eligible to win a prize under this subtitle, an  
7 individual or entity—

8 (1) shall notify the administering entity of in-  
9 tent to submit ideas and intent to collect the prize  
10 upon selection;

11 (2) shall comply with all the requirements stat-  
12 ed in the Federal Register notice required under sec-  
13 tion 213(b)(2);

14 (3) in the case of a private entity, shall be in-  
15 corporated in and maintain a primary place of busi-  
16 ness in the United States, and in the case of an in-  
17 dividual, whether participating singly or in a group,  
18 shall be a citizen of the United States;

19 (4) shall not be a Federal entity, a Federal em-  
20 ployee acting within the scope of his or her employ-  
21 ment, or an employee of a national laboratory acting  
22 within the scope of employment;

23 (5) shall not use Federal funding or other Fed-  
24 eral resources to compete for the prize; and

1           (6) shall not be an entity acting on behalf of  
2           any foreign government or agent.

3 **SEC. 215. INTELLECTUAL PROPERTY.**

4           The Federal Government shall not, by virtue of offer-  
5           ing or awarding a prize under this subtitle, be entitled to  
6           any intellectual property rights derived as a consequence  
7           of, or in direct relation to, the participation by a registered  
8           participant in a competition authorized by this subtitle.  
9           This section shall not be construed to prevent the Federal  
10          Government from negotiating a license for the use of intel-  
11          lectual property developed for a prize competition under  
12          this subtitle. The Federal Government may seek assur-  
13          ances that technologies for which prizes are awarded  
14          under this subtitle are offered for commercialization in the  
15          event an award recipient does not take, or is not expected  
16          to take within a reasonable time, effective steps to achieve  
17          practical application of the technology.

18 **SEC. 216. WAIVER OF LIABILITY.**

19          The Secretary may require registered participants to  
20          waive claims against the Federal Government and the ad-  
21          ministering entity (except claims for willful misconduct)  
22          for any injury, death, damage, or loss of property, revenue,  
23          or profits arising from the registered participants' partici-  
24          pation in a competition under this subtitle. The Secretary  
25          shall give notice of any waiver required under this section

1 in the notice required by section 213(b)(2). The Secretary  
2 may not require a registered participant to waive claims  
3 against the administering entity arising out of the unau-  
4 thorized use or disclosure by the administering entity of  
5 the registered participant's intellectual property, trade se-  
6 crets, or confidential business information.

7 **SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) AWARDS.—Forty percent of amounts in the  
9 American Energy Trust Fund shall be available without  
10 further appropriation to carry out specified provisions of  
11 this section.

12 (b) TREATMENT OF AWARDS.—Amounts received  
13 pursuant to an award under this subtitle may not be taxed  
14 by any Federal, State, or local authority.

15 (c) ADMINISTRATION.—In addition to the amounts  
16 authorized under subsection (a), there are authorized to  
17 be appropriated to the Secretary for each of fiscal years  
18 2009 through 2020 \$2,000,000 for the administrative  
19 costs of carrying out this subtitle.

20 (d) CARRYOVER OF FUNDS.—Funds appropriated for  
21 prize awards under this subtitle shall remain available  
22 until expended and may be transferred, reprogrammed, or  
23 expended for other purposes only after the expiration of  
24 11 fiscal years after the fiscal year for which the funds  
25 were originally appropriated. No provision in this subtitle



1 permits obligation or payment of funds in violation of sec-  
2 tion 1341 of title 31, United States Code.

3 **SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PRO-**  
4 **GRAM.**

5 The Secretary of Energy shall establish a program  
6 to award a prize in the amount of \$500,000,000 to the  
7 first automobile manufacturer incorporated in the United  
8 States to manufacture and sell in the United States  
9 50,000 midsize sedan automobiles which operate on gaso-  
10 line and can travel 100 miles per gallon.

11 **SEC. 219. ADVANCED BATTERY MANUFACTURING INCEN-**  
12 **TIVE PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) ADVANCED BATTERY.—The term “advanced  
15 battery” means an electrical storage device suitable  
16 for vehicle applications.

17 (2) ENGINEERING INTEGRATION COSTS.—The  
18 term “engineering integration costs” includes the  
19 cost of engineering tasks relating to—

20 (A) incorporation of qualifying components  
21 into the design of advanced batteries; and

22 (B) design of tooling and equipment and  
23 developing manufacturing processes and mate-  
24 rial suppliers for production facilities that

1           produce qualifying components or advanced bat-  
2           teries.

3           (b) **ADVANCED BATTERY MANUFACTURING FACIL-**  
4 **ITY.**—The Secretary shall provide facility funding awards  
5 under this section to advanced battery manufacturers to  
6 pay not more than 30 percent of the cost of reequipping,  
7 expanding, or establishing a manufacturing facility in the  
8 United States to produce advanced batteries.

9           (c) **PERIOD OF AVAILABILITY.**—An award under sub-  
10 section (b) shall apply to—

11           (1) facilities and equipment placed in service  
12           before December 30, 2020; and

13           (2) engineering integration costs incurred dur-  
14           ing the period beginning on the date of enactment  
15           of this Act and ending on December 30, 2020.

16           (d) **DIRECT LOAN PROGRAM.**—

17           (1) **IN GENERAL.**—Not later than 1 year after  
18           the date of enactment of this subtitle, and subject to  
19           the availability of appropriated funds, the Secretary  
20           shall carry out a program to provide a total of not  
21           more than \$100,000,000 in loans to eligible individ-  
22           uals and entities (as determined by the Secretary)  
23           for the costs of activities described in subsection (b).

24           (2) **SELECTION OF ELIGIBLE PROJECTS.**—The  
25           Secretary shall select eligible projects to receive

1 loans under this subsection in cases in which, as de-  
2 termined by the Secretary, the award recipient—

3 (A) is financially viable without the receipt  
4 of additional Federal funding associated with  
5 the proposed project;

6 (B) will provide sufficient information to  
7 the Secretary for the Secretary to ensure that  
8 the qualified investment is expended efficiently  
9 and effectively; and

10 (C) has met such other criteria as may be  
11 established and published by the Secretary.

12 (3) RATES, TERMS, AND REPAYMENT OF  
13 LOANS.—A loan provided under this subsection—

14 (A) shall have an interest rate that, as of  
15 the date on which the loan is made, is equal to  
16 the cost of funds to the Department of the  
17 Treasury for obligations of comparable matu-  
18 rity;

19 (B) shall have a term equal to the lesser  
20 of—

21 (i) the projected life, in years, of the  
22 eligible project to be carried out using  
23 funds from the loan, as determined by the  
24 Secretary; and

25 (ii) 25 years;

1           (C) may be subject to a deferral in repay-  
2           ment for not more than 5 years after the date  
3           on which the eligible project carried out using  
4           funds from the loan first begins operations, as  
5           determined by the Secretary; and

6           (D) shall be made by the Federal Financ-  
7           ing Bank.

8           (e) FEES.—The cost of administering a loan made  
9           under this section shall not exceed \$100,000.

10          (f) SET ASIDE FOR SMALL MANUFACTURERS.—

11           (1) DEFINITION OF COVERED FIRM.—In this  
12           subsection, the term “covered firm” means a firm  
13           that—

14           (A) employs fewer than 500 individuals;  
15           and

16           (B) manufactures automobiles or compo-  
17           nents of automobiles.

18           (2) SET ASIDE.—Of the amount of funds used  
19           to provide awards for each fiscal year under sub-  
20           section (b), the Secretary shall use not less than 10  
21           percent to provide awards to covered firms or con-  
22           sortia led by a covered firm.

23          (g) AUTHORIZATION OF APPROPRIATIONS.—There  
24          are authorized to be appropriated from the American En-

1 ergy Trust Fund such sums as are necessary to carry out  
2 this section for each of fiscal years 2009 through 2013.

3       **Subtitle C—Home and Business**  
4               **Tax Incentives**

5       **SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT**  
6               **APPLIANCES.**

7           (a) IN GENERAL.—Subsection (b) of section 45M of  
8 the Internal Revenue Code of 1986 (relating to applicable  
9 amount) is amended—

10               (1) in paragraph (1)—

11                       (A) by striking “2008 or 2009” in sub-  
12 paragraph (A) and inserting “2008, 2009,  
13 2010, 2011, or 2012”, and

14                       (B) by striking “2008, 2009, or 2010” in  
15 subparagraph (B) and inserting “2008, 2009,  
16 2010, 2011, 2012, or 2013”,

17               (2) in paragraph (2)—

18                       (A) by striking “2008 or 2009” in sub-  
19 paragraph (B) and inserting “2008, 2009,  
20 2010, 2011, or 2012”,

21                       (B) by striking “2008, 2009, or 2010” in  
22 subparagraph (C) and inserting “2008, 2009,  
23 2010, 2011, 2012, or 2013”, and

1 (C) by striking “2008, 2009, or 2010” in  
2 subparagraph (D) and inserting “2008, 2009,  
3 2010, 2011, 2012, or 2013”, and  
4 (3) in paragraph (3)—

5 (A) by striking “2008 or 2009” in sub-  
6 paragraph (B) and inserting “2008, 2009,  
7 2010, 2011, or 2012”,

8 (B) by striking “2008, 2009, or 2010” in  
9 subparagraph (C) and inserting “2008, 2009,  
10 2010, 2011, 2012, or 2013”, and

11 (C) by striking “2008, 2009, or 2010” in  
12 subparagraph (D) and inserting “2008, 2009,  
13 2010, 2011, 2012, or 2013”.

14 (b) INCREASE IN AGGREGATE CREDIT AMOUNT AL-  
15 LOWED.—Paragraph (1) of section 45M(e) of such Code  
16 (relating to aggregate credit amount allowed) is amended  
17 by striking “\$75,000,000” and inserting “\$100,000,000”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to appliances produced after De-  
20 cember 31, 2009.

21 **SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS EN-**  
22 **ERGY PROPERTY.**

23 (a) IN GENERAL.—Section 25C(g) of the Internal  
24 Revenue Code of 1986 (relating to termination) is amend-

1 ed by striking “December 31, 2010” and inserting “De-  
2 cember 31, 2020”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to property placed in service after  
5 December 31, 2007.

6 **SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL EN-  
7 ENERGY EFFICIENT PROPERTY.**

8 Section 25D(g) of the Internal Revenue Code of 1986  
9 (relating to termination) is amended by striking “Decem-  
10 ber 31, 2016” and inserting “December 31, 2020”.

11 **SEC. 224. EXTENSION OF NEW ENERGY EFFICIENT HOME  
12 CREDIT.**

13 Subsection (g) of section 45L of the Internal Revenue  
14 Code of 1986 (relating to termination) is amended by  
15 striking “December 31, 2009” and inserting “December  
16 31, 2020”.

17 **SEC. 225. EXTENSION OF ENERGY EFFICIENT COMMERCIAL  
18 BUILDINGS DEDUCTION.**

19 Section 179D(h) of the Internal Revenue Code of  
20 1986 (relating to termination) is amended by striking  
21 “December 31, 2013” and inserting “December 31,  
22 2020”.

1 **SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT**  
2 **FERC AND STATE ELECTRIC RESTRUC-**  
3 **TURING POLICY.**

4 (a) IN GENERAL.—Paragraph (3) of section 451(i)  
5 of the Internal Revenue Code of 1986 is amended by strik-  
6 ing “January 1, 2008” and inserting “January 1, 2021”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to transactions after December  
9 31, 2008.

10 **SEC. 227. HOME ENERGY AUDITS.**

11 (a) IN GENERAL.—Subpart A of part IV of sub-  
12 chapter A of chapter 1 of the Internal Revenue Code of  
13 1986 is amended by inserting after section 25D the fol-  
14 lowing new section:

15 **“SEC. 25E. HOME ENERGY AUDITS.**

16 “(a) IN GENERAL.—In the case of an individual,  
17 there shall be allowed as a credit against the tax imposed  
18 by this chapter for the taxable year an amount equal to  
19 50 percent of the amount of qualified energy audit paid  
20 or incurred by the taxpayer during the taxable year.

21 “(b) LIMITATIONS.—

22 “(1) DOLLAR LIMITATION.—The amount al-  
23 lowed as a credit under subsection (a) with respect  
24 to a residence of the taxpayer for a taxable year  
25 shall not exceed \$400.



1           “(2) LIMITATION BASED ON AMOUNT OF  
2 TAX.—In the case of any taxable year to which sec-  
3 tion 26(a)(2) does not apply, the credit allowed  
4 under subsection (a) shall not exceed the excess of—

5           “(A) the sum of the regular tax liability  
6 (as defined in section 26(b)) plus the tax im-  
7 posed by section 55, over

8           “(B) the sum of the credits allowable  
9 under this subpart (other than this section) and  
10 section 27 for the taxable year.

11       “(c) QUALIFIED ENERGY AUDIT.—For purposes of  
12 this section, the term ‘qualified energy audit’ means an  
13 energy audit of the principal residence of the taxpayer per-  
14 formed by a qualified energy auditor through a com-  
15 prehensive site visit. Such audit may include a blower door  
16 test, an infra-red camera test, and a furnace combustion  
17 efficiency test. In addition, such audit shall include such  
18 substitute tests for the tests specified in the preceding sen-  
19 tence, and such additional tests, as the Secretary may by  
20 regulation require. A principal residence shall not be taken  
21 into consideration under this subparagraph unless such  
22 residence is located in the United States.

23       “(d) PRINCIPAL RESIDENCE.—For purposes of this  
24 section, the term ‘principal residence’ has the same mean-  
25 ing as when used in section 121.

1 “(e) QUALIFIED ENERGY AUDITOR.—

2 “(1) IN GENERAL.—The Secretary shall specify  
3 by regulations the qualifications required to be a  
4 qualified energy auditor for purposes of this section.  
5 Such regulations shall include rules prohibiting con-  
6 flicts-of-interest, including the disallowance of com-  
7 missions or other payments based on goods or non-  
8 audit services purchased by the taxpayer from the  
9 auditor.

10 “(2) CERTIFICATION.—The Secretary shall pre-  
11 scribe the procedures and methods for certifying  
12 that an auditor is a qualified energy auditor. To the  
13 maximum extent practicable, such procedures and  
14 methods shall provide for a variety of sources to ob-  
15 tain certifications.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 23(b)(4)(B) of the Internal Revenue  
18 Code of 1986 is amended by striking “section 25D”  
19 and inserting “sections 25D and 25E”.

20 (2) Section 23(c)(1) of such Code is amended  
21 by striking “25D and” and inserting “25D, 25E,  
22 and”.

23 (3) Section 24(b)(3)(B) of such Code is amend-  
24 ed by inserting “25E,” after “25D,”.

1           (4) Clauses (i) and (ii) of section 25(e)(1)(C) of  
2 such Code are each amended by inserting “25E,”  
3 after “25D,”.

4           (5) Section 25B(g)(2) of such Code is amended  
5 by inserting “25E,” after “25D,”.

6           (6) Section 25D(c)(1)(B) of such Code is  
7 amended by inserting “and section 25E” after “this  
8 section”.

9           (7) Section 25D(c)(2)(A) of such Code is  
10 amended by inserting “and section 25E” after “this  
11 section”.

12           (8) The table of sections for subpart A of part  
13 IV of subchapter A chapter 1 of such Code is  
14 amended by inserting after the item relating to sec-  
15 tion 25D the following new item:

“Sec. 25E. Home energy audits.”.

16           (c) EFFECTIVE DATE.—

17           (1) IN GENERAL.—The amendments made by  
18 this section shall apply to amounts paid or incurred  
19 in taxable years beginning after the date of the en-  
20 actment of this Act.

21           (2) APPLICATION OF EGTRRA SUNSET.—The  
22 amendments made by paragraphs (1) and (3) of  
23 subsection (b) shall be subject to title IX of the Eco-  
24 nomic Growth and Tax Relief Reconciliation Act of

1 2001 in the same manner as the provisions of such  
2 Act to which such amendments relate.

3 **SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
4 **CIATION OF SMART METERS.**

5 (a) IN GENERAL.—Section 168(e)(3)(B) of the Inter-  
6 nal Revenue Code of 1986 is amended by striking “and”  
7 at the end of clause (vi), by striking the period at the end  
8 of clause (vii) and inserting “, and”, and by inserting after  
9 clause (vii) the following new clause:

10 “(viii) any qualified smart electric  
11 meter.”.

12 (b) CONFORMING AMENDMENT.—Section  
13 168(e)(3)(D) of such Code is amended by striking clause  
14 (iii) and redesignating clause (iv) as clause (iii).

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

18 **TITLE III—NEW AND EXPANDING**  
19 **TECHNOLOGIES**  
20 **Subtitle A—Alternative Fuels**

21 **SEC. 301. REPEAL.**

22 Section 526 of the Energy Independence and Security  
23 Act of 2007 (42 U.S.C. 17142) is repealed.

1 **SEC. 302. GOVERNMENT AUCTION OF LONG-TERM PUT OP-**  
2 **TION CONTRACTS ON COAL-TO-LIQUID FUEL**  
3 **PRODUCED BY QUALIFIED COAL-TO-LIQUID**  
4 **FACILITIES.**

5 (a) IN GENERAL.—The Secretary shall, from time to  
6 time, auction to the public coal-to-liquid fuel put option  
7 contracts having expiration dates of 5 years, 10 years, 15  
8 years, or 20 years.

9 (b) CONSULTATION WITH SECRETARY OF EN-  
10 ERGY.—The Secretary shall consult with the Secretary of  
11 Energy regarding—

- 12 (1) the frequency of the auctions;
- 13 (2) the strike prices specified in the contracts;
- 14 (3) the number of contracts to be auctioned  
15 with a given strike price and expiration date; and
- 16 (4) the capacity of existing or planned facilities  
17 to produce coal-to-liquid fuel.

18 (c) DEFINITIONS.—In this section:

19 (1) COAL-TO-LIQUID FUEL.—The term “coal-to-  
20 liquid fuel” means any transportation-grade liquid  
21 fuel derived primarily from coal (including peat) and  
22 produced at a qualified coal-to-liquid facility.

23 (2) COAL-TO-LIQUID PUT OPTION CONTRACT.—  
24 The term “coal-to-liquid put option contract” means  
25 a contract, written by the Secretary, which—

1 (A) gives the holder the right (but not the  
2 obligation) to sell to the Government of the  
3 United States a certain quantity of a specific  
4 type of coal-to-liquid fuel produced by a quali-  
5 fied coal-to-liquid facility specified in the con-  
6 tract, at a strike price specified in the contract,  
7 on or before an expiration date specified in the  
8 contract; and

9 (B) is transferable by the holder to any  
10 other entity.

11 (3) QUALIFIED COAL-TO-LIQUID FACILITY.—

12 The term “qualified coal-to-liquid facility” means a  
13 manufacturing facility that has the capacity to  
14 produce at least 10,000 barrels per day of transpor-  
15 tation grade liquid fuels from a feedstock that is pri-  
16 marily domestic coal (including peat and any prop-  
17 erty which allows for the capture, transportation, or  
18 sequestration of by-products resulting from such  
19 process, including carbon emissions).

20 (4) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Treasury.

22 (5) STRIKE PRICE.—The term “strike price”  
23 means, with respect to a put option contract, the  
24 price at which the holder of the contract has the

1 right to sell the fuel which is the subject of the con-  
2 tract.

3 (d) REGULATIONS.—The Secretary shall prescribe  
4 such regulations as may be necessary to carry out this  
5 section.

6 (e) EFFECTIVE DATE.—This section shall take effect  
7 1 year after the date of the enactment of this Act.

8 **SEC. 303. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQ-  
9 UIDS PROJECTS.**

10 Section 1702 of the Energy Policy Act of 2005 (42  
11 U.S.C. 16512) is amended by adding at the end the fol-  
12 lowing new subsection:

13 “(k) STANDBY LOANS FOR QUALIFYING CTL  
14 PROJECTS.—

15 “(1) DEFINITIONS.—For purposes of this sub-  
16 section:

17 “(A) CAP PRICE.—The term ‘cap price’  
18 means a market price specified in the standby  
19 loan agreement above which the project is re-  
20 quired to make payments to the United States.

21 “(B) FULL TERM.—The term ‘full term’  
22 means the full term of a standby loan agree-  
23 ment, as specified in the agreement, which shall  
24 not exceed the lesser of 30 years or 90 percent

1 of the projected useful life of the project (as de-  
2 termined by the Secretary).

3 “(C) MARKET PRICE.—The term ‘market  
4 price’ means the average quarterly price of a  
5 petroleum price index specified in the standby  
6 loan agreement.

7 “(D) MINIMUM PRICE.—The term ‘min-  
8 imum price’ means a market price specified in  
9 the standby loan agreement below which the  
10 United States is obligated to make disburse-  
11 ments to the project.

12 “(E) OUTPUT.—The term ‘output’ means  
13 some or all of the liquid or gaseous transpor-  
14 tation fuels produced from the project, as speci-  
15 fied in the loan agreement.

16 “(F) PRIMARY TERM.—The term ‘primary  
17 term’ means the initial term of a standby loan  
18 agreement, as specified in the agreement, which  
19 shall not exceed the lesser of 20 years or 75  
20 percent of the projected useful life of the  
21 project (as determined by the Secretary).

22 “(G) QUALIFYING CTL PROJECT.—The  
23 term ‘qualifying CTL project’ means—



1           “(i) a commercial-scale project that  
2           converts coal to one or more liquid or gas-  
3           eous transportation fuels; or

4           “(ii) not more than one project at a  
5           facility that converts petroleum refinery  
6           waste products, including petroleum coke,  
7           into one or more liquids or gaseous trans-  
8           portation fuels,

9           that demonstrates the capture, and sequestra-  
10          tion or disposal or use of, the carbon dioxide  
11          produced in the conversion process, and that,  
12          on the basis of a carbon dioxide sequestration  
13          plan prepared by the applicant, is certified by  
14          the Administrator of the Environmental Protec-  
15          tion Agency, in consultation with the Secretary,  
16          as producing fuel with life cycle carbon dioxide  
17          emissions at or below the average life cycle car-  
18          bon dioxide emissions for the same type of fuel  
19          produced at traditional petroleum based facili-  
20          ties with similar annual capacities.

21           “(H) STANDBY LOAN AGREEMENT.—The  
22          term ‘standby loan agreement’ means a loan  
23          agreement entered into under paragraph (2).

24           “(2) STANDBY LOANS.—

1           “(A) LOAN AUTHORITY.—The Secretary  
2           may enter into standby loan agreements with  
3           not more than six qualifying CTL projects, at  
4           least one of which shall be a project jointly or  
5           in part owned by two or more small coal pro-  
6           ducers. Such an agreement—

7                   “(i) shall provide that the Secretary  
8                   will make a direct loan (within the mean-  
9                   ing of section 502(1) of the Federal Credit  
10                  Reform Act of 1990) to the qualifying  
11                  CTL project; and

12                  “(ii) shall set a cap price and a min-  
13                  imum price for the primary term of the  
14                  agreement.

15           “(B) LOAN DISBURSEMENTS.—Such a loan  
16           shall be disbursed during the primary term of  
17           such agreement whenever the market price falls  
18           below the minimum price. The amount of such  
19           disbursements in any calendar quarter shall be  
20           equal to the excess of the minimum price over  
21           the market price, times the output of the  
22           project (but not more than a total level of dis-  
23           bursements specified in the agreement).

24           “(C) LOAN REPAYMENTS.—The Secretary  
25           shall establish terms and conditions, including

1 interest rates and amortization schedules, for  
2 the repayment of such loan within the full term  
3 of the agreement, subject to the following limi-  
4 tations:

5 “(i) If in any calendar quarter during  
6 the primary term of the agreement the  
7 market price is less than the cap price, the  
8 project may elect to defer some or all of its  
9 repayment obligations due in that quarter.  
10 Any unpaid obligations will continue to ac-  
11 crue interest.

12 “(ii) If in any calendar quarter during  
13 the primary term of the agreement the  
14 market price is greater than the cap price,  
15 the project shall meet its scheduled repay-  
16 ment obligation plus deferred repayment  
17 obligations, but shall not be required to  
18 pay in that quarter an amount that is  
19 more than the excess of the market price  
20 over the cap price, times the output of the  
21 project.

22 “(iii) At the end of the primary term  
23 of the agreement, the cumulative amount  
24 of any deferred repayment obligations, to-  
25 gether with accrued interest, shall be am-

1           authorized (with interest) over the remainder  
2           of the full term of the agreement.

3           “(3) PROFIT-SHARING.—The Secretary is au-  
4           thorized to enter into a profit-sharing agreement  
5           with the project at the time the standby loan agree-  
6           ment is executed. Under such an agreement, if the  
7           market price exceeds the cap price in a calendar  
8           quarter, a profit-sharing payment shall be made for  
9           that quarter, in an amount equal to—

10           “(A) the excess of the market price over  
11           the cap price, times the output of the project;  
12           less

13           “(B) any loan repayments made for the  
14           calendar quarter.

15           “(4) COMPLIANCE WITH FEDERAL CREDIT RE-  
16           FORM ACT.—

17           “(A) UPFRONT PAYMENT OF COST OF  
18           LOAN.—No standby loan agreement may be en-  
19           tered into under this subsection unless the  
20           project makes a payment to the United States  
21           that the Office of Management and Budget de-  
22           termines is equal to the cost of such loan (de-  
23           termined under 502(5)(B) of the Federal Credit  
24           Reform Act of 1990). Such payment shall be

1           made at the time the standby loan agreement is  
2           executed.

3           “(B) MINIMIZATION OF RISK TO THE GOV-  
4           ERNMENT.—In making the determination of the  
5           cost of the loan for purposes of setting the pay-  
6           ment for a standby loan under subparagraph  
7           (A), the Secretary and the Office of Manage-  
8           ment and Budget shall take into consideration  
9           the extent to which the minimum price and the  
10          cap price reflect historical patterns of volatility  
11          in actual oil prices relative to projections of fu-  
12          ture oil prices, based upon publicly available  
13          data from the Energy Information Administra-  
14          tion, and employing statistical methods and  
15          analyses that are appropriate for the analysis of  
16          volatility in energy prices.

17          “(C) TREATMENT OF PAYMENTS.—The  
18          value to the United States of a payment under  
19          subparagraph (A) and any profit-sharing pay-  
20          ments under paragraph (3) shall be taken into  
21          account for purposes of section 502(5)(B)(iii) of  
22          the Federal Credit Reform Act of 1990 in de-  
23          termining the cost to the Federal Government  
24          of a standby loan made under this subsection.  
25          If a standby loan has no cost to the Federal

1 Government, the requirements of section 504(b)  
2 of such Act shall be deemed to be satisfied.

3 “(5) OTHER PROVISIONS.—

4 “(A) NO DOUBLE BENEFIT.—A project re-  
5 ceiving a loan under this subsection may not,  
6 during the primary term of the loan agreement,  
7 receive a Federal loan guarantee under sub-  
8 section (a) of this section, or under other laws.

9 “(B) SUBROGATION, ETC.—Subsections  
10 (g)(2) (relating to subrogation), (h) (relating to  
11 fees), and (j) (relating to full faith and credit)  
12 shall apply to standby loans under this sub-  
13 section to the same extent they apply to loan  
14 guarantees.”.

## 15 **Subtitle B—Tax Provisions**

### 16 **SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, RE-** 17 **FINED COAL, AND INDIAN COAL PRODUCTION** 18 **CREDIT.**

19 (a) CREDIT MADE PERMANENT.—

20 (1) IN GENERAL.—Subsection (d) of section 45  
21 of the Internal Revenue Code of 1986 (relating to  
22 qualified facilities) is amended—

23 (A) by striking “and before January 1,  
24 2014” each place it occurs,

1 (B) by striking “, and before January 1,  
2 2013” in paragraph (1), and

3 (C) by striking “before January 1, 2009”  
4 in paragraph (10).

5 (2) OPEN-LOOP BIOMASS FACILITIES.—Sub-  
6 paragraph (A) of section 45(d)(3) of such Code is  
7 amended to read as follows:

8 “(A) IN GENERAL.—In the case of a facil-  
9 ity using open-loop biomass to produce elec-  
10 tricity, the term ‘qualified facility’ means any  
11 facility owned by the taxpayer which is origi-  
12 nally placed in service after October 22, 2004.”.

13 (3) EFFECTIVE DATE.—The amendments made  
14 by this subsection shall apply to electricity produced  
15 and sold after December 31, 2009, in taxable years  
16 ending after such date.

17 (b) SALES OF NET ELECTRICITY TO REGULATED  
18 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED  
19 PERSONS.—Paragraph (4) of section 45(e) of such Code  
20 is amended by adding at the end the following new sen-  
21 tence: “The net amount of electricity sold by any taxpayer  
22 to a regulated public utility (as defined in section  
23 7701(a)(33)) shall be treated as sold to an unrelated per-  
24 son.”.

1 (c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM  
2 TAX.—

3 (1) IN GENERAL.—Clause (iii) of section  
4 38(c)(4)(B) of such Code (relating to specified cred-  
5 its) is amended by striking “produced—” and all  
6 that follows and inserting “produced at a facility  
7 which is originally placed in service after the date of  
8 the enactment of this paragraph.”.

9 (2) EFFECTIVE DATE.—The amendment made  
10 by paragraph (1) shall apply to taxable years begin-  
11 ning after the date of the enactment of this Act.

12 **SEC. 312. EXTENSION OF ENERGY CREDIT.**

13 (a) SOLAR ENERGY PROPERTY.—Paragraphs  
14 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal  
15 Revenue Code of 1986 (relating to energy credit) are each  
16 amended by striking “but only with respect to periods end-  
17 ing before January 1, 2017”.

18 (b) FUEL CELL PROPERTY.—Section 48(c)(1) of  
19 such Code (relating to qualified fuel cell property) is  
20 amended by striking subparagraph (D).

21 (c) MICROTURBINE PROPERTY.—Subparagraph (D)  
22 of section 48(c)(2) of the Internal Revenue Code of 1986  
23 (relating to qualified microturbine property) is amended  
24 by striking “December 31, 2016” and inserting “Decem-  
25 ber 31, 2020”.



1 **SEC. 313. EXTENSION AND MODIFICATION OF CREDIT FOR**  
2 **CLEAN RENEWABLE ENERGY BONDS.**

3 (a) **EXTENSION.**—Section 54(m) of the Internal Rev-  
4 enue Code of 1986 (relating to termination) is amended  
5 by striking “December 31, 2009” and inserting “Decem-  
6 ber 31, 2020”.

7 (b) **INCREASE IN NATIONAL LIMITATION.**—Section  
8 54(f) of such Code (relating to limitation on amount of  
9 bonds designated) is amended—

10 (1) by striking “\$1,200,000,000” in paragraph  
11 (1) and inserting “\$1,600,000,000”, and

12 (2) by striking “\$750,000,000” in paragraph  
13 (2) and inserting “\$1,000,000,000”.

14 (c) **MODIFICATION OF RATABLE PRINCIPAL AMORTI-**  
15 **ZATION REQUIREMENT.**—

16 (1) **IN GENERAL.**—Paragraph (4) of section  
17 54(l) of such Code is amended to read as follows:

18 “(4) **RATABLE PRINCIPAL AMORTIZATION RE-**  
19 **QUIRED.**—A bond shall not be treated as a clean re-  
20 newable energy bond unless it is part of an issue  
21 which provides for an equal amount of principal to  
22 be paid by the qualified issuer during each 12-month  
23 period that the issue is outstanding (other than the  
24 first 12-month period).”.

25 (2) **TECHNICAL AMENDMENT.**—The third sen-  
26 tence of section 54(e)(2) of such Code is amended

1 by striking “subsection (l)(6)” and inserting “sub-  
2 section (l)(4)”.

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

6 **SEC. 314. EXTENSION OF CREDITS FOR BIODIESEL AND RE-**  
7 **NEWABLE DIESEL.**

8 (a) IN GENERAL.—Sections 40A(g), 6426(e)(6), and  
9 6427(e)(6)(B) of the Internal Revenue Code of 1986 are  
10 each amended by striking “December 31, 2009” and in-  
11 serting “December 31, 2020”.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to fuel produced, and sold or used,  
14 after December 31, 2009.

15 **Subtitle C—American Renewable**  
16 **and Alternative Energy Trust Fund**

17 **SEC. 321. AMERICAN RENEWABLE AND ALTERNATIVE EN-**  
18 **ERGY TRUST FUND.**

19 (a) ESTABLISHMENT OF TRUST FUND.—There is es-  
20 tablished in the Treasury of the United States a trust fund  
21 to be known as the “American Renewable and Alternative  
22 Energy Trust Fund”, consisting of such amounts as may  
23 be transferred to the American Renewable and Alternative  
24 Energy Trust Fund as provided in section 149 and the  
25 amendments made by section 113 of this Act.

1 (b) EXPENDITURES FROM AMERICAN RENEWABLE  
2 AND ALTERNATIVE ENERGY TRUST FUND.—

3 (1) IN GENERAL.—Amounts in the American  
4 Renewable and Alternative Energy Trust Fund shall  
5 be available without further appropriation to carry  
6 out specified provisions of the Energy Policy Act of  
7 2005 (Public Law 109–58; in this section referred to  
8 as “EPAAct2005”) and the Energy Independence and  
9 Security Act of 2007 (Public Law 110–140; in this  
10 section referred to as “EISAct2007”), as follows:

11 (A) Grants to improve the commercial  
12 value of forest biomass for electric energy, use-  
13 ful heat, transportation fuels, and other com-  
14 mercial purposes, section 210 of EPAAct2005, 3  
15 percent.

16 (B) Hydroelectric production incentives,  
17 section 242 of EPAAct2005, 2 percent.

18 (C) Oil shale, tar sands, and other stra-  
19 tegic unconventional fuels, section 369 of  
20 EPAAct2005, 3 percent.

21 (D) Clean Coal Power Initiative, section  
22 401 of EPAAct2005, 7 percent.

23 (E) Solar and wind technologies, section  
24 812 of EPAAct2005, 7 percent.

1 (F) Renewable Energy, section 931 of  
2 EPAAct2005, 20 percent.

3 (G) Production incentives for cellulosic  
4 biofuels, section 942 of EPAAct2005, 2.5 per-  
5 cent.

6 (H) Coal and related technologies pro-  
7 gram, section 962 of EPAAct2005, 4 percent.

8 (I) Methane hydrate research, section 968  
9 of EPAAct2005, 2.5 percent.

10 (J) Incentives for Innovative Technologies,  
11 section 1704 of EPAAct2005, 7 percent.

12 (K) Grants for production of advanced  
13 biofuels, section 207 of EISAct2007, 16 per-  
14 cent.

15 (L) Photovoltaic demonstration program,  
16 section 607 EISAct2007, 2.5 percent.

17 (M) Geothermal Energy, title VI, subtitle  
18 B of EISAct2007, 4 percent.

19 (N) Marine and Hydrokinetic Renewable  
20 Energy Technologies, title VI, subtitle C of  
21 EISAct2007, 2.5 percent.

22 (O) Energy storage competitiveness, sec-  
23 tion 641 of EISAct2007, 10 percent.

1 (P) Smart grid technology research, devel-  
2 opment, and demonstration, section 1304 of  
3 EISAct2007, 7 percent.

4 (2) APPORTIONMENT OF EXCESS AMOUNT.—  
5 Notwithstanding paragraph (1), any amounts allo-  
6 cated under paragraph (1) that are in excess of the  
7 amounts authorized in the applicable cited section or  
8 subtitle of EPAAct2005 and EISAct2007 shall be re-  
9 allocated to the remaining sections and subtitles  
10 cited in paragraph (1), up to the amounts otherwise  
11 authorized by law to carry out such sections and  
12 subtitles, in proportion to the amounts authorized by  
13 law to be appropriated for such other sections and  
14 subtitles.

## 15 **TITLE IV—NUCLEAR**

### 16 **SEC. 401. STREAMLINE THE REGULATORY PROCESS.**

17 (a) FAST TRACK.—

18 (1) PUBLIC HEALTH AND SAFETY.—Nothing in  
19 this subsection shall supersede, mitigate, detract  
20 from, or in anyway decrease the Nuclear Regulatory  
21 Commission’s ability to maintain the highest possible  
22 levels of public health and safety standards for nu-  
23 clear facilities in the United States. No authority  
24 granted by this subsection shall be executed in a

1 manner that jeopardizes, minimizes, reduces, or  
2 lessens public health and safety standards.

3 (2) STREAMLINING COMBINED CONSTRUCTION  
4 AND OPERATING LICENSE.—

5 (A) IN GENERAL.—The Nuclear Regu-  
6 latory Commission shall establish and imple-  
7 ment an expedited procedure for issuing a Com-  
8 bined Construction and Operating License for  
9 qualified new reactors.

10 (B) QUALIFICATIONS.—To qualify for the  
11 expedited procedure under this paragraph, an  
12 applicant shall—

13 (i) apply for construction of a reactor  
14 based on a design approved by the Nuclear  
15 Regulatory Commission;

16 (ii) construct the new reactor on a site  
17 where an operating nuclear power plant al-  
18 ready exists;

19 (iii) establish to the satisfaction of the  
20 Nuclear Regulatory Commission that there  
21 is broad local public support for the  
22 project;

23 (iv) be an existing nuclear powerplant  
24 owner or operator with a substantial  
25 record of safe operations and be in good

1 standing with the Nuclear Regulatory  
2 Commission;

3 (v) submit a complete Combined Con-  
4 struction and Operating License applica-  
5 tion; and

6 (vi) demonstrate sufficient financial  
7 commitment to the project and prepared-  
8 ness to proceed in earnest once the permit  
9 is issued, as demonstrated by—

10 (I) the purchase of, or contract  
11 to purchase, long-lead materials; or

12 (II) assured financing.

13 (C) EXPEDITED PROCEDURE.—With re-  
14 spect to a license for which the applicant has  
15 satisfied the requirements of subparagraph (B)  
16 and seeks fast track consideration, the Nuclear  
17 Regulatory Commission shall follow the fol-  
18 lowing procedures:

19 (i) Undertake a one year expedited  
20 environmental review process.

21 (ii) Commence a one year public com-  
22 ment period for comments on the applica-  
23 tion.

24 (iii) Expedite the technical review  
25 process to that amount of time which is

1           necessary to efficiently issue Combined  
2           Construction and Operating License per-  
3           mits without sacrificing any aspect of pub-  
4           lic health or safety.

5           (D) GOALS.—The Nuclear Regulatory  
6           Commission shall present recommendations to  
7           Congress within 90 days of the date of enact-  
8           ment of this Act for procedures that would  
9           allow the Commission to pursue a transparent,  
10          fact-based process in a nonadversarial environ-  
11          ment where it can make decisions based on  
12          sound science and engineering as expeditiously  
13          as practicable. These recommendations shall en-  
14          compass an efficient process that allows those  
15          parties that have standing to participate in the  
16          proceedings to raise legitimate concerns to be  
17          heard and resolved without undue delay.

18          (3) NUCLEAR STEAM SUPPLY SYSTEM DESIGN  
19          CERTIFICATION.—The Nuclear Regulatory Commis-  
20          sion shall establish a schedule for certification of a  
21          Nuclear Steam Supply System reactor that main-  
22          tains the highest levels of public health and safety.  
23          Such schedule shall seek to reduce by one half the  
24          time necessary to certify a reactor design. Such a



1 schedule shall be presented to Congress within one  
2 year of date of enactment of this Act.

3 (4) TECHNOLOGY NEUTRAL PLANT DESIGN  
4 SPECIFICATIONS.—Within one year of the date of  
5 enactment of this Act, the Nuclear Regulatory Com-  
6 mission shall outline to the Congress an approach  
7 that will allow the Nuclear Regulatory Commission  
8 to develop technology-neutral guidelines for nuclear  
9 plant licensing in the future that would allow for the  
10 more seamless entry of new technologies into the  
11 marketplace.

12 (5) ADDITIONAL FUNDING AND PERSONNEL RE-  
13 SOURCES.—Not later than 90 days after the date of  
14 enactment of this Act, the Nuclear Regulatory Com-  
15 mission shall transmit to the Congress a request for  
16 such additional funding and personnel resources as  
17 are necessary to carry out paragraphs (1) through  
18 (4).

19 (6) NATIONAL LABORATORY SUPPORT.—Each  
20 national laboratory with expertise in the nuclear  
21 field shall, in coordination with the Nuclear Regu-  
22 latory Commission, dedicate personnel to supporting  
23 either or both of the expedited design certification  
24 under paragraph (3) or the expedited licensing pro-  
25 cedures under paragraph (2).

1           (7) EDUCATIONAL PROGRAM FUNDS.—To both  
2           support the Nation’s effort to efficiently license new  
3           nuclear power plants and build the expertise and  
4           workforce necessary to regulate and operate those  
5           plants, the Nuclear Regulatory Commission and the  
6           Department of Energy shall direct educational fund-  
7           ing to programs to enhance or directly support the  
8           activities authorized by this subsection.

9           (b) NATIONAL POLICY GOAL.—It is the policy goal  
10          of the United States to license 100 new nuclear reactors,  
11          or the megawatt equivalent, by 2030, if there are a suffi-  
12          cient number of applicants.

13          (c) MANDATORY HEARINGS FOR UNCONTESTED LI-  
14          CENSE APPLICANTS.—

15               (1) Sections 189A(1)(A) of the Atomic Energy  
16          Act of 1954 is modified thus:

17                       “(A) In any proceeding under this Act, for  
18                       the granting, suspending, revoking, or amend-  
19                       ing of any license or construction permit, or ap-  
20                       plication to transfer control, and in any pro-  
21                       ceeding for the issuance or modification of rules  
22                       and regulations dealing with the activities of li-  
23                       censees, and in any proceeding for the payment  
24                       of compensation, an award, or royalties under  
25                       section 153, 157, 186e., or 188, the Commis-

1           sion shall grant a hearing upon the request of  
2           any person whose interest may be affected by  
3           the proceeding, and shall admit any such per-  
4           son as a party to such proceeding. The Com-  
5           mission may, in the absence of a request there-  
6           for by any person whose interest may be af-  
7           fected, issue a construction permit, an oper-  
8           ating license or an amendment to a construc-  
9           tion permit or an amendment to an operating  
10          license without a hearing, but upon thirty days'  
11          notice and publication once in the Federal Reg-  
12          ister of its intent to do so. The Commission  
13          may dispense with such thirty days' notice and  
14          publication with respect to any application for  
15          an amendment to a construction permit or an  
16          amendment to an operating license upon a de-  
17          termination by the Commission that the amend-  
18          ment involves no significant hazards consider-  
19          ation.”.

20           (2) Section 185b of the Atomic Energy Act of  
21          1954 is modified thus:

22           “b. After any public hearing held under section  
23          189a.(1)(A), the Commission shall issue to the applicant  
24          a combined construction and operating license if the appli-  
25          cation contains sufficient information to support the

1 issuance of a combined license and the Commission deter-  
2 mines that there is reasonable assurance that the facility  
3 will be constructed and will operate in conformity with the  
4 license, the provisions of this Act, and the Commission's  
5 rules and regulations. The Commission shall identify with-  
6 in the combined license the inspections, tests, and anal-  
7 yses, including those applicable to emergency planning,  
8 that the licensee shall perform, and the acceptance criteria  
9 that, if met, are necessary and sufficient to provide rea-  
10 sonable assurance that the facility has been constructed  
11 and will be operated in conformity with the license, the  
12 provisions of this Act, and the Commission's rules and  
13 regulations. Following issuance of the combined license,  
14 the Commission shall ensure that the prescribed inspec-  
15 tions, tests, and analyses are performed and, prior to oper-  
16 ation of the facility, shall find that the prescribed accept-  
17 ance criteria are met. Any finding made under this sub-  
18 section shall not require a hearing except as provided in  
19 section 189a.(1)(B).”.

20 **SEC. 402. INCREASE THE SUPPLY OF URANIUM.**

21 (a) **SUPPLY DISRUPTION MITIGATION RESERVE.**—  
22 The Secretary of Energy shall create a uranium supply-  
23 disruption mitigation reserve. The Energy Department  
24 shall undergo an audit to account for all unused materials  
25 in its system that could be used to power commercial nu-

1 clear reactors. Once accounted for, some portion, or all,  
2 of this resource shall be allocated to be a temporary re-  
3 serve of reactor fuel to protect against a foreign supplier  
4 attempt to deny American energy producers access to ura-  
5 nium fuel.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) It is necessary to preserve access to domes-  
8 tic uranium reserves and resources in order to meet  
9 the United States demand for clean noncarbon emit-  
10 ting energy. Doing so will contribute to the Nation's  
11 effort to seek energy independence and enhance our  
12 national and economic security.

13 (2) United States utilities currently use ap-  
14 proximately 56,000,000 pounds of uranium each  
15 year. Meanwhile, total United States uranium pro-  
16 duction is only approximately 3,000,000 to  
17 4,000,000 pounds each year, or less than 10 percent  
18 of the Nation's annual need.

19 (3) To meet the United States demand for ura-  
20 nium, the United States imports uranium from Rus-  
21 sia, Canada, Australia, and Kazakhstan. In 2004,  
22 nearly 50 percent of imported uranium came from  
23 Russia.

1           (4) American industry can easily produce  
2           20,000,000 to 30,000,000 pounds of uranium each  
3           year from domestic resources.

4           (5) To produce those resources we must pre-  
5           serve access to the Nation's uranium reserves and  
6           resources found within the northern Arizona strip,  
7           Northwestern New Mexico, Wyoming, and other  
8           parts of the United States.

9           (6) The Arizona strip region, located in the  
10          Utah-Arizona border region, is estimated to contain  
11          a resource endowment of 375,000,000 pounds of  
12          uranium oxide (United States Geological Survey Cir-  
13          cular 1051), making it the second most important  
14          uranium region in the United States after to Wyo-  
15          ming. The energy potential of this quantity of ura-  
16          nium rivals the energy equivalence of the total recov-  
17          erable oil discovered at Prudhoe Bay Alaska, the  
18          largest oil field in North America. This quantity of  
19          uranium comprises over 40 percent of the Nation's  
20          estimated uranium resource endowment, and Ari-  
21          zona Strip area uranium is by far the highest grade  
22          uranium nationally. Development of these resources  
23          would promote energy independence and protect our  
24          national security.

1           (7) Development of these resources would pre-  
2 vent the United States from being over reliant on  
3 less stable foreign sources of uranium.

4           (8) The importance of developing these re-  
5 sources is crucial as the rest of the world is embrac-  
6 ing nuclear power, including China, India, Russia,  
7 Europe, the Middle East, Japan, and Korea, result-  
8 ing in a exponential demand for known and undis-  
9 covered uranium resources.

10       (c) URANIUM POLICY SUMMIT.—

11           (1) IN GENERAL.—The Secretary of the Inte-  
12 rior, working with the Secretary of Energy, shall  
13 convene a national summit on uranium by no later  
14 than 180 days after the date of the enactment of  
15 this Act, to produce a report for Congress by no  
16 later than 1 year after the date of the enactment of  
17 this Act that includes an assessment of the Nation’s  
18 uranium resources and provides policy recommenda-  
19 tions to ensure access to these resources for private  
20 sector development in an environmentally responsible  
21 manner. A principle policy objective of the summit  
22 and report shall be to domestically produce enough  
23 uranium to meet 30 percent of our national uranium  
24 demand by 2030.

1           (2) PARTICIPANTS.—The national summit on  
2 uranium shall include—

3           (A) representatives from mining, enrich-  
4 ment, utility, and disposal sectors of the ura-  
5 nium industry; and

6           (B) experts in hydrology, geology, mine  
7 reclamation, and safety.

8 **SEC. 403. RECYCLE AND SAFELY STORE SPENT NUCLEAR**  
9 **FUEL.**

10 (a) HIGH-LEVEL NUCLEAR WASTE REPOSITORY.—

11           (1) The Federal Government remains obliged to  
12 construct and operate at least one high-level nuclear  
13 materials geologic repository for the disposal of  
14 spent nuclear fuel and high-level radioactive waste.

15           (2) The high-level nuclear waste repository site  
16 at Yucca Mountain shall remain the site for the Na-  
17 tion's nuclear waste repository unless it is deemed  
18 technologically or scientifically unsuitable by the Nu-  
19 clear Regulatory Commission following full statutory  
20 review of the Department of Energy's license appli-  
21 cation to construct the Yucca Mountain repository.

22           (3) The Nuclear Regulatory Commission shall  
23 continue to review the Department of Energy's  
24 pending license application to construct the nuclear



1 waste repository at Yucca Mountain until a deter-  
2 mination is made on the merits of the application.

3 (4) In addition to pursuing approval of the li-  
4 cense application referenced in paragraph (3), the  
5 Secretary shall undertake the following activities:

6 (A) Seeking all other necessary regulatory  
7 approvals and permits to construct and operate  
8 the Yucca Mountain repository.

9 (B) Conducting all necessary design and  
10 engineering work to support construction of the  
11 repository.

12 (C) Undertaking all infrastructure activi-  
13 ties necessary to support the construction or  
14 operation of the repository or transportation to  
15 the site of spent nuclear fuel and high-level ra-  
16 dioactive waste. Infrastructure activities in-  
17 clude, but are not limited to, safety upgrades;  
18 site preparation; the construction of a rail line  
19 to connect the Yucca Mountain site with the  
20 national rail network, including any facilities to  
21 facilitate rail operations; and construction, up-  
22 grade, acquisition, or operation of electrical  
23 grids or facilities, other utilities, communication  
24 facilities, access roads, rail lines, and non-  
25 nuclear support facilities.

1           (5) All statutory limitations on the amount of  
2 spent fuel that can be placed in Yucca Mountain  
3 shall be removed and replaced with new limits based  
4 on scientific and technical analysis of the full capac-  
5 ity of Yucca Mountain for the storage of spent nu-  
6 clear fuel and high-level radioactive waste.

7           (b) TEMPORARY NUCLEAR FUEL STORAGE FACILI-  
8 TIES.—The Secretary of the Interior shall grant all nec-  
9 essary rights of way and land use authorizations needed  
10 for a nuclear fuel storage facility if the State and locality  
11 in which such facility is located reach an agreement with  
12 a private entity. The Federal Government shall take title  
13 of the contents of any such facility upon closure or decom-  
14 missioning.

15           (c) RECYCLING.—

16           (1) AMENDMENT.—Section 302 of the Nuclear  
17 Waste Policy Act of 1982 (42 U.S.C. 10222) is  
18 amended—

19                   (A) in subsection (d), by striking “The  
20 Secretary may” and inserting “Except as pro-  
21 vided in subsection (f), the Secretary may”; and

22                   (B) by adding at the end the following new  
23 subsection:

24           “(f) RECYCLING.—

1           “(1) IN GENERAL.—Amounts in the Waste  
2 Fund shall be used by the Secretary of Energy to  
3 make grants to or enter into long-term contracts  
4 with private sector entities for the recycling of spent  
5 nuclear fuel.

6           “(2) COMPETITIVE SELECTION.—Grants and  
7 contracts authorized under paragraph (1) shall be  
8 awarded on the basis a competitive bidding process  
9 that—

10                   “(A) maximizes the competitive efficiency  
11 of the projects funded;

12                   “(B) best serves the goal of reducing the  
13 amount of waste requiring disposal under this  
14 Act; and

15                   “(C) ensures adequate protection against  
16 the proliferation of nuclear materials that could  
17 be used in the manufacture of nuclear weap-  
18 ons.”.

19           “(2) PROHIBITION.—The Administration is pro-  
20 hibited from blocking or hindering spent nuclear fuel  
21 recycling activities.

22           “(3) RULEMAKING FOR LICENSING OF SPENT  
23 NUCLEAR FUEL RECYCLING FACILITIES.—

24                   “(A) REQUIREMENT.—The Nuclear Regu-  
25 latory Commission shall, as expeditiously as

1 possible, but in no event later than 2 years  
2 after the date of enactment of this Act, com-  
3 plete a rulemaking establishing a process for  
4 the licensing by the Nuclear Regulatory Com-  
5 mission, under the Atomic Energy Act of 1954,  
6 of facilities for the recycling of spent nuclear  
7 fuel.

8 (B) FUNDING.—Amounts in the Nuclear  
9 Waste Fund established under section 302 of  
10 the Nuclear Waste Policy Act of 1982 (42  
11 U.S.C. 10222) shall be made available to the  
12 Nuclear Regulatory Commission to cover the  
13 costs of carrying out subparagraph (A) of this  
14 paragraph.

15 **SEC. 404. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**  
16 **POSAL.**

17 Notwithstanding any other provision of law, in decid-  
18 ing whether to permit the construction or operation of a  
19 nuclear reactor or any related facilities, the Nuclear Regu-  
20 latory Commission shall deem, without further consider-  
21 ation, that sufficient capacity will be available in a timely  
22 manner to dispose of spent nuclear fuel and high level ra-  
23 dioactive waste resulting from the operation of the reactor  
24 and any related facilities.

1 **SEC. 405. PREFERENTIAL TREATMENT FOR CERTAIN NU-**  
2 **CLEAR REACTORS AND RELATED ARTICLES.**

3 (a) IN GENERAL.—The President shall proclaim  
4 duty-free treatment or other preferential treatment for  
5 any article described in subsection (b) that is imported  
6 directly into the customs territory of the United States  
7 if the President determines, after obtaining advice from  
8 the International Trade Commission, that there is no do-  
9 mestic production of such article.

10 (b) ARTICLE DESCRIBED.—An article described in  
11 this subsection is any article provided for in heading 8401  
12 or 9902.84 of the Harmonized Tariff Schedule of the  
13 United States (relating to nuclear reactors; fuel elements  
14 (cartridges), non-irradiated, for nuclear reactors; machin-  
15 ery and apparatus for isotopic separation; parts thereof).

16 (c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF  
17 PREFERENTIAL TREATMENT.—The President may with-  
18 draw, suspend, or limit the application of duty-free treat-  
19 ment or other preferential treatment under this section for  
20 any article described in subsection (b) with respect to  
21 which duty-free treatment has been proclaimed under sub-  
22 section (a).

23 (d) TERMINATION OF PREFERENTIAL TREAT-  
24 MENT.—No duty-free treatment or other preferential  
25 treatment extended under this section shall remain in ef-  
26 fect after 5 years.

1 **SEC. 406. NATIONAL NUCLEAR ENERGY COUNCIL.**

2 (a) IN GENERAL.—

3 (1) The Secretary of Energy shall establish a  
4 National Nuclear Energy Council (hereinafter the  
5 “Council”).

6 (2) The National Nuclear Energy Council shall  
7 be subject to the requirements of the Federal Advi-  
8 sory Committee Act (5 U.S.C. appendix 2).

9 (b) PURPOSE.—The National Nuclear Energy Coun-  
10 cil shall—

11 (1) serve in an advisory capacity to the Sec-  
12 retary of Energy regarding nuclear energy on mat-  
13 ters submitted to the Council by the Secretary of  
14 Energy;

15 (2) advise, inform, and make recommendations  
16 to the Secretary of Energy with respect to any mat-  
17 ter relating to nuclear energy;

18 (3) help nuclear energy related investors to  
19 navigate the Federal bureaucracy to efficiently bring  
20 their products and services to the marketplace; and

21 (4) not participate in any research and develop-  
22 ment or commercialization activities.

23 (c) MEMBERSHIP AND ORGANIZATION.—

24 (1) The members of the Council shall be ap-  
25 pointed by the Secretary of Energy.

1           (2) The Council may establish such study and  
2           administrative committees as it may deem appro-  
3           priate. Study committees shall only assist the Coun-  
4           cil in preparing its advice, information, or rec-  
5           ommendations to the Secretary of Energy. Adminis-  
6           trative committees shall be formed solely for the  
7           purpose of assisting the Council or its Chairman in  
8           the management of the internal affairs of the Coun-  
9           cil.

10           (3) The officers of the Council shall consist of  
11           a Chairman, a Vice Chairman, and such other offi-  
12           cers as may be approved by the Council. The Chair-  
13           man and Vice Chairman must be members of the  
14           Council and shall receive no compensation for service  
15           as officers of the Council.

16           (4) The Secretary of Energy shall be Cochair-  
17           man of the Council. If the Secretary of Energy des-  
18           ignates a full-time, salaried official of the Depart-  
19           ment of Energy as his alternate, such alternate may  
20           exercise any duties of the Secretary of Energy and  
21           may perform any function on the Council otherwise  
22           reserved for the Secretary of Energy.

23           (5) The Chairman and the Vice Chairman shall  
24           be elected by the Council at its organizational meet-

1 ing to serve until their successors are elected at the  
2 next organizational meeting of the Council.

3 (d) MEETINGS.—

4 (1) Regular meetings of the Council shall be  
5 held at least twice each year at times determined by  
6 the Chairman and approved by the Government Co-  
7 chairman.

8 (2) No meeting of the Council shall be held un-  
9 less the Government Cochairman approves the agen-  
10 da thereof, approves the calling thereof, and is  
11 present thereat.

12 (3) The time and place of all Council meetings  
13 shall be given general publicity and such meetings  
14 shall be open to the public.

15 (e) STUDIES BY THE COUNCIL.—

16 (1) The Council may establish study committees  
17 to prepare reports for the consideration of the Coun-  
18 cil pursuant to requests from the Secretary of En-  
19 ergy for advice, information, and recommendations.

20 (2) The Secretary of Energy or a full-time em-  
21 ployee of the Department of Energy designated by  
22 the Secretary shall be the Cochairman of each study  
23 committee.

24 (3) The members of study committees shall be  
25 selected from the Council membership on the basis



1 of their training, experience, and general qualifica-  
2 tions to deal with the matters assigned.

3 **SEC. 407. EXPANSION OF ENERGY INVESTMENT TAX CRED-**  
4 **IT TO INCLUDE NUCLEAR AND CLEAN-COAL**  
5 **EQUIPMENT.**

6 (a) IN GENERAL.—Clause (i) of section  
7 48C(c)((1)(A) of the Internal Revenue Code of 1986 is  
8 amended by striking “or” at the end of subclause (VI),  
9 by striking “and” at the end of subclause (VII), by insert-  
10 ing after subclause (VII) the following new subclauses:

11 “(VIII) property designed to be  
12 used to produce energy from an ad-  
13 vanced nuclear power facility (as de-  
14 fined in section 45J(d)), or

15 “(IX) property designed to be  
16 used to produce energy from clean-  
17 coal equipment, and”.

18 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (e)  
19 of section 48C of such Code is amended by inserting  
20 “45J,” before “48,”.

21 (c) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall apply to property placed in service  
23 after the date of the enactment of this Act.

1           **TITLE V—ENVIRONMENTAL**  
2           **REVIEW; GREENHOUSE GASES**

3   **SEC. 501. ENVIRONMENTAL REVIEW FOR RENEWABLE EN-**  
4                   **ERGY PROJECTS.**

5           (a) COMPLIANCE WITH NEPA FOR RENEWABLE EN-  
6   ERGY PROJECTS.—Notwithstanding any other law, in pre-  
7   paring an environmental assessment or environmental im-  
8   pact statement required under section 102 of the National  
9   Environmental Policy Act of 1969 (42 U.S.C. 4332) with  
10   respect to any action authorizing a renewable energy  
11   project under the jurisdiction of a Federal agency—

12                   (1) no Federal agency is required to identify al-  
13   ternative project locations or actions other than the  
14   proposed action and the no action alternative; and

15                   (2) no Federal agency is required to analyze the  
16   environmental effects of alternative locations or ac-  
17   tions other than those submitted by the project pro-  
18   ponent.

19           (b) CONSIDERATION OF ALTERNATIVES.—In any en-  
20   vironmental assessment or environmental impact state-  
21   ment referred to in subsection (a), the Federal agency  
22   shall only identify and analyze the environmental effects  
23   and potential mitigation measures of—

24                   (1) the proposed action; and

25                   (2) the no action alternative.

1 (c) PUBLIC COMMENT.—In preparing an environ-  
2 mental assessment or environmental impact statement re-  
3 ferred to in subsection (a), the Federal agency shall only  
4 consider public comments that specifically address the pre-  
5 ferred action and that are filed within 20 days after publi-  
6 cation of a draft environmental assessment or draft envi-  
7 ronmental impact statement. Notwithstanding any other  
8 law, compliance with this subsection is deemed to satisfy  
9 section 102(2) of the National Environmental Policy Act  
10 of 1969 (42 U.S.C. 4332(2)) and the applicable regula-  
11 tions and administrative guidelines with respect to pro-  
12 posed renewable energy projects.

13 (d) RENEWABLE ENERGY PROJECT DEFINED.—For  
14 purposes of this section, the term “renewable energy  
15 project”—

16 (1) means any proposal to utilize an energy  
17 source other than coal, oil, or natural gas; and

18 (2) includes the use of nuclear, wind, solar, geo-  
19 thermal, biomass, hydro (including large, small-  
20 scale, and low head conventional hydro), or tidal  
21 forces to generate energy.

22 **SEC. 502. GREENHOUSE GAS REGULATION UNDER CLEAN**  
23 **AIR ACT.**

24 (a) IN GENERAL.—Section 302(g) of the Clean Air  
25 Act (42 U.S.C. 7602(g)) is amended by adding the fol-

1 lowing at the end thereof: “The term ‘air pollutant’ shall  
2 not include carbon dioxide, water vapor, methane, nitrous  
3 oxide, hydrofluorocarbons, perfluorocarbons, or sulfur  
4 hexafluoride.”.

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

9 **SEC. 503. PROHIBITION OF CONSIDERATION OF IMPACT OF**  
10 **GREENHOUSE GAS.**

11 (a) IN GENERAL.—The Endangered Species Act of  
12 1973 (16 U.S.C. 1531 et seq.) is amended by adding at  
13 the end the following new section:

14 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**  
15 **GREENHOUSE GAS.**

16 “(a) DEFINITION OF GREENHOUSE.—In this section,  
17 the term ‘greenhouse gas’ means any of—

18 “(1) carbon dioxide;

19 “(2) methane;

20 “(3) nitrous oxide;

21 “(4) sulfur hexafluoride;

22 “(5) a hydrofluorocarbon;

23 “(6) a perfluorocarbon; or

24 “(7) any other anthropogenic gas designated by  
25 the Secretary for purposes of this section.

1       “(b) IMPACT OF GREENHOUSE GAS.—The impact of  
2 greenhouse gas on any species of fish or wildlife or plant  
3 shall not be considered for any purpose in the implementa-  
4 tion of this Act.”.

5       (b) CONFORMING AMENDMENT.—The table of con-  
6 tents in the first section of the Endangered Species Act  
7 of 1973 (16 U.S.C. prec. 1531) is amended by adding at  
8 the end the following new items:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

## 9           **TITLE VI—LEGAL REFORM**

### 10   **SEC. 601. FINDINGS.**

11       Congress finds that—

12           (1) the United States spends over \$1 billion per  
13 day to import crude oil from foreign countries;

14           (2) such expenditure represents the largest  
15 wealth transfer in history;

16           (3) the United States has at least 86 billion  
17 barrels of oil and 420 trillion cubic feet of natural  
18 gas in the outer Continental Shelf;

19           (4) environmental groups have legally chal-  
20 lenged every lease in the Alaskan Outer Continental  
21 Shelf in the Chukchi and Beaufort Seas;

22           (5) environmental groups have legally chal-  
23 lenged the entire 2007–2012 5-year national outer  
24 Continental Shelf leasing program;

1           (6) such legal challenges significantly delay or  
2 ultimately prevent energy resources from reaching  
3 the American public;

4           (7) these legal challenges come at a high cost  
5 to the American public and the American economy;  
6 and

7           (8) Congress finds that expedited judicial re-  
8 view is necessary to prevent this gross abuse of the  
9 United States judicial system.

10 **SEC. 602. EXCLUSIVE JURISDICTION OVER CAUSES AND**  
11 **CLAIMS RELATING TO COVERED ENERGY**  
12 **PROJECTS.**

13 Notwithstanding any other provision of law, the  
14 United States District Court for the District of Columbia  
15 shall have exclusive jurisdiction to hear all causes and  
16 claims under this title or any other Act that arise from  
17 any covered energy project.

18 **SEC. 603. TIME FOR FILING COMPLAINT.**

19 All causes and claims referred to in section 602 must  
20 be filed not later than the end of the 60-day period begin-  
21 ning on the date of the action or decision by a Federal  
22 official that constitutes the covered energy project con-  
23 cerned. Any cause or claim not filed within that time pe-  
24 riod shall be barred.

1 **SEC. 604. DISTRICT COURT FOR THE DISTRICT OF COLUM-**  
2 **BIA DEADLINE.**

3 (a) IN GENERAL.—All proceedings that are subject  
4 to section 602—

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

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

10 (b) FAILURE TO COMPLY WITH DEADLINE.—If an  
11 interlocutory or final judgment, decree, or order has not  
12 been issued by the district court by the deadline described  
13 under this section, the cause or claim shall be dismissed  
14 with prejudice and all rights relating to such cause or  
15 claim shall be terminated.

16 **SEC. 605. ABILITY TO SEEK APPELLATE REVIEW.**

17 An interlocutory or final judgment, decree, or order  
18 of the district court may be reviewed by no other court  
19 except the Supreme Court.

20 **SEC. 606. DEADLINE FOR APPEAL TO THE SUPREME**  
21 **COURT.**

22 If a writ of certiorari has been granted by the Su-  
23 preme Court pursuant to section 605, then—

24 (1) the interlocutory or final judgment, decree,  
25 or order of the district court shall be resolved as ex-  
26 peditiously as possible and in any event not more

1 than 180 days after such interlocutory or final judg-  
2 ment, decree, order of the district court is issued;  
3 and

4 (2) all such proceedings shall take precedence  
5 over all other matters then before the Supreme  
6 Court.

7 **SEC. 607. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

8 (a) ADMINISTRATIVE FINDINGS AND CONCLU-  
9 SIONS.—In any judicial review of any Federal action under  
10 this Act, any administrative findings and conclusions re-  
11 lating to the challenged Federal action shall be presumed  
12 to be correct unless shown otherwise by clear and con-  
13 vincing evidence contained in the administrative record.

14 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any  
15 judicial review of any action, or failure to act, under this  
16 Act, the Court shall not grant or approve any prospective  
17 relief unless the Court finds that such relief is narrowly  
18 drawn, extends no further than necessary to correct the  
19 violation of a Federal law requirement, and is the least  
20 intrusive means necessary to correct the violation con-  
21 cerned.

22 **SEC. 608. LEGAL FEES.**

23 Any person filing a petition seeking judicial review  
24 of any action, or failure to act, under this Act who is not  
25 a prevailing party shall pay to the prevailing parties (in-



1 cluding intervening parties), other than the United States,  
2 fees and other expenses incurred by that party in connec-  
3 tion with the judicial review, unless the Court finds that  
4 the position of the person was substantially justified or  
5 that special circumstances make an award unjust.

6 **SEC. 609. EXCLUSION.**

7 This title shall not apply with respect to disputes be-  
8 tween the parties to a lease issued pursuant to an author-  
9 izing leasing statute regarding the obligations of such  
10 lease or the alleged breach thereof.

11 **SEC. 610. COVERED ENERGY PROJECT DEFINED.**

12 In this title, the term “covered energy project” means  
13 any action or decision by a Federal official regarding—

14 (1) the leasing of Federal lands (including sub-  
15 merged lands) for the exploration, development, pro-  
16 duction, processing, or transmission of oil, natural  
17 gas, or any other source or form of energy, including  
18 actions and decisions regarding the selection or of-  
19 fering of Federal lands for such leasing; or

20 (2) any action under such a lease.

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