

111TH CONGRESS
1ST SESSION

S. 807

To reduce fuel prices and improve national energy security by increasing domestic supply, reducing excessive speculation in the markets, and promoting long-term security through alternative energy sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2009

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

A BILL

To reduce fuel prices and improve national energy security by increasing domestic supply, reducing excessive speculation in the markets, and promoting long-term security through alternative energy sources, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sound Management of America’s Resources and Tech-
6 nologies for Energy Act of 2009” or the “SMART Energy
7 Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENERGY SUPERHIGHWAY

Sec. 101. Energy Superhighway.

Sec. 102. Authorization to recover costs of incremental transfer capability to facilitate renewable energy development and deployment.

Sec. 103. Coordination of Federal authorizations for transmission facilities.

TITLE II—INVESTING IN AMERICA'S ENERGY SECURITY

Subtitle A—Energy Security Trust Fund

Sec. 201. Energy Security Trust Fund.

Sec. 202. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.

Subtitle B—Biogas

Sec. 211. Credit for production of biogas and syngas from certain renewable feedstocks.

Subtitle C—Investing in Biofuels and Renewable Fuel Infrastructure

Sec. 221. Definition of renewable biomass.

Sec. 222. Loan guarantees for renewable energy pipelines.

Sec. 223. Biofuels infrastructure.

Sec. 224. Definition of lifecycle greenhouse gas emissions.

Sec. 225. Biofuels Revolving Loan Fund.

Subtitle D—Energy Efficiency

PART I—VEHICLES

Sec. 231. Lightweight materials research and development.

Sec. 232. Federal Government gasoline consumption.

Sec. 233. Credit for fuel-efficient motor vehicles.

PART II—OTHER ENERGY EFFICIENCY PROGRAMS

Sec. 241. Energy efficiency and conservation block grants.

Sec. 242. Smart growth.

Subtitle E—Incentives for Innovative Technologies

Sec. 251. Security for loan guarantees for innovative technology projects.

TITLE III—EXPANDING DOMESTIC ENERGY PRODUCTION

Subtitle A—Oil and Gas Production on the Outer Continental Shelf

Sec. 301. Production of oil and gas on outer Continental Shelf.

Sec. 302. Production incentives program.

Subtitle B—Nuclear

- Sec. 311. Sense of the Senate on scalable, modular light-water nuclear reactors and electric plants.
- Sec. 312. Nuclear Regulatory Commission.
- Sec. 313. Nuclear energy workforce.
- Sec. 314. Interagency Working Group to promote domestic manufacturing base for nuclear components and equipment.
- Sec. 315. Spent fuel recycling program.
- Sec. 316. Standby support for certain nuclear plant delays.
- Sec. 317. Incentives for innovative technologies.
- Sec. 318. Modification of credit for production from advanced nuclear power facilities.
- Sec. 319. 5-year accelerated depreciation for new nuclear power facilities.

TITLE IV—ENSURING MARKET INTEGRITY

- Sec. 401. Definitions.
- Sec. 402. Definition of energy commodity.
- Sec. 403. Speculative limits and transparency of off-shore trading.
- Sec. 404. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 405. Rulemaking with respect to reporting requirements of index traders and swap dealers.
- Sec. 406. Transparency and recordkeeping authorities.
- Sec. 407. Trading limits to prevent excessive speculation.
- Sec. 408. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 409. Administration of Commodity Futures Trading Commission.
- Sec. 410. Review of prior actions.
- Sec. 411. Review of over-the-counter markets.
- Sec. 412. Studies; reports.
- Sec. 413. Over-the-counter authority.
- Sec. 414. Expedited procedures.
- Sec. 415. Treatment of emission allowances and offset credits.
- Sec. 416. Inspector General of Commodity Futures Trading Commission.

TITLE V—NATIONAL COMMISSION ON ENERGY POLICY AND GLOBAL CLIMATE CHANGE

- Sec. 501. Establishment of Commission.
- Sec. 502. Purposes.
- Sec. 503. Composition of Commission.
- Sec. 504. Functions of Commission.
- Sec. 505. Powers of Commission.
- Sec. 506. Reports of Commission; termination.
- Sec. 507. Staff of Commission.
- Sec. 508. Compensation and travel expenses.
- Sec. 509. Meetings.
- Sec. 510. Authorization of appropriations.
- Sec. 511. Termination.

1 **TITLE I—ENERGY**
2 **SUPERHIGHWAY**

3 **SEC. 101. ENERGY SUPERHIGHWAY.**

4 Part II of the Federal Power Act (16 U.S.C. 824 et
5 seq.) is amended by adding at the end the following:

6 **“SEC. 224. ENERGY SUPERHIGHWAY.**

7 “(a) PURPOSE.—The purpose of this section is to in-
8 vest in and construct an interstate Energy Superhighway
9 that—

10 “(1) contains high-voltage electricity trans-
11 mission lines (with at least a 400-kilovolt capacity),
12 including direct current lines where appropriate;

13 “(2) has a siting preference that uses existing
14 Federal, State, or other rights-of-way (such as the
15 Interstate System, State roads, railroads, pipelines,
16 and existing transmission infrastructure or Federal
17 land); and

18 “(3) uses smart grid technologies for moni-
19 toring, reliability, operability, and security and to
20 detect and locate outage, maintenance, repair, and
21 other similar needs.

22 “(b) DEFINITIONS.—In this section:

23 “(1) COMMISSION.—The term ‘Commission’
24 means the Federal Energy Regulatory Commission,

1 in consultation with the Secretary of Transportation
2 and the Secretary of Energy.

3 “(2) ENERGY SUPERHIGHWAY.—The term ‘En-
4 ergy Superhighway’ means the Energy Super-
5 highway described in subsection (a) that is estab-
6 lished under this section.

7 “(3) INTERSTATE SYSTEM.—The term ‘Inter-
8 state System’ has the meaning given the term in sec-
9 tion 101(a) of title 23, United States Code.

10 “(4) JOINT RESOLUTION.—The term ‘joint res-
11 olution’ means only a joint resolution introduced
12 during the 30-day period beginning on the date on
13 which a report referred to in subsection (d)(1) is re-
14 ceived by Congress (excluding days either House of
15 Congress is adjourned for more than 3 days during
16 a session of Congress), the matter after the resolving
17 clause of which is as follows: ‘That Congress dis-
18 approves the plan for establishing an Energy Super-
19 highway described in a report required under section
20 224(d)(1) of the Federal Power Act submitted by
21 the Federal Energy Regulatory Commission to Con-
22 gress on _____, and the plan for establishing the
23 Energy Superhighway shall have no force or effect.’
24 (The blank space being appropriately filled in).

1 “(5) SECONDARY LINE CONNECTION.—The
2 term ‘secondary line connection’ means—

3 “(A) a new transmission line built to con-
4 nect to the Energy Superhighway; and

5 “(B) an existing transmission line rerouted
6 or otherwise modified to connect to the Energy
7 Superhighway.

8 “(c) AUTHORITY.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of law, for the exclusive purpose of using
11 funds provided under this section, the Commission
12 shall have exclusive authority over all siting, permit-
13 ting, planning, and construction decisions and ac-
14 tions necessary to establish an Energy Super-
15 highway.

16 “(2) ADMINISTRATION.—In establishing the
17 Energy Superhighway, the Commission shall use a
18 siting preference that utilizes existing Federal,
19 State, or other rights-of-way (such as the Interstate
20 System, State roads, railroads, and existing trans-
21 mission infrastructure on Federal land), unless the
22 Commission otherwise provides notice in the plan re-
23 quired under subsection (d).

24 “(d) PLAN.—

25 “(1) REPORTS.—

1 “(A) INITIAL PLAN.—Not later than 1
2 year after the date of enactment of this section,
3 before any plan establishing an Energy Super-
4 highway can take effect, the Commission shall
5 submit to the Committee on Appropriations of
6 the Senate, the Committee on Appropriations of
7 the House of Representatives, the Committee
8 on Energy and Natural Resources of the Sen-
9 ate, the Committee on Energy and Commerce
10 of the House of Representatives, and the Presi-
11 dent a plan for establishing the Energy Super-
12 highway.

13 “(B) MODIFIED PLAN.—If Congress enacts
14 a joint resolution of disapproval of the plan
15 submitted under subparagraph (A), not later
16 than 180 days after the date of enactment of
17 the joint resolution of disapproval, before any
18 plan establishing an Energy Superhighway can
19 take effect, the Commission shall submit to
20 each of the Committees described in subpara-
21 graph (A) and the President a modified plan
22 for establishing the Energy Superhighway.

23 “(C) ADMINISTRATION.—In developing a
24 plan for an Energy Superhighway, the Commis-
25 sion shall, to the maximum extent practicable—

1 “(i) conduct an open, transparent,
2 and participatory process that considers
3 input from all interested parties;

4 “(ii) plan for the construction of at
5 least 10,000 miles of high-voltage trans-
6 mission lines across the United States, in-
7 cluding the use of direct current lines
8 where appropriate;

9 “(iii) use existing Federal, State, or
10 other rights-of-way (such as the Interstate
11 System, State roads, railroads, pipelines,
12 and existing transmission infrastructure on
13 Federal land), to the maximum extent
14 practicable;

15 “(iv) plan on a national scale, or with
16 a national focus, to seek to provide inter-
17 connections between the eastern and west-
18 ern areas of the United States where prac-
19 tical, beneficial, and feasible;

20 “(v) maintain costs per mile that are
21 within reasonable estimates of costs (in-
22 cluding cost reduction through the use of
23 smart grid technology and related commu-
24 nications systems);

1 “(vi) develop a bidding process for the
2 construction of the components of the En-
3 ergy Superhighway;

4 “(vii) examine the feasibility of bury-
5 ing high-voltage transmission lines (par-
6 ticularly in highway medians), using other
7 options to standing towers, or taking other
8 actions to address safety and other con-
9 cerns relating to placing high-voltage
10 transmission lines within existing rights-of-
11 way;

12 “(viii) include provisions to address
13 the need for flexibility in the planning and
14 construction process; and

15 “(ix) allocate the costs of establishing
16 the Energy Superhighway in a manner
17 that ensures costs are shared by the Fed-
18 eral Government and among as many
19 States and public and private entities (in-
20 cluding among ratepayers) that the Com-
21 mission determines have reasonable inter-
22 ests in, or would benefit from, the Energy
23 Superhighway, except that the Federal
24 share shall not exceed 90 percent.

25 “(2) JOINT RESOLUTIONS OF DISAPPROVAL.—

1 “(A) IN GENERAL.—The plan of the Com-
2 mission for establishing an Energy Super-
3 highway shall not take effect (or continue) if
4 Congress enacts a joint resolution of dis-
5 approval of each plan submitted under para-
6 graph (1).

7 “(B) REPORT.—If Congress enacts a joint
8 resolution of disapproval of the plan submitted
9 under paragraph (1)(A), as soon practicable
10 after the date of enactment of the joint resolu-
11 tion of disapproval, the 1 or more of the Com-
12 mittees described in paragraph (1)(A) shall sub-
13 mit to the Commission a report that—

14 “(i) describes the concerns of the
15 Committees with the plan; and

16 “(ii) makes any recommendations for
17 a modified plan for establishing the Energy
18 Superhighway.

19 “(C) PROCEDURE.—

20 “(i) IN GENERAL.—Subject to clause
21 (ii), the procedures described in sub-
22 sections (b) through (g) of section 802 of
23 title 5, United States Code, shall apply to
24 the consideration of a joint resolution
25 under this paragraph.

1 “(ii) TERMS.—For purposes of this
2 paragraph—

3 “(I) the reference to ‘section
4 801(a)(1)’ in section 802(b)(2)(A) of
5 that title shall be considered to refer
6 to paragraph (1); and

7 “(II) the reference to ‘section
8 801(a)(1)(A)’ in section 802(e)(2) of
9 that title shall be considered to refer
10 to paragraph (1).

11 “(3) IMPLEMENTATION.—If a joint resolution
12 of disapproval of each plan submitted under para-
13 graph (1) is not enacted in accordance with para-
14 graph (2), not later than 18 months after the final
15 date for consideration by Congress of the joint reso-
16 lution of disapproval of the modified plan submitted
17 under paragraph (1)(B), the Commission shall com-
18 mence construction of the Energy Superhighway.

19 “(e) SECONDARY LINE CONNECTIONS TO ENERGY
20 SUPERHIGHWAY.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 the Commission shall ensure that each secondary
23 line connection to the Energy Superhighway is sited
24 and constructed in accordance with applicable siting
25 laws.

1 “(2) BACKSTOP AUTHORITY.—The Commission
2 may site the secondary line connection to the Energy
3 Superhighway in a State (including through use of
4 eminent domain) if, not later than 1 year after the
5 date of the filing of an application for the siting, the
6 State or State Commission—

7 “(A) denies the application for siting and
8 the Commission determines that the denial is
9 contrary to the public interest (including the in-
10 terest in increased electricity production from
11 renewable resources) or detrimental to the En-
12 ergy Superhighway; or

13 “(B) is otherwise unable to approve the
14 siting application and the Commission deter-
15 mines that the siting is in the public interest or
16 beneficial to the Energy Superhighway.

17 “(3) RENEWABLE ENERGY DEVELOPMENT AND
18 DEPLOYMENT.—The Commission may provide for
19 secondary line connections to be constructed, in con-
20 junction with secondary line connections constructed
21 by private entities, to promote renewable energy de-
22 velopment and deployment, including through the
23 use of section 225.

24 “(f) BULK ELECTRIC SYSTEM AND RELIABILITY
25 STANDARDS.—The Commission shall ensure that the En-

1 ergy Superhighway and any secondary transmission facili-
2 ties that are constructed to support the Energy Super-
3 highway—

4 “(1) are integrated into the bulk electric system
5 of the United States;

6 “(2) comply with reliability standards of the
7 North American Electric Reliability Corporation and
8 regional entities of the Corporation;

9 “(3) support an interconnection or operability
10 among—

11 “(A) the Western Interconnection;

12 “(B) the Eastern Interconnection; and

13 “(C) the Electric Reliability Council of
14 Texas; and

15 “(4) are coordinated with the procedures of re-
16 gional transmission organizations.

17 “(g) REBATES FOR TRANSMISSION ON ENERGY SU-
18 PERHIGHWAY.—The Commission shall develop a plan for
19 rebates for any tariff charged for electricity transmitted
20 on the Energy Superhighway under which—

21 “(1) an entity that transmits electricity that is
22 generated from a renewable energy resource (includ-
23 ing wind, solar, ocean, tidal, geothermal, biomass,
24 biogas, landfill gas, or incremental hydropower) shall

1 receive a rebate in an amount equal to $\frac{1}{2}$ of the tar-
2 iff; and

3 “(2) an entity that transmits electricity that is
4 generated from a nuclear resource shall receive a re-
5 bate in an amount equal to $\frac{1}{3}$ of the tariff.

6 “(h) FEDERALLY OWNED UTILITIES.—

7 “(1) IN GENERAL.—The Commission shall deed
8 ownership of a facility constructed for the Energy
9 Superhighway to—

10 “(A) if the Federal share of the cost of the
11 facility is more than 50 percent, federally
12 owned utilities operating under regional entities
13 of the North American Electric Reliability Cor-
14 poration; and

15 “(B) if the Federal share of the cost of the
16 facility is 50 percent or less, federally owned
17 utilities described in subparagraph (A) on the
18 basis of cost allocation, an auction, or other
19 means determined appropriate by the Commis-
20 sion.

21 “(2) DUTIES.—A federally owned utility to
22 which a facility is deeded under paragraph (1)
23 shall—

24 “(A) operate and maintain the facility in
25 accordance with the requirements of regional

1 entities of the North American Electric Reli-
2 ability Corporation; and

3 “(B) use any revenue derived from the tar-
4 iff from the facility to upgrade, maintain, and
5 operate the Energy Superhighway in accordance
6 with the requirements of the regional entities.

7 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as are nec-
9 essary to carry out this section.”.

10 **SEC. 102. AUTHORIZATION TO RECOVER COSTS OF INCRE-**
11 **MENTAL TRANSFER CAPABILITY TO FACILI-**
12 **TATE RENEWABLE ENERGY DEVELOPMENT**
13 **AND DEPLOYMENT.**

14 Part II of the Federal Power Act (16 U.S.C. 824 et
15 seq.) (as amended by section 101) is amended by adding
16 at the end the following:

17 **“SEC. 225. AUTHORIZATION TO RECOVER COSTS OF INCRE-**
18 **MENTAL TRANSFER CAPABILITY TO FACILI-**
19 **TATE RENEWABLE ENERGY DEVELOPMENT**
20 **AND DEPLOYMENT.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) CORE TRANSMISSION FACILITY.—The term
23 ‘core transmission facility’ means a transmission fa-
24 cility—

1 “(A) for which a project sponsor has dem-
2 onstrated 1 or more financial or regulatory
3 commitments to construct, operate, and main-
4 tain;

5 “(B) that the project sponsor would con-
6 struct regardless of Federal incentives; and

7 “(C) that has the demonstrated ability to
8 add incremental transfer capability through—

9 “(i) the addition of electrical circuits;

10 or

11 “(ii) increasing the operating voltage
12 of the transmission facility.

13 “(2) FINANCIAL OR REGULATORY COMMIT-
14 MENT.—The term ‘financial or regulatory commit-
15 ment’ means a commitment through—

16 “(A) a transmission service agreement ac-
17 cepted or on file with the Commission;

18 “(B) an allocation to network customers
19 posted on an open access same-time information
20 system; or

21 “(C) a ruling granting full future cost re-
22 covery through the tariff of a regional trans-
23 mission organization that is on file with the
24 Commission.

1 “(3) FUND.—The term ‘Fund’ means the Re-
2 newable Energy Incremental Transmission Fund es-
3 tablished under subsection (d).

4 “(4) INCREMENTAL TRANSFER CAPABILITY.—
5 The term ‘incremental transfer capability’ means—

6 “(A) the transfer capability of additional
7 electrical transmission circuits primarily within
8 the same right-of-way as core transmission fa-
9 cilities and traversing substantially all of its
10 length; or

11 “(B) the additional transfer capability that
12 results from installing a transmission line of in-
13 creased voltage in comparison with core trans-
14 mission facilities.

15 “(5) PROJECT SPONSOR.—The term ‘project
16 sponsor’ means an entity that proposes to include in-
17 cremental transfer capability as part of a core trans-
18 mission facilities project.

19 “(6) PRO RATA.—The term ‘pro rata’, in rela-
20 tion to a core transmission facility, means the incre-
21 mental transfer capability of the core transmission
22 facility divided by the total transfer capability of the
23 core transmission facility.

24 “(7) RENEWABLE ENERGY RESOURCES.—The
25 term ‘renewable energy resource’ means solar, wind,

1 ocean, tidal, geothermal energy, biomass, biogas,
2 landfill gas, or incremental hydropower.

3 “(8) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Energy.

5 “(9) UNCOMMITTED TRANSFER CAPABILITY.—

6 “(A) IN GENERAL.—The term ‘uncommit-
7 ted transfer capability’ means transfer capa-
8 bility, and associated transmission facilities
9 using a pro rata calculation, that is more than
10 the needs demonstrated by the core trans-
11 mission facilities, that—

12 “(i) are not paid for through long-
13 term transmission service agreements filed
14 with the Commission;

15 “(ii) are not allocated through an
16 open access same-time information system
17 posting to network customers and recov-
18 ered via embedded transmission rates; or

19 “(iii) do not receive payment of the
20 associated rates of the core transmission
21 facilities through the tariff of a regional
22 transmission organization that is on file
23 with the Commission.

24 “(B) LIMITATION.—The uncommitted
25 transfer capability financed by the Secretary

1 shall be not more than 75 percent of the total
2 transfer capability provided by the core trans-
3 mission facilities.

4 “(b) COST RECOVERY AUTHORIZATION.—

5 “(1) IN GENERAL.—Notwithstanding any provi-
6 sion of this Act or State law relating to the rates or
7 charges for electric service or transmission of electric
8 energy, a project sponsor shall be entitled to collect
9 payment and recover costs of the incremental trans-
10 fer capability in accordance with subsection (d) if—

11 “(A) the 1 or more project sponsors of the
12 incremental transfer capability have filed a cost
13 recovery plan described in subsection (c) with
14 the Commission; and

15 “(B) the Commission finds that the project
16 sponsor has demonstrated—

17 “(i) that the transmission project con-
18 stitutes a core transmission facility;

19 “(ii) that the core transmission facil-
20 ity and incremental transfer capability will
21 facilitate development or transmission of
22 electric energy generated from renewable
23 energy resources;

24 “(iii) that the process for seeking ap-
25 proval of siting and construction of the

1 core transmission facilities in the 1 or
2 more States in which the facilities will be
3 located, or by the Commission pursuant to
4 section 216, has been initiated by the date
5 on which the cost recovery plan is sub-
6 mitted to the Commission for approval;

7 “(iv) that the core transmission facili-
8 ties include at least 100 miles of new
9 transmission lines or constitute secondary
10 line connections to the Energy Super-
11 highway for electricity generated from re-
12 newable resources;

13 “(v) that the facilities providing the
14 incremental transfer capability will operate
15 at a nominal voltage of at least 345 kilo-
16 volts;

17 “(vi) that the incremental transfer ca-
18 pability is likely to promote the reliable
19 and economically efficient transmission and
20 generation of electricity or reduce trans-
21 mission congestion;

22 “(vii) that, in the case of a project
23 sponsor that has on file with the Commis-
24 sion and is operating subject to an open
25 access transmission tariff, the transfer ca-

1 pability of the core transmission facilities,
2 without the incremental transfer capability,
3 is sufficiently committed through trans-
4 mission service agreements accepted by or
5 on file with the Commission or as allocated
6 to network or native customers pursuant to
7 the open access transmission tariff of the
8 project sponsor;

9 “(viii) that, in the case of a project
10 sponsor that must obtain approval from
11 any regional transmission organization
12 prior to constructing core transmission fa-
13 cilities, all required approvals from any re-
14 gional transmission organization for the
15 core transmission facilities have been ob-
16 tained;

17 “(ix) that the project sponsor has the
18 ability to finance construction of the core
19 transmission facilities absent the incre-
20 mental transfer capability;

21 “(x) a commitment to undertake all
22 reasonable and prudent efforts to construct
23 the core transmission facilities in a way
24 that provides the incremental transfer ca-
25 pability as outlined in the plan of the

1 project sponsor if the Commission grants
2 the cost recovery incentives for the incre-
3 mental transfer capability under subsection
4 (c);

5 “(xi) a commitment to provide ancil-
6 lary services, including integration service,
7 on the incremental transfer capability pur-
8 suant to Commission-approved rates; and

9 “(xii) a commitment to maintain a
10 Commission-approved rate, separate from
11 the embedded transmission rate of the
12 project sponsor, for the incremental trans-
13 fer capability, unless otherwise agreed to
14 by the project sponsor and future trans-
15 mission customers and approved by the
16 Commission.

17 “(2) FACILITATING RENEWABLE ENERGY RE-
18 SOURCES.—For purposes of satisfying the cost re-
19 covery authorization requirements of paragraph (1),
20 an incremental transfer capability project facilitates
21 development or transmission of electric energy gen-
22 erated from renewable energy resources if the
23 project—

24 “(A) is constructed in whole or in part be-
25 tween a liquid energy market hub and an area

1 that has been determined by the Commission to
2 have the potential to generate in excess of 1
3 gigawatt of electricity from renewable energy
4 resources; or

5 “(B) is consistent with transmission facili-
6 ties identified as needed in the transmission
7 planning initiatives associated with a regional
8 renewable energy zone identification process
9 that is undertaken with the involvement of
10 State and Federal agencies.

11 “(3) TERMINATION OF EFFECTIVENESS.—The
12 authority provided by this subsection terminates ef-
13 fective December 31, 2015.

14 “(c) COST RECOVERY PLAN.—

15 “(1) IN GENERAL.—The Commission shall ap-
16 prove the recovery of costs for incremental transfer
17 capability added to core transmission facilities pur-
18 suant to a plan submitted by the project sponsor
19 consistent with subsection (b).

20 “(2) REQUIREMENTS.—

21 “(A) IN GENERAL.—A plan described in
22 paragraph (1) shall include—

23 “(i) in accordance with paragraph (3),
24 a proposal for rates and charges for the
25 uncommitted transfer capability to be paid

1 annually by the Secretary to the project
2 sponsor for a period of 10 years beginning
3 on the date on which the transmission fa-
4 cilities are placed in service; or

5 “(ii) in accordance with paragraph
6 (4), a proposal for the Secretary to pur-
7 chase from the project sponsor and hold
8 the rights to the uncommitted transfer ca-
9 pability on a pro rata basis based on the
10 final cost of the assets providing the un-
11 committed transfer capability.

12 “(B) CONTROL OF FACILITIES.—A project
13 sponsor submitting a plan under this subsection
14 shall own, operate, and maintain the facilities
15 providing the uncommitted transfer capability.

16 “(3) DIRECT PAYMENT FOR UNCOMMITTED
17 TRANSFER CAPABILITY.—

18 “(A) IN GENERAL.—On the request of the
19 project sponsor and if approved by the Commis-
20 sion, the Secretary shall pay the project spon-
21 sor, on a pro rata basis, for all prudently in-
22 curred costs and associated returns on equity of
23 constructing, owning, and operating the uncom-
24 mitted transfer capability for a period of 10

1 years beginning on the date that the trans-
2 mission facilities are placed in service.

3 “(B) PUBLIC INTEREST.—In determining
4 whether rates and charges under this subsection
5 for use of uncommitted transfer capability are
6 just and reasonable and not unduly discrimina-
7 tory or preferential, the Commission shall—

8 “(i) consider the public interest to in-
9 crease transmission transfer capability to
10 facilitate the development and transmission
11 of renewable energy; and

12 “(ii) account for the cost of con-
13 structing the uncommitted transfer capa-
14 bility separately from the cost that would
15 have been incurred to construct the trans-
16 mission facility without the uncommitted
17 transfer capability using a pro rata cal-
18 culation.

19 “(4) DIRECT PURCHASE OF UNCOMMITTED
20 TRANSFER CAPABILITY.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), on the request of the project sponsor
23 and if approved by the Commission, the Sec-
24 retary shall purchase from the project sponsor
25 and hold the rights to the uncommitted transfer

1 capability on a pro rata basis once the trans-
2 mission facilities are placed in service.

3 “(B) LIMITATION.—The Secretary shall
4 not purchase any uncommitted transfer capa-
5 bility rights under this section until the Sec-
6 retary has deposited into the Fund amounts
7 sufficient to cover the price of the rights as set
8 forth in the plan approved by the Commission.

9 “(5) ACCESS TO UNCOMMITTED TRANSFER CA-
10 PABILITY.—The Commission shall ensure, to the
11 maximum extent practicable, that—

12 “(A) the uncommitted transfer capability
13 made available pursuant to this section is used
14 to deliver electricity generated from renewable
15 energy resources, including other resources nec-
16 essary to support the interconnection of renew-
17 able energy resources; and

18 “(B) the project sponsor has preferential
19 access to purchase all or part of the right to the
20 uncommitted transfer capability held by the
21 Secretary to serve customers that purchase or
22 sell renewable energy resources developed and
23 delivered pursuant to this section for a period
24 of 10 years, to the extent that the preference

1 does not have a negative impact on electric reli-
2 ability.

3 “(6) REMARKETING UNCOMMITTED TRANSFER
4 CAPABILITY.—

5 “(A) IN GENERAL.—In order to minimize
6 Federal Government outlays and reduce the
7 amount of total uncommitted transfer capability
8 rights still held by the Federal Government at
9 the end of the 10-year reservation period de-
10 scribed in paragraph (3)(A), at the end of that
11 period the project sponsor shall be required
12 to—

13 “(i) post on an open access same time
14 information system and remarket the
15 rights to the residual uncommitted transfer
16 capability; and

17 “(ii) repurchase the rights as new
18 long-term transmission service agreements
19 or network commitments are made.

20 “(B) EFFECT.—Nothing in this paragraph
21 establishes the project sponsor as an agent of
22 the Federal Government.

23 “(7) RESALE OF UNCOMMITTED TRANSFER CA-
24 PABILITY.—

1 “(A) IN GENERAL.—The Secretary may re-
2 ceive and accept payments for the purpose of
3 purchasing uncommitted transfer capability
4 rights held by the Secretary.

5 “(B) PRICE.—The price at which the
6 rights of the Secretary may be purchased shall
7 equal the product obtained by multiplying—

8 “(i) the amount paid by the Secretary
9 net of accumulated depreciation for the
10 rights plus interest compounded annually
11 at the 2-year Treasury note rate; by

12 “(ii) the percentage of the rights of
13 the Secretary to the uncommitted transfer
14 capability of the project being purchased.

15 “(C) USE OF FUNDS.—Any payments to
16 the Secretary under this paragraph shall be de-
17 posited directly into the general fund of the
18 Treasury.

19 “(d) RENEWABLE ENERGY INCREMENTAL TRANS-
20 MISSION FUND.—

21 “(1) ESTABLISHMENT.—There is established in
22 the Treasury of the United States a revolving fund,
23 to be known as the ‘Renewable Energy Incremental
24 Transmission Fund’, consisting of such amounts as
25 are appropriated to the Fund under paragraph (2).

1 “(2) TRANSFER.—There are appropriated to
2 the Fund, out of funds of the Treasury not other-
3 wise appropriated, \$10,000,000,000,000, to be ap-
4 propriated as soon as practicable after the date of
5 enactment of this section, but not later than October
6 1, 2009.

7 “(3) AVAILABILITY OF FUNDS.—Notwith-
8 standing subsection (b)(3), amounts in the Fund
9 shall be available to the Secretary for expenditure
10 under this section without fiscal year limitation, to
11 remain available until expended.

12 “(4) REPORT.—Each year, the Secretary shall
13 submit to the appropriate committees of Congress a
14 report describing the activities of the Secretary
15 under this section.

16 “(e) RULEMAKING REQUIREMENT.—

17 “(1) IN GENERAL.—The Commission shall, by
18 1 or more rules promulgated not later than 90 days
19 after the date of enactment of this section, estab-
20 lish—

21 “(A) appropriate final procedural require-
22 ments to specify the process by which a project
23 sponsor shall submit and the Commission shall
24 evaluate the cost recovery plan provided for in
25 this section; and

1 “(B) incentive-based rate treatments for
2 investments in incremental transfer capability
3 projects authorized by the Commission under
4 this section that expand the transfer capability
5 of core transmission facilities being permitted,
6 sited, or constructed, beyond their initial
7 planned transfer capability, to accommodate in-
8 creased future growth of renewable energy.

9 “(2) REQUIREMENTS.—Incentive-based rate
10 treatments described in paragraph (1)(B) shall take
11 into account—

12 “(A) the scale of investment required;

13 “(B) the extraordinary financial and non-
14 financial risks and challenges impeding this in-
15 vestment; and

16 “(C) the wide-ranging public interest bene-
17 fits provided by developing the incremental
18 transfer capability projects.

19 “(3) RELATION TO OTHER INCENTIVE RATES.—
20 In establishing appropriate procedural requirements
21 under this subsection, the Commission shall deter-
22 mine the incentive-based rate treatments described
23 in paragraph (1)(B) independently from other incen-
24 tive rates that the Commission is authorized to pro-
25 vide under section 219.”.

1 **SEC. 103. COORDINATION OF FEDERAL AUTHORIZATIONS**
2 **FOR TRANSMISSION FACILITIES.**

3 Section 216(h) of the Federal Power Act (16 U.S.C.
4 824p(h)) is amended—

5 (1) in paragraph (2), by striking “Department
6 of Energy” and inserting “Federal Energy Regu-
7 latory Commission (referred to in this subsection as
8 the ‘Commission’)”;

9 (2) by striking “Secretary” each place it ap-
10 pears and inserting “Commission”;

11 (3) in paragraph (7)—

12 (A) in subparagraph (A), by striking “18
13 months after the date of enactment of this sec-
14 tion” and inserting “180 days after the date of
15 enactment of the SMART Energy Act”; and

16 (B) in subparagraph (B), by striking “1
17 year after the date of enactment of this sec-
18 tion” and inserting “180 days after the date of
19 enactment of the SMART Energy Act”; and

20 (4) in paragraph (9), by striking subparagraph
21 (A) and inserting the following:

22 “(A) the Secretary of Energy;”.

1 **TITLE II—INVESTING IN**
2 **AMERICA’S ENERGY SECURITY**
3 **Subtitle A—Energy Security Trust**
4 **Fund**

5 **SEC. 201. ENERGY SECURITY TRUST FUND.**

6 (a) ESTABLISHMENT.—Subchapter A of chapter 98
7 of the Internal Revenue Code of 1986 is amended by add-
8 ing at the end the following new section:

9 **“SEC. 9511. ENERGY SECURITY TRUST FUND.**

10 “(a) CREATION OF TRUST FUND.—There is estab-
11 lished in the Treasury of the United States a trust fund
12 to be known as the ‘Energy Security Trust Fund’ (re-
13 ferred to in this section as the ‘Trust Fund’), consisting
14 of such amounts as may be appropriated or credited to
15 the Trust Fund as provided in this section or section
16 9602(b).

17 “(b) TRANSFERS TO TRUST FUND.—There is hereby
18 appropriated to the Trust Fund an amount equivalent to
19 the sum of—

20 “(1) the taxes received in the Treasury under
21 section 5896, plus

22 “(2) any increase in the amounts received in
23 the Treasury that are attributable to leasing or
24 other revenue from increased oil and natural gas
25 production as the result of the enactment of the

1 SMART Energy Act (as determined by the Sec-
2 retary of the Treasury).

3 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 amounts in the Trust Fund shall be available to the
6 Secretary of Energy for the purposes of carrying out
7 research, development, deployment, and related ac-
8 tivities for—

9 “(A) advanced biofuels;

10 “(B) renewable energy production;

11 “(C) infrastructure needs for advanced
12 biofuels and renewable energy production; and

13 “(D) energy conservation and efficiency,
14 including energy-efficient vehicles and con-
15 serving and making more efficient transpor-
16 tation fuels.

17 “(2) USE OF CERTAIN FUNDS.—All funds in
18 the Trust Fund that are derived from fees collected
19 under the production incentives program established
20 under section 302 of the SMART Energy Act during
21 the first 5 fiscal years for which funds are collected
22 under the program shall be used—

23 “(A) to complete, as soon as practicable
24 after the date of enactment of that Act, any en-
25 vironmental or socioeconomic impact studies or

1 consultations for prospective production areas
2 on the outer Continental Shelf;

3 “(B) to pay the expenses of the Special
4 Commission on Offshore Oil and Gas Leasing
5 established under section 18(j) of the Outer
6 Continental Shelf Lands Act (43 U.S.C.
7 1344(j)); and

8 “(C) to identify the most prospective areas
9 for recoverable oil and gas accumulations for in-
10 dustry exploration under, and otherwise carry
11 out, section 357 of the Energy Policy Act of
12 2005 (42 U.S.C. 15912).”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for subchapter A of chapter 98 of the Internal Revenue
15 Code of 1986 is amended by adding at the end the fol-
16 lowing new item:

“Sec. 9511. Energy Security Trust Fund.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 202. TAX ON CRUDE OIL AND NATURAL GAS PRO-**
21 **DUCTION FROM THE OUTER CONTINENTAL**
22 **SHELF IN THE GULF OF MEXICO.**

23 (a) IN GENERAL.—Subtitle E of the Internal Rev-
24 enue Code of 1986 is amended by adding at the end the
25 following new chapter:

1 **“CHAPTER 56—TAX ON SEVERANCE OF**
2 **CRUDE OIL AND NATURAL GAS FROM**
3 **THE OUTER CONTINENTAL SHELF IN**
4 **THE GULF OF MEXICO**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Taxable crude oil or natural gas and removal price.

“Sec. 5898. Special rules and definitions.

5 **“SEC. 5896. IMPOSITION OF TAX.**

6 “(a) IN GENERAL.—In addition to any other tax im-
7 posed under this title, there is hereby imposed a tax equal
8 to 18 and two-thirds percent of the removal price of any
9 taxable crude oil or natural gas removed from the prem-
10 ises during any taxable period.

11 “(b) CREDIT FOR FEDERAL ROYALTIES PAID.—

12 “(1) IN GENERAL.—There shall be allowed as a
13 credit against the tax imposed by subsection (a) with
14 respect to the production of any taxable crude oil or
15 natural gas an amount equal to the aggregate
16 amount of royalties paid under Federal law with re-
17 spect to such production.

18 “(2) LIMITATION.—The aggregate amount of
19 credits allowed under paragraph (1) to any taxpayer
20 for any taxable period shall not exceed the amount
21 of tax imposed by subsection (a) for such taxable pe-
22 riod.

1 “(c) TAX PAID BY PRODUCER.—The tax imposed by
2 this section shall be paid by the producer of the taxable
3 crude oil or natural gas.

4 **“SEC. 5897. TAXABLE CRUDE OIL OR NATURAL GAS AND RE-**
5 **MOVAL PRICE.**

6 “(a) TAXABLE CRUDE OIL OR NATURAL GAS.—For
7 purposes of this chapter, the term ‘taxable crude oil or
8 natural gas’ means crude oil or natural gas which is pro-
9 duced from Federal submerged lands on the outer Conti-
10 nental Shelf in the Gulf of Mexico pursuant to a lease
11 entered into with the United States which authorizes the
12 production.

13 “(b) REMOVAL PRICE.—For purposes of this chap-
14 ter—

15 “(1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the term ‘removal price’
17 means—

18 “(A) in the case of taxable crude oil, the
19 amount for which a barrel of such crude oil is
20 sold, and

21 “(B) in the case of taxable natural gas, the
22 amount per 1,000 cubic feet for which such
23 natural gas is sold.

24 “(2) SALES BETWEEN RELATED PERSONS.—In
25 the case of a sale between related persons, the re-

1 removal price shall not be less than the constructive
2 sales price for purposes of determining gross income
3 from the property under section 613.

4 “(3) OIL OR GAS REMOVED FROM PROPERTY
5 BEFORE SALE.—If crude oil or natural gas is re-
6 moved from the property before it is sold, the re-
7 moval price shall be the constructive sales price for
8 purposes of determining gross income from the prop-
9 erty under section 613.

10 “(4) REFINING BEGUN ON PROPERTY.—If the
11 manufacture or conversion of crude oil into refined
12 products begins before such oil is removed from the
13 property—

14 “(A) such oil shall be treated as removed
15 on the day such manufacture or conversion be-
16 gins, and

17 “(B) the removal price shall be the con-
18 structive sales price for purposes of determining
19 gross income from the property under section
20 613.

21 “(5) PROPERTY.—The term ‘property’ has the
22 meaning given such term by section 614.

23 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

24 “(a) ADMINISTRATIVE REQUIREMENTS.—

1 “(1) WITHHOLDING AND DEPOSIT OF TAX.—
2 The Secretary shall provide for the withholding and
3 deposit of the tax imposed under section 5896 on a
4 quarterly basis.

5 “(2) RECORDS AND INFORMATION.—Each tax-
6 payer liable for tax under section 5896 shall keep
7 such records, make such returns, and furnish such
8 information (to the Secretary and to other persons
9 having an interest in the taxable crude oil or natural
10 gas) with respect to such oil as the Secretary may
11 by regulations prescribe.

12 “(3) TAXABLE PERIODS; RETURN OF TAX.—

13 “(A) TAXABLE PERIOD.—Except as pro-
14 vided by the Secretary, each calendar year shall
15 constitute a taxable period.

16 “(B) RETURNS.—The Secretary shall pro-
17 vide for the filing, and the time for filing, of the
18 return of the tax imposed under section 5896.

19 “(b) DEFINITIONS.—For purposes of this chapter—

20 “(1) PRODUCER.—The term ‘producer’ means
21 the holder of the economic interest with respect to
22 the crude oil or natural gas.

23 “(2) CRUDE OIL.—The term ‘crude oil’ includes
24 crude oil condensates and natural gasoline.

1 “(3) PREMISES AND CRUDE OIL PRODUCT.—

2 The terms ‘premises’ and ‘crude oil product’ have
3 the same meanings as when used for purposes of de-
4 termining gross income from the property under sec-
5 tion 613.

6 “(c) ADJUSTMENT OF REMOVAL PRICE.—In deter-
7 mining the removal price of oil or natural gas from a prop-
8 erty in the case of any transaction, the Secretary may ad-
9 just the removal price to reflect clearly the fair market
10 value of oil or natural gas removed.

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this chapter.”.

14 (b) DEDUCTIBILITY OF TAX.—The first sentence of
15 section 164(a) of the Internal Revenue Code of 1986 is
16 amended by inserting after paragraph (5) the following
17 new paragraph:

18 “(6) The tax imposed by section 5896(a) (after
19 application of section 5896(b)) on the severance of
20 crude oil or natural gas from the outer Continental
21 Shelf in the Gulf of Mexico.”.

22 (c) CLERICAL AMENDMENT.—The table of chapters
23 for subtitle E of the Internal Revenue Code of 1986 is
24 amended by adding at the end the following new item:

 “CHAPTER 56. Tax on severance of crude oil and natural gas
 from the outer Continental Shelf in the Gulf of
 Mexico.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to crude oil or natural gas removed
 3 after the date of the enactment of this Act.

4 **Subtitle B—Biogas**

5 **SEC. 211. CREDIT FOR PRODUCTION OF BIOGAS AND**
 6 **SYNGAS FROM CERTAIN RENEWABLE FEED-**
 7 **STOCKS.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
 9 chapter A of chapter 1 of the Internal Revenue Code of
 10 1986 is amended by inserting after section 45Q the fol-
 11 lowing new section:

12 **“SEC. 45R. BIOGAS AND SYNGAS PRODUCED FROM CER-**
 13 **TAIN RENEWABLE FEEDSTOCKS.**

14 “(a) ALLOWANCE OF CREDIT.—

15 “(1) IN GENERAL.—For purposes of section 38,
 16 the qualified biogas and renewable syngas produc-
 17 tion credit for any taxable year is an amount equal
 18 to the sum of the biogas production amount and the
 19 renewable syngas production amount.

20 “(2) BIOGAS PRODUCTION AMOUNT.—

21 “(A) IN GENERAL.—For purposes of para-
 22 graph (1), except as provided in subparagraph
 23 (B), the biogas production amount is an
 24 amount equal to the product of—

25 “(i) \$4.27, and

1 “(ii) each million British thermal unit
2 (mmBtu) of biogas—

3 “(I) produced by the taxpayer—

4 “(aa) from qualified energy
5 feedstock, and

6 “(bb) at a qualified facility
7 during the 10-year period begin-
8 ning on the date the facility was
9 originally placed in service, and

10 “(II) sold or used by the tax-
11 payer during the taxable year.

12 “(B) EXCEPTION FOR BIOGAS PRODUCED
13 FROM A LANDFILL.—In the case of biogas pro-
14 duced from a landfill, the biogas production
15 amount is \$2.00.

16 “(3) RENEWABLE SYNGAS PRODUCTION
17 AMOUNT.—For purposes of paragraph (1), the re-
18 newable syngas production amount is an amount
19 equal to the product of—

20 “(A) \$2.92, and

21 “(B) each million British thermal unit
22 (mmBtu) of renewable syngas—

23 “(i) produced by the taxpayer—

24 “(I) from qualified energy feed-
25 stock, and

1 “(II) at a qualified facility during
2 the 10-year period beginning on the
3 date the facility was originally placed
4 in service, and

5 “(ii) used by the taxpayer during the
6 taxable year as a fuel at such qualified fa-
7 cility.

8 “(b) DEFINITIONS.—For purposes of this section—

9 “(1) BIOGAS.—The term ‘biogas’ means a gas
10 which—

11 “(A) is derived by processing qualified en-
12 ergy feedstock, and

13 “(B) contains at least 50 percent methane.

14 “(2) RENEWABLE SYNGAS.—The term ‘renew-
15 able syngas’ means any fuel which is derived by
16 processing qualified energy feedstock.

17 “(3) QUALIFIED ENERGY FEEDSTOCK.—

18 “(A) IN GENERAL.—The term ‘qualified
19 energy feedstock’ means—

20 “(i) manure of agricultural livestock,
21 including litter, wood shavings, straw, rice
22 hulls, bedding material, and other mate-
23 rials incidentally collected with the ma-
24 nure,

1 “(ii) any nonhazardous, cellulosic, or
2 other organic agricultural or food industry
3 by-product or waste material which is de-
4 rived from—

5 “(I) renewable biomass,

6 “(II) harvesting residues,

7 “(III) wastes or byproducts from
8 fermentation processes, ethanol pro-
9 duction, biodiesel production, slaugh-
10 ter of agricultural livestock, food pro-
11 duction, food processing, or food serv-
12 ice, or

13 “(IV) other organic wastes, by-
14 products, or sources,

15 “(iii) solid wood waste materials, in-
16 cluding waste pallets, crates, dunnage,
17 manufacturing and construction wood
18 wastes, and landscape or right-of-way tree
19 trimmings, or

20 “(iv) landfill waste, sewage waste
21 treatment materials, or other organic ma-
22 terials.

23 “(B) RENEWABLE BIOMASS.—The term
24 ‘renewable biomass’ means—

1 “(i) materials from pre-commercial
2 thinning or invasive species from National
3 Forest System land and public lands (as
4 defined in section 103 of the Federal Land
5 Policy and Management Act of 1976 (43
6 U.S.C. 1702)) which—

7 “(I) are byproducts of preventive
8 treatments which are removed to re-
9 duce or contain disease or insect in-
10 festation to restore ecosystem health,

11 “(II) would not otherwise be used
12 for higher-value products, and

13 “(III) are harvested in accord-
14 ance with applicable law and land
15 management plans and the require-
16 ments for old-growth maintenance,
17 restoration, and management direc-
18 tion of paragraphs (2), (3), and (4) of
19 subsection (e) of section 102 of the
20 Healthy Forests Restoration Act of
21 2003 (16 U.S.C. 6512) and large tree
22 retention of subsection (f) of that sec-
23 tion, or

24 “(ii) any organic matter which is
25 available on a renewable or recurring basis

1 from non-Federal land or land belonging to
2 an Indian or Indian tribe which is held in
3 trust by the United States or subject to a
4 restriction against alienation imposed by
5 the United States, including—

6 “(I) renewable plant material
7 (such as feed grains, other agricul-
8 tural commodities, other plants and
9 trees, and algae), and

10 “(II) waste material (such as
11 crop residue, other vegetative waste
12 material (including wood waste and
13 wood residues), animal waste and by-
14 products (including fats, oils, greases,
15 and manure), food waste, and yard
16 waste).

17 “(C) AGRICULTURAL LIVESTOCK.—The
18 term ‘agricultural livestock’ means poultry, cat-
19 tle, sheep, swine, goats, horses, mules, and
20 other equines.

21 “(c) QUALIFIED FACILITY.—For purposes of this
22 section—

23 “(1) BIOGAS FACILITY.—In the case of a facil-
24 ity producing biogas, the term ‘qualified facility’
25 means a facility which—

1 “(A) uses anaerobic digesters, gasification,
2 or other biological, chemical, or thermal pro-
3 cesses to convert qualified energy feedstock into
4 biogas,

5 “(B) is owned by the taxpayer,

6 “(C) is located in the United States,

7 “(D) is originally placed in service before
8 January 1, 2017, and

9 “(E) the biogas output of which is—

10 “(i) marketed through interconnection
11 with a gas distribution or transmission
12 pipeline, or

13 “(ii) reasonably expected to be used in
14 a quantity sufficient to offset the consump-
15 tion of 5,000 mmBtu annually of commer-
16 cially marketed fuel derived from coal,
17 crude oil, natural gas, propane, or other
18 fossil fuels.

19 “(2) RENEWABLE SYNGAS FACILITY.—In the
20 case of a facility producing renewable syngas, the
21 term ‘qualified facility’ means a facility which—

22 “(A) uses anaerobic digesters, gasification,
23 or other biological, chemical, or thermal pro-
24 cesses to convert qualified energy feedstock into
25 renewable syngas,

1 “(B) is owned by the taxpayer,

2 “(C) is located in the United States,

3 “(D) is originally placed in service before
4 January 1, 2017,

5 “(E) the renewable syngas output of which
6 is reasonably expected to be used in a quantity
7 sufficient to offset the consumption of 5,000
8 mmBtu annually of commercially marketed fuel
9 derived from coal, crude oil, natural gas, pro-
10 pane, or other fossil fuels, and

11 “(F) provides for waste treatment and
12 clean-up.

13 “(d) SPECIAL RULES.—For purposes of this sec-
14 tion—

15 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
16 PAYER.—In the case of a facility in which more than
17 1 person has an ownership interest, except to the ex-
18 tent provided in regulations prescribed by the Sec-
19 retary, production from the qualified facility shall be
20 allocated among such persons in proportion to their
21 respective ownership interests in the gross sales
22 from such qualified facility.

23 “(2) PASS-THRU IN THE CASE OF ESTATES AND
24 TRUSTS.—Under regulations prescribed by the Sec-

1 retary, rules similar to the rules of subsection (d) of
2 section 52 shall apply.

3 “(3) COORDINATION WITH CREDIT FROM PRO-
4 DUCING FUEL FROM A NONCONVENTIONAL
5 SOURCE.—The amount of biogas produced and sold
6 or used by the taxpayer during any taxable year
7 which is taken into account under this section shall
8 be reduced by the amount of biogas produced and
9 sold by the taxpayer in such taxable year which is
10 taken into account under section 45K.

11 “(4) CREDIT ELIGIBILITY IN THE CASE OF GOV-
12 ERNMENT-OWNED FACILITIES.—In the case of any
13 facility which produces biogas or renewable syngas
14 and which is owned by a governmental unit, para-
15 graphs (1)(B) and (2)(B) of subsection (c) shall
16 each be applied by substituting ‘is leased or operated
17 by the taxpayer’ for ‘is owned by the taxpayer’.

18 “(5) SPECIAL RULE FOR PUBLIC-PRIVATE
19 PARTNERSHIPS.—

20 “(A) IN GENERAL.—In the case of a facil-
21 ity which is owned by a public-private partner-
22 ship, any qualified public entity which is a
23 member of such partnership may transfer such
24 entity’s allocation of the credit under subsection
25 (a) to any non-public entity which is a member

1 of such partnership, except that the aggregate
2 allocations of such credit claimed by such non-
3 public entity shall be subject to the limitations
4 under section 38(c).

5 “(B) QUALIFIED PUBLIC ENTITY.—For
6 purposes of this paragraph, the term ‘qualified
7 public entity’ means a Federal, State, or local
8 government entity, or any political subdivision
9 thereof, or a cooperative organization described
10 in section 1381(a).

11 “(C) VERIFICATION OF TRANSFER OF AL-
12 LOCATION.—A qualified public entity that
13 makes a transfer under subparagraph (A), and
14 a non-public entity that receives an allocation
15 under such a transfer, shall provide verification
16 of such transfer in such manner and at such
17 time as the Secretary shall prescribe.

18 “(e) ADJUSTMENT BASED ON INFLATION.—

19 “(1) IN GENERAL.—The \$4.27 amount under
20 subsection (a)(2)(A)(i), the \$2.00 amount under
21 subsection (a)(2)(B), and the \$2.92 amount under
22 subsection (a)(3)(A) shall each be adjusted by multi-
23 plying such amount by the inflation adjustment fac-
24 tor for the calendar year in which the sale occurs.
25 If any amount as increased under the preceding sen-

1 tence is not a multiple of 0.1 cent, such amount
2 shall be rounded to the nearest multiple of 0.1 cent.

3 “(2) COMPUTATION OF INFLATION ADJUST-
4 MENT FACTOR.—

5 “(A) IN GENERAL.—The Secretary shall,
6 not later than April 1 of each calendar year, de-
7 termine and publish in the Federal Register the
8 inflation adjustment factor in accordance with
9 this paragraph.

10 “(B) INFLATION ADJUSTMENT FACTOR.—
11 The term ‘inflation adjustment factor’ means,
12 with respect to a calendar year, a fraction the
13 numerator of which is the GDP implicit price
14 deflator for the preceding calendar year and the
15 denominator of which is the GDP implicit price
16 deflator for calendar year 2008. The term
17 ‘GDP implicit price deflator’ means the most
18 recent revision of the implicit price deflator for
19 the gross domestic product as computed and
20 published by the Department of Commerce be-
21 fore March 15 of the calendar year.”.

22 (b) CREDIT TREATED AS BUSINESS CREDIT.—

23 (1) IN GENERAL.—Section 38(b) of the Internal
24 Revenue Code of 1986 is amended by striking
25 “plus” at the end of paragraph (34), by striking the

1 period at the end of paragraph (35) and inserting “,
2 plus”, and by adding at the end the following new
3 paragraph:

4 “(36) the qualified biogas and renewable syngas
5 production credit under section 45R(a).”.

6 (2) COORDINATION WITH PARTNERSHIP
7 RULES.—Subsection (c) of section 38 of such Code
8 is amended by adding at the end the following new
9 paragraph:

10 “(6) SPECIAL RULE FOR CREDIT FOR PRODUC-
11 TION FROM BIOGAS AND RENEWABLE SYNGAS FA-
12 CILITIES.—

13 “(A) IN GENERAL.—In the case of the
14 qualified biogas and renewable syngas produc-
15 tion credit determined under section 45R(a),
16 paragraph (1) shall not apply with respect to
17 any qualified public entity (as defined in section
18 45R(d)(5)(B)) which transfers the entity’s allo-
19 cation of such credit to a non-public partner as
20 provided in section 45R(d)(5)(A).

21 “(B) VERIFICATION OF TRANSFER.—Sub-
22 paragraph (A) shall not apply to any qualified
23 public entity unless such entity provides
24 verification of a transfer of credit allocation as
25 required under section 45R(d)(5)(C).”.

1 (c) COORDINATION WITH CREDIT FOR PRODUCTION
 2 OF ELECTRICITY FROM A RENEWABLE RESOURCE.—Sec-
 3 tion 45(e) of the Internal Revenue Code of 1986 is amend-
 4 ed by adding at the end the following new paragraph:

5 “(12) COORDINATION WITH CREDIT FOR PRO-
 6 Duction OF BIOGAS.—The term ‘qualified facility’
 7 shall not include any facility which produces elec-
 8 tricity from biogas or renewable syngas the produc-
 9 tion from which is allowed a credit under section
 10 45R for such taxable year or any prior taxable
 11 year.”.

12 (d) CREDIT ALLOWED AGAINST AMT.—Section
 13 38(c)(4)(B) of the Internal Revenue Code of 1986 is
 14 amended by redesignating clauses (vi) through (viii) as
 15 clauses (vii) through (ix), respectively, and by inserting
 16 after clause (v) the following new clause:

17 “(vi) the credit determined under sec-
 18 tion 45R(a).”.

19 (e) CLERICAL AMENDMENT.—The table of sections
 20 for subpart D of part IV of subchapter A of chapter 1
 21 of the Internal Revenue Code of 1986 is amended by in-
 22 serting after the item relating to section 45Q the following
 23 new item:

“Sec. 45R. Biogas and syngas produced from certain renewable feedstocks.”.

24 (f) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to gas produced and sold or used

1 in taxable years beginning after the date of the enactment
2 of this Act.

3 **Subtitle C—Investing in Biofuels**
4 **and Renewable Fuel Infrastructure**

5 **SEC. 221. DEFINITION OF RENEWABLE BIOMASS.**

6 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
7 7545(o)(1)) is amended by striking subparagraph (I) and
8 inserting the following:

9 “(I) RENEWABLE BIOMASS.—The term ‘re-
10 newable biomass’ means—

11 “(i) materials, pre-commercial
12 thinnings, or invasive species from Na-
13 tional Forest System land and public lands
14 (as defined in section 103 of the Federal
15 Land Policy and Management Act of 1976
16 (43 U.S.C. 1702)) that—

17 “(I) are byproducts of preventive
18 treatments that are removed—

19 “(aa) to reduce hazardous
20 fuels;

21 “(bb) to reduce or contain
22 disease or insect infestation; or

23 “(cc) to restore ecosystem
24 health;

1 “(II) would not otherwise be used
2 for higher-value products; and

3 “(III) are harvested in accord-
4 ance with—

5 “(aa) applicable law and
6 land management plans; and

7 “(bb) the requirements
8 for—

9 “(AA) old-growth main-
10 tenance, restoration, and
11 management direction of
12 paragraphs (2), (3), and (4)
13 of subsection (e) of section
14 102 of the Healthy Forests
15 Restoration Act of 2003 (16
16 U.S.C. 6512); and

17 “(BB) large-tree reten-
18 tion of subsection (f) of that
19 section; or

20 “(ii) any organic matter that is avail-
21 able on a renewable or recurring basis
22 from non-Federal land or land belonging to
23 an Indian or Indian tribe that is held in
24 trust by the United States or subject to a

1 restriction against alienation imposed by
2 the United States, including—

3 “(I) renewable plant material, in-
4 cluding—

5 “(aa) feed grains;

6 “(bb) other agricultural
7 commodities;

8 “(cc) other plants and trees;
9 and

10 “(dd) algae; and

11 “(II) waste material, including—

12 “(aa) crop residue;

13 “(bb) other vegetative waste
14 material (including wood waste
15 and wood residues);

16 “(cc) animal waste and by-
17 products (including fats, oils,
18 greases, and manure); and

19 “(dd) food waste and yard
20 waste.”.

21 **SEC. 222. LOAN GUARANTEES FOR RENEWABLE ENERGY**
22 **PIPELINES.**

23 Subtitle C of title II of the Energy Independence and
24 Security Act of 2007 (42 U.S.C. 17051 et seq.) is amend-
25 ed by adding at the end the following:

1 **“SEC. 249. LOAN GUARANTEES FOR RENEWABLE ENERGY**
2 **PIPELINES.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COST.—The term ‘cost’ has the meaning
5 given the term ‘cost of a loan guarantee’ in section
6 502(5)(C) of the Federal Credit Reform Act of 1990
7 (2 U.S.C. 661a(5)(C)).

8 “(2) ELIGIBLE PROJECT.—The term eligible
9 project means a project described in subsection
10 (b)(1).

11 “(3) GUARANTEE.—

12 “(A) IN GENERAL.—The term ‘guarantee’
13 has the meaning given the term ‘loan guar-
14 antee’ in section 502 of the Federal Credit Re-
15 form Act of 1990 (2 U.S.C. 661a).

16 “(B) INCLUSION.—The term ‘guarantee’
17 includes a loan guarantee commitment (as de-
18 fined in section 502 of the Federal Credit Re-
19 form Act of 1990 (2 U.S.C. 661a)).

20 “(4) RENEWABLE ENERGY PIPELINE.—The
21 term ‘renewable energy pipeline’ means a common
22 carrier pipeline for transporting renewable energy.

23 “(b) LOAN GUARANTEES.—

24 “(1) IN GENERAL.—The Secretary shall make
25 guarantees under this section for projects that pro-
26 vide for—

1 “(A) the construction of new renewable en-
2 ergy pipelines; or

3 “(B) the modification of pipelines to trans-
4 port renewable energy.

5 “(2) ELIGIBILITY.—In determining the eligi-
6 bility of a project for a guarantee under this section,
7 the Secretary shall consider—

8 “(A) the volume of renewable energy to be
9 moved by the renewable energy pipeline;

10 “(B) the size of the markets to be served
11 by the renewable energy pipeline;

12 “(C) the existence of sufficient storage to
13 facilitate access to the markets served by the
14 renewable energy pipeline;

15 “(D) the proximity of the renewable energy
16 pipeline to ethanol production facilities;

17 “(E) the investment of the entity carrying
18 out the proposed project in terminal infrastruc-
19 ture;

20 “(F) the experience of the entity carrying
21 out the proposed project in working with renew-
22 able energy;

23 “(G) the ability of the entity carrying out
24 the proposed project to maintain the quality of
25 the renewable energy through—

1 “(i) the terminal system of the entity;

2 and

3 “(ii) the dedicated pipeline system;

4 “(H) the ability of the entity carrying out
5 the proposed project to complete the project in
6 a timely manner; and

7 “(I) the ability of the entity carrying out
8 the proposed project to secure property rights-
9 of-way in order to move the proposed project
10 forward in a timely manner.

11 “(3) AMOUNT.—Unless otherwise provided by
12 law, a guarantee by the Secretary under this section
13 shall not exceed an amount equal to 90 percent of
14 the eligible project cost of the renewable energy
15 pipeline that is the subject of the guarantee, as esti-
16 mated at the time at which the guarantee is issued
17 or subsequently modified while the eligible project is
18 under construction.

19 “(4) TERMS AND CONDITIONS.—Guarantees
20 under this section shall be provided in accordance
21 with section 1702 of the Energy Policy Act of 2005
22 (42 U.S.C. 16512), except that subsections (b) and
23 (c) of that section shall not apply to guarantees
24 under this section.

1 “(5) EXISTING FUNDING AUTHORITY.—The
2 Secretary shall make a guarantee under this section
3 under an existing funding authority.

4 “(6) FINAL RULE.—Not later than 90 days
5 after the date of enactment of this section, the Sec-
6 retary shall publish in the Federal Register a final
7 rule directing the Director of the Department of En-
8 ergy Loan Guarantee Program Office to initiate the
9 loan guarantee program under this section in ac-
10 cordance with this section.

11 “(c) FUNDING.—

12 “(1) IN GENERAL.—There are authorized to be
13 appropriated such sums as are necessary to provide
14 \$5,000,000,000 in guarantees under this section.

15 “(2) USE OF OTHER APPROPRIATED FUNDS.—
16 To the extent that the amounts made available
17 under title XVII of the Energy Policy Act of 2005
18 (42 U.S.C. 16511 et seq.) have not been disbursed
19 to programs under that title, the Secretary may use
20 the amounts to carry out this section.”.

21 **SEC. 223. BIOFUELS INFRASTRUCTURE.**

22 Section 212 of the Clean Air Act (42 U.S.C. 7546)
23 is amended by adding at the end the following:

24 “(f) BIOFUELS INFRASTRUCTURE.—

1 “(1) IN GENERAL.—The Administrator shall
2 provide grants for research into, and development
3 and implementation of—

4 “(A) biofuels infrastructure, including for
5 pipelines that can be retrofitted to accommo-
6 date biofuels; and

7 “(B) comprehensive regional planning for
8 biofuels, including—

9 “(i) coordination of feedstock produc-
10 tion, harvesting, transportation, storage,
11 logistics, and related infrastructure;

12 “(ii) coordination of biofuel produc-
13 tion and regional consumption infrastruc-
14 ture, such as blending and refueling sta-
15 tions; and

16 “(iii) regional marketing and edu-
17 cation activities.

18 “(2) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated such sums
20 as are necessary to carry out this subsection for
21 each of fiscal years 2010 through 2015.”.

22 **SEC. 224. DEFINITION OF LIFECYCLE GREENHOUSE GAS**
23 **EMISSIONS.**

24 Section 211(o)(1)(H) of the Clean Air Act (42 U.S.C.
25 7545(o)(1)(H)) is amended by striking “(including direct

1 emissions and significant indirect emissions such as sig-
2 nificant emissions from land use changes)”).

3 **SEC. 225. BIOFUELS REVOLVING LOAN FUND.**

4 Subtitle C of title II of the Energy Independence and
5 Security Act of 2007 (42 U.S.C. 17051 et seq.) is amend-
6 ed by adding at the end the following:

7 **“SEC. 249. BIOFUELS REVOLVING LOAN FUND.**

8 “(a) ESTABLISHMENT.—There is established in the
9 Treasury of the United States a revolving fund, to be
10 known as the ‘Biofuels Revolving Loan Fund’ (referred
11 to in this section as the ‘Fund’), consisting of such
12 amounts as are appropriated to the Fund under sub-
13 section (d).

14 “(b) EXPENDITURES FROM FUND.—

15 “(1) IN GENERAL.—Subject to paragraph (3),
16 on request by the Secretary, the Secretary of the
17 Treasury shall transfer from the Fund to the Sec-
18 retary such amounts as the Secretary determines are
19 necessary to provide loans to eligible persons (as de-
20 termined by the Secretary) in accordance with this
21 subsection.

22 “(2) LOANS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graphs (B) through (D), the Secretary shall use
25 amounts transferred under paragraph (1) to

1 provide loans to eligible entities (as determined
2 by the Secretary) that—

3 “(i) seek to use renewable energy re-
4 sources to power a facility engaged in the
5 production of biofuels from renewable feed-
6 stocks (including corn and renewable bio-
7 mass) by—

8 “(I) constructing a new facility;

9 or

10 “(II) retrofitting or converting an
11 existing facility;

12 “(ii) seek to produce advanced
13 biofuels by—

14 “(I) constructing a new facility;

15 or

16 “(II) retrofitting or converting an
17 existing facility;

18 “(iii) seek to achieve at least a 20
19 percent reduction in the lifecycle green-
20 house gas emissions by using—

21 “(I) feedstocks that produce re-
22 duced greenhouse gas; or

23 “(II) renewable energy resources
24 (including waste sources) to provide
25 power to the facility; and

1 “(iv) demonstrate to the Secretary
2 that—

3 “(I) as of the date of enactment
4 of this section, the development of a
5 biofuel facility has been suspended or
6 is in an advanced stage of develop-
7 ment (as demonstrated by permitting,
8 construction, design, or other indica-
9 tion of development); or

10 “(II) not later than 3 years after
11 the date of enactment of this section,
12 the eligible person will commence con-
13 struction of a biofuel facility.

14 “(B) APPLICATION.—To be eligible to re-
15 ceive a loan from the Fund, an eligible entity
16 shall submit to the Secretary an application at
17 such time, in such manner, and containing such
18 information as the Secretary may require.

19 “(C) ADMINISTRATION.—In making loans
20 under this paragraph, the Secretary shall—

21 “(i) provide to any eligible entity not
22 more than—

23 “(I) \$20,000,000 for any fiscal
24 year to retrofit or convert an existing
25 facility;

1 “(II) \$50,000,000 for any fiscal
2 year to construct a new biofuel facil-
3 ity; or

4 “(III) \$30,000,000 for any fiscal
5 year to carry out any other project or
6 activity described in subparagraph (A)
7 that is not covered by subclause (I) or
8 (II);

9 “(ii) ensure that loan funds are used
10 for equity; and

11 “(iii) establish terms and conditions
12 for a loan that permit the loan to repaid
13 over a long term with low or no interest,
14 as determined by the Secretary.

15 “(D) REFUELING FACILITIES AND INFRA-
16 STRUCTURE.—The Secretary shall use not more
17 than \$30,000,000 of the amount in the Fund to
18 make loans to eligible entities for the construc-
19 tion or retrofitting of biofuel facilities or infra-
20 structure (including tanks, blender pumps, and
21 other types of dispensing pumps) that will be
22 constructed not later than 180 days after the
23 date the loan is made.

24 “(3) ADMINISTRATIVE EXPENSES.—An amount
25 not exceeding 10 percent of the amounts in the

1 Fund shall be available for each fiscal year to pay
2 the administrative expenses necessary to carry out
3 this section.

4 “(c) TRANSFERS OF AMOUNTS.—

5 “(1) IN GENERAL.—The amounts required to
6 be transferred to the Fund under this section shall
7 be transferred at least monthly from the general
8 fund of the Treasury to the Fund on the basis of es-
9 timates made by the Secretary of the Treasury.

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

14 “(d) OTHER ASSISTANCE.—The receipt of a loan by
15 an eligible entity for a facility under this section shall not
16 preclude the eligible entity from receiving additional as-
17 sistance from the Federal Government for the facility,
18 such as grants or loan guarantees, provided under other
19 provisions of law.

20 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
21 is authorized to be appropriated to the Fund
22 \$500,000,000 for the period of fiscal years 2010 through
23 2015.”.

Subtitle D—Energy Efficiency

PART I—VEHICLES

SEC. 231. LIGHTWEIGHT MATERIALS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall establish a research and development program on lightweight materials and composites and other innovations to increase the fuel efficiency of motor vehicles, including materials, composites, and innovation that will permit—

(1) the weight of vehicles to be reduced to improve fuel efficiency without compromising passenger safety; and

(2) the cost of lightweight materials (such as steel alloys and carbon fibers) required for the construction of lighter-weight vehicles to be reduced.

(b) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, and on each October 1 thereafter through October 1, 2015, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section \$100,000,000, to remain available until expended.

1 (2) REPORT.—Not later than 180 days after
 2 the date of enactment of this Act, the Comptroller
 3 General shall submit to Congress a report that de-
 4 scribes the results of the study, including any rec-
 5 ommendations.

6 **SEC. 233. CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.**

7 (a) IN GENERAL.—Subpart B of part IV of sub-
 8 chapter A of chapter 1 of the Internal Revenue Code of
 9 1986 is amended by adding at the end the following new
 10 section:

11 **“SEC. 30E. FUEL-EFFICIENT MOTOR VEHICLE CREDIT.**

12 “(a) ALLOWANCE OF CREDIT.—

13 “(1) IN GENERAL.—There shall be allowed as a
 14 credit against the tax imposed by this chapter for
 15 the taxable year an amount equal to the amount de-
 16 termined under paragraph (2) with respect to any
 17 new fuel-efficient motor vehicle placed in service by
 18 the taxpayer during the taxable year.

19 “(2) CREDIT AMOUNT.—The amount deter-
 20 mined under this paragraph shall be—

21 “(A) \$500, if the new fuel-efficient motor
 22 vehicle achieves a city fuel economy which is 42
 23 miles per gallon or less,

24 “(B) \$1,000, if the new fuel-efficient
 25 motor vehicle achieves a city fuel economy

1 which is greater than 42 miles per gallon but
2 less than 45.6 miles per gallon,

3 “(C) \$1,500, if the new fuel-efficient motor
4 vehicle achieves a city fuel economy which is
5 greater than 45.5 miles per gallon but less than
6 49.1 miles per gallon,

7 “(D) \$2,000, if the new fuel-efficient
8 motor vehicle achieves a city fuel economy
9 which is greater than 49 miles per gallon but
10 less than 52.6 miles per gallon, and

11 “(E) \$2,500, if the new fuel-efficient
12 motor vehicle achieves a city fuel economy
13 which is greater than 52.5 miles per gallon.

14 “(b) NEW FUEL-EFFICIENT MOTOR VEHICLE.—For
15 purposes of this section, the term ‘new fuel-efficient motor
16 vehicle’ means any motor vehicle—

17 “(1) which has a gross vehicle weight rating of
18 not more than 8,500 pounds,

19 “(2) which achieves a city fuel economy of at
20 least 38.5 miles per gallon,

21 “(3) the original use of which commences with
22 the taxpayer,

23 “(4) which is acquired by the taxpayer for use
24 or lease, but not for resale, and

25 “(5) which is made by a manufacturer.

1 “(c) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) CITY FUEL ECONOMY; MANUFACTURER.—

4 The terms ‘city fuel economy’ and ‘manufacturer’
5 have the meanings given such terms under section
6 30B(h).

7 “(2) BASIS REDUCTION.—The basis of any
8 property for which a credit is allowable under sub-
9 section (a) shall be reduced by the amount of such
10 credit.

11 “(3) RECAPTURE; PROPERTY USED OUTSIDE
12 THE UNITED STATES; ELECTION NOT TO TAKE
13 CREDIT.—For purposes of this section, rules similar
14 to the rules of paragraphs (2), (3), and (4) of sec-
15 tion 30(d) shall apply.

16 “(4) DENIAL OF DOUBLE BENEFIT.—No credit
17 shall be allowed under this section with respect to
18 any new fuel-efficient motor vehicle if a credit is al-
19 lowed with respect to such vehicle under section 30,
20 30B, or 30D.

21 “(d) APPLICATION WITH OTHER CREDITS.—

22 “(1) BUSINESS CREDIT TREATED AS PART OF
23 GENERAL BUSINESS CREDIT.—So much of the credit
24 which would be allowed under subsection (a) for any
25 taxable year (determined without regard to this sub-

1 section) that is attributable to property of a char-
2 acter subject to an allowance for depreciation shall
3 be treated as a credit listed in section 38(b) for such
4 taxable year (and not allowed under subsection (a)).

5 “(2) PERSONAL CREDIT.—The credit allowed
6 under subsection (a) (after the application of para-
7 graph (1)) for any taxable year shall not exceed the
8 excess (if any) of—

9 “(A) the regular tax liability (as defined in
10 section 26(b)) reduced by the sum of the credits
11 allowable under subpart A and sections 27, 30,
12 30B, and 30D, over

13 “(B) the tentative minimum tax for the
14 taxable year.

15 “(e) TERMINATION.—This section shall not apply to
16 property placed in service after December 31, 2011.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 38(b) of the Internal Revenue Code
19 of 1986, as amended by this Act, is amended by
20 striking “plus” at the end of paragraph (35), by
21 striking the period at the end of paragraph (36) and
22 inserting “, plus”, and by adding at the end the fol-
23 lowing new paragraph:

24 “(37) the portion of the new fuel-efficient motor
25 vehicle credit to which section 30E(d)(1) applies.”.

1 (2) Section 55(c)(3) of such Code is amended
2 by inserting “30E(d)(2),” after “30C(d)(2),”.

3 (3) Section 1016(a) of such Code is amended
4 by striking “and” at the end of paragraph (36), by
5 striking the period at the end of paragraph (37) and
6 inserting “, and”, and by adding at the end the fol-
7 lowing new paragraph:

8 “(38) to the extent provided in section
9 30E(c)(2).”.

10 (4) Section 6501(m) of such Code, as amended
11 by the American Recovery and Reinvestment Tax
12 Act of 2009, is amended by inserting “30E(c)(3),”
13 after “30D(e)(4),”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for subpart B of part IV of subchapter A of chapter 1
16 of the Internal Revenue Code of 1986 is amended by add-
17 ing at the end the following new item:

“Sec. 30E. Fuel-efficient motor vehicle credit.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service after
20 the date of the enactment of this Act.

1 **PART II—OTHER ENERGY EFFICIENCY**

2 **PROGRAMS**

3 **SEC. 241. ENERGY EFFICIENCY AND CONSERVATION BLOCK**

4 **GRANTS.**

5 Section 544 of the Energy Independence and Security
6 Act of 2007 (42 U.S.C. 17154) is amended—

7 (1) in paragraph (13), by striking “and” at the
8 end;

9 (2) by redesignating paragraph (14) as para-
10 graph (15); and

11 (3) by inserting after paragraph (13) the fol-
12 lowing:

13 “(14) development, implementation, and instal-
14 lation of smart grid technologies and smart grid
15 functions (as defined in section 1306(d)); and”.

16 **SEC. 242. SMART GROWTH.**

17 (a) FINDINGS.—Congress finds that—

18 (1) $\frac{2}{3}$ of the oil consumed in the United States
19 is used in the transportation sector;

20 (2) increasing vehicle miles traveled (which rose
21 by 3 times the rate of the United States population
22 since 1980) are responsible in part for increasing oil
23 consumption;

24 (3) on average, people drive $\frac{1}{3}$ fewer miles in
25 smart growth neighborhoods, which are walkable and
26 prioritize making shops and services more conven-

1 iently located, compared to auto-dependent neighbor-
2 hoods;

3 (4) living in smart growth neighborhoods saves
4 residents \$300 to \$400 a month, or up to \$4,800 a
5 year, on gas expenses alone, according to research
6 by the Center for Neighborhood Technology;

7 (5) households with access to good transit serv-
8 ice and in smart growth areas spend only 9 percent
9 of the income of the households on transportation,
10 while households in auto-dependent areas can spend
11 up to 25 percent on transportation on average;

12 (6) according to a study commissioned by the
13 American Council for an Energy Efficient Economy,
14 shifting just 10 percent of new United States hous-
15 ing starts to smart growth would save
16 4,950,000,000 gallons of gasoline, 118,000,000 mil-
17 lion barrels of oil, 59,500,000 metric tons of carbon
18 dioxide, and \$220,000,000,000 in household ex-
19 penses over 10 years;

20 (7) Congress should support State and local
21 governments in promoting sustainable, smart-growth
22 oriented communities that help save energy and re-
23 duce spending on gasoline;

24 (8) the Environmental Protection Agency has
25 maintained a smart growth office, the Development,

1 Community, and Environment Division, that has
2 provided technical assistance to communities that
3 apply to promote smart growth principles; and

4 (9) in 2007, the Environmental Protection
5 Agency received 65 applications for the smart
6 growth program of the Agency, but had enough re-
7 sources to fund only 5 applications.

8 (b) DEFINITIONS.—In this section:

9 (1) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of the Environ-
11 mental Protection Agency, acting through the Devel-
12 opment, Community, and Environment Division.

13 (2) SMART GROWTH.—The term “smart
14 growth” means development, in an environmentally
15 and economically sustainable manner, with the goals
16 of—

17 (A) expanding the range of transportation,
18 housing, and employment that are convenient to
19 communities;

20 (B) promoting more energy efficient forms
21 of development and transportation;

22 (C) strengthening and directing develop-
23 ment towards existing communities, which saves
24 open space, energy, and costs;

1 (D) taking advantage of compact building
2 design, which is more energy-efficient and helps
3 foster walkable neighborhoods; and

4 (E) making development decisions predict-
5 able, fair, and cost-effective while encouraging
6 community and stakeholder collaboration.

7 (c) PROGRAM.—To promote smart growth, the Ad-
8 ministrator shall—

9 (1) provide technical assistance to create more
10 energy-efficient communities that provide more
11 transportation choices for people;

12 (2) conduct research and policy development re-
13 lating to smart growth and energy;

14 (3) conduct public outreach and public edu-
15 cation on best practices for smart growth; and

16 (4) provide matching funds for cross-agency ini-
17 tiatives conducted by and with other Federal agen-
18 cies to promote energy conservation through smart
19 growth.

20 (d) ALLOCATION OF TECHNICAL ASSISTANCE
21 FUNDS.—The Administrator shall allocate technical as-
22 sistance funding under this section on the basis of—

23 (1) the geographic diversity of communities
24 over the course of the fiscal year;

1 (2) the potential impact on energy and oil sav-
2 ings; and

3 (3) the likelihood of success and policy imple-
4 mentation at the State or local level.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to the Administrator to
7 carry out this section \$25,000,000 for each fiscal year,
8 of which (to the maximum extent practicable)—

9 (1)(A) \$15,000,000 shall be used to provide
10 technical assistance to create more energy-efficient
11 communities that provide more transportation
12 choices for people; and

13 (B) \$1,500,000 shall be used to expand the
14 staff capacity to provide the technical assistance;

15 (2) \$3,500,000 shall be used to conduct re-
16 search and policy development relating to smart
17 growth and energy;

18 (3) \$2,000,000 shall be used to conduct public
19 outreach and public education on best practices for
20 smart growth; and

21 (4) \$3,000,000 shall be used to provide match-
22 ing funds for cross-agency initiatives conducted by
23 and with other Federal agencies to promote energy
24 conservation through smart growth.

1 **Subtitle E—Incentives for**
2 **Innovative Technologies**

3 **SEC. 251. SECURITY FOR LOAN GUARANTEES FOR INNOVA-**
4 **TIVE TECHNOLOGY PROJECTS.**

5 Section 1702(g)(2) of the Energy Policy Act of 2005
6 (42 U.S.C. 16512(g)(2)) is amended by adding at the end
7 the following:

8 “(D) SECURITY.—Notwithstanding sub-
9 paragraphs (A) through (C), a loan guarantee
10 made before, on, or after the date of enactment
11 of this subparagraph for a project covered by
12 subsection (a) shall be considered to be in com-
13 pliance with this paragraph—

14 “(i) regardless of whether or the ex-
15 tent to which the Secretary requires the
16 loan to be secured by any project or other
17 property; and

18 “(ii) regardless of the priority, if any,
19 of any such security with respect to any in-
20 terest of any other creditor of the borrower
21 in the property.”.

1 **TITLE III—EXPANDING DOMES-**
 2 **TIC ENERGY PRODUCTION**
 3 **Subtitle A—Oil and Gas Production**
 4 **on the Outer Continental Shelf**

5 **SEC. 301. PRODUCTION OF OIL AND GAS ON OUTER CONTI-**
 6 **NENTAL SHELF.**

7 (a) IN GENERAL.—Section 18 of the Outer Conti-
 8 nental Shelf Lands Act (43 U.S.C. 1344) is amended by
 9 adding at the end the following:

10 “(i) PROHIBITION ON EXPORT.—All oil and natural
 11 gas produced on the outer Continental Shelf of the United
 12 States under this Act shall be made available for refining
 13 and sale solely within the United States.

14 “(j) SPECIAL COMMISSION ON OFFSHORE OIL AND
 15 GAS LEASING.—

16 “(1) ESTABLISHMENT.—

17 “(A) IN GENERAL.—There is established a
 18 commission, to be known as the ‘Special Com-
 19 mission on Offshore Oil and Gas Leasing’ (re-
 20 ferred to in this subsection as the ‘Commis-
 21 sion’).

22 “(B) MEMBERSHIP.—The Commission
 23 shall be composed of 15 members, of whom—

24 “(i) 3 shall be appointed by the Presi-
 25 dent;

1 “(ii) 3 shall be appointed by the ma-
2 jority leader of the Senate;

3 “(iii) 3 shall be appointed by the mi-
4 nority leader of the Senate;

5 “(iv) 3 shall be appointed by the
6 Speaker of the House of Representatives;
7 and

8 “(v) 3 shall be appointed by the mi-
9 nority leader of the House of Representa-
10 tives.

11 “(C) CO-CHAIRPERSONS.—

12 “(i) IN GENERAL.—The President
13 shall designate 2 co-chairpersons from
14 among the members of the Commission ap-
15 pointed.

16 “(ii) POLITICAL AFFILIATION.—The
17 co-chairpersons designated under clause (i)
18 shall not both be affiliated with the same
19 political party.

20 “(D) DEADLINE FOR APPOINTMENT.—
21 Members of the Commission shall be appointed
22 not later than 90 days after the date of enact-
23 ment of the SMART Energy Act.

24 “(E) TERM; VACANCIES.—

1 “(i) TERM.—A member of the Com-
2 mission shall be appointed for the life of
3 the Commission.

4 “(ii) VACANCIES.—Any vacancy in the
5 Commission—

6 “(I) shall not affect the powers of
7 the Commission; and

8 “(II) shall be filled in the same
9 manner as the original appointment.

10 “(2) FUNCTIONS.—The Commission shall—

11 “(A) review—

12 “(i) the results of the comprehensive
13 inventory of outer Continental Shelf oil
14 and natural gas resources conducted under
15 section 357 of the Energy Policy Act of
16 2005 (42 U.S.C. 15912);

17 “(ii) all existing information and data
18 on potential oil and natural gas reserves in
19 the outer Continental Shelf;

20 “(iii) other information relating to the
21 environmental impact, community accept-
22 ance, existing and planned infrastructure,
23 and other factors that are relevant to the
24 recommendation required under subpara-
25 graph (B);

1 “(iv) the report by the Secretary on
2 the most prospective outer Continental
3 Shelf oil and natural gas areas; and

4 “(v) input from coastal States; and

5 “(B) based on the review conducted under
6 subparagraph (A), make detailed recommenda-
7 tions to Congress and the Secretary, beginning
8 1 year after the date on which the Commission
9 is established, on—

10 “(i) the areas on the outer Conti-
11 nental Shelf that should immediately be-
12 come available for oil and gas leasing
13 based on the most recent 5-year plan, pro-
14 duction potential, environmental factors,
15 community acceptance, existing and
16 planned infrastructure, and other relevant
17 factors; and

18 “(ii) the areas on the outer Conti-
19 nental Shelf that should be the subject of
20 further inventory (including use of 3-di-
21 mensional seismic technology and drilling
22 or other technology necessary for a more
23 complete inventory analysis) and evalua-
24 tion in order to determine future produc-
25 tion.

1 “(3) COMMISSION PERSONNEL MATTERS.—

2 “(A) STAFF AND DIRECTOR.—The Com-
3 mission shall have a staff headed by an Execu-
4 tive Director.

5 “(B) STAFF APPOINTMENT.—The Execu-
6 tive Director may appoint such personnel as the
7 Executive Director and the Commission deter-
8 mine to be appropriate.

9 “(C) EXPERTS AND CONSULTANTS.—With
10 the approval of the Commission, the Executive
11 Director may procure temporary and intermit-
12 tent services under section 3109(b) of title 5,
13 United States Code.

14 “(D) FEDERAL AGENCIES.—

15 “(i) DETAIL OF GOVERNMENT EM-
16 PLOYEES.—

17 “(I) IN GENERAL.—On the re-
18 quest of the Commission, the head of
19 any Federal agency may detail, with-
20 out reimbursement, any of the per-
21 sonnel of the Federal agency to the
22 Commission to assist in carrying out
23 the duties of the Commission.

24 “(II) NATURE OF DETAIL.—Any
25 detail of a Federal employee under

1 subclause (I) shall not interrupt or
2 otherwise affect the civil service status
3 or privileges of the Federal employee.

4 “(ii) TECHNICAL ASSISTANCE.—On
5 the request of the Commission, the head of
6 a Federal agency shall provide such tech-
7 nical assistance to the Commission as the
8 Commission determines to be necessary to
9 carry out the duties of the Commission.

10 “(4) RESOURCES.—

11 “(A) IN GENERAL.—The Commission shall
12 have reasonable access to materials, resources,
13 statistical data, and such other information
14 from Executive agencies as the Commission de-
15 termines to be necessary to carry out the duties
16 of the Commission.

17 “(B) FORM OF REQUESTS.—The co-chair-
18 persons of the Commission shall make requests
19 for access described in subparagraph (A) in
20 writing, as necessary.

21 “(5) AUTHORIZATION OF APPROPRIATIONS.—In
22 addition to funds made available from the Energy
23 Security Trust Fund under section 9511(c)(2) of the
24 Internal Revenue Code of 1986, there are authorized

1 to be appropriated such sums as are necessary to
2 carry out this subsection.”.

3 (b) IDENTIFICATION OF MOST PROSPECTIVE OUTER
4 CONTINENTAL SHELF OIL AND NATURAL GAS AREAS.—
5 Section 357 of the Energy Policy Act of 2005 (42 U.S.C.
6 15912) is amended to read as follows:

7 **“SEC. 357. IDENTIFICATION OF MOST PROSPECTIVE OUTER**
8 **CONTINENTAL SHELF OIL AND NATURAL GAS**
9 **AREAS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) PROSPECTIVE AREA.—The term ‘prospec-
12 tive area’ means a portion of any area of the outer
13 Continental Shelf that may contain recoverable oil or
14 gas in accordance with the most recent 5-year plan.

15 “(2) SECRETARY.—The term ‘Secretary’ means
16 the Secretary of the Interior.

17 “(3) SPECIAL COMMISSION.—The term ‘Special
18 Commission’ means the Special Commission on Off-
19 shore Oil and Gas Leasing established under section
20 18(j) of the Outer Continental Shelf Lands Act (43
21 U.S.C. 1344(j)).

22 “(b) INVENTORY.—

23 “(1) IN GENERAL.—The Secretary shall iden-
24 tify the most prospective areas for recoverable oil
25 and gas accumulations for industry exploration.

1 “(2) INFORMATION.—In identifying the pro-
 2 spective areas, the Secretary shall take into account
 3 any existing information on the geological potential
 4 for oil and gas or acquire new data as appropriate
 5 to assist in narrowing down prospective areas.

6 “(3) TECHNOLOGY.—The Secretary may use
 7 any available geological, geophysical, economic, engi-
 8 neering, and other scientific technology to obtain ac-
 9 curate estimates of resource potential.

10 “(4) OTHER FACTORS.—In identifying the pro-
 11 spective areas, the Secretary shall consider—

12 “(A) the political acceptability of new pro-
 13 duction in the coastal area;

14 “(B) the willingness of the State or region
 15 for new production off of the coasts of the State
 16 or region and other matters that may affect the
 17 speed with which a prospective area can be
 18 leased, developed, and used to produce oil or
 19 natural gas; and

20 “(C) other factors determined by the Sec-
 21 retary.

22 “(c) ACQUISITION OF GEOLOGICAL AND GEO-
 23 PHYSICAL DATA.—

24 “(1) IN GENERAL.—The Secretary may acquire
 25 and process new geological and geophysical data or

1 use existing geological and geophysical data for any
2 area of the outer Continental Shelf if the Secretary
3 determines that additional information is needed to
4 identify and assess potential prospective areas.

5 “(2) TECHNOLOGY.—In carrying out this sub-
6 section, the Secretary shall use any available tech-
7 nology (other than drilling), including 3-dimensional
8 seismic technology, to obtain an accurate estimate of
9 resource potential.

10 “(3) AVAILABILITY OF DATA.—In the case of
11 newly acquired geological and geophysical data
12 under this subsection, the Secretary—

13 “(A) may make the data available on a
14 cost recovery basis to recover the full costs ex-
15 pended for acquisition and processing of new
16 geological and geophysical data; and

17 “(B) shall make the data available to the
18 Special Commission.

19 “(d) ADMINISTRATION.—

20 “(1) IN GENERAL.—As soon as practicable, but
21 not later than 1 year, after the date of enactment
22 of the SMART Energy Act, to expedite collection of
23 geological and geophysical data under this section,
24 each Federal agency shall conduct and complete any

1 analyses or consultations that are required to carry
2 out this section.

3 “(2) PROTECTED SPECIES.—Before conducting
4 any geological and geophysical survey required under
5 this section in any prospective area, the Secretary
6 shall, at a minimum, implement the mitigation, mon-
7 itoring, and reporting measures that are used for
8 protected species in the Gulf of Mexico region.

9 “(e) ENVIRONMENTAL AND SOCIOECONOMIC STUD-
10 IES.—

11 “(1) IN GENERAL.—The Secretary shall con-
12 duct, directly or by contract, environmental or socio-
13 economic studies for any prospective area identified
14 under subsection (b) immediately on identifying the
15 prospective area.

16 “(2) INTERAGENCY ACTION.—The Secretary,
17 acting through the Minerals Management Service,
18 may work jointly with the United States Fish and
19 Wildlife Service, the National Oceanic and Atmos-
20 pheric Administration, or other relevant agencies—

21 “(A) to compile existing environmental and
22 socioeconomic information on prospective areas;
23 or

1 “(B) obtain new environmental or socio-
2 economic studies for identified prospective
3 areas.

4 “(f) SHARING INFORMATION WITH STATES AND
5 OTHER STAKEHOLDERS.—

6 “(1) IN GENERAL.—The Secretary shall—

7 “(A) share the information with the Spe-
8 cial Commission; and

9 “(B) establish a process—

10 “(i) to share information identified by
11 actions taken under this section to identify
12 the most prospective areas; and

13 “(ii) to obtain input from States or
14 other stakeholders on the prospective
15 areas.

16 “(2) PROCESS.—The process shall include
17 workshops or meetings with—

18 “(A) the public;

19 “(B) Governors or designated officials
20 from appropriate States; and

21 “(C) other relevant user groups.

22 “(g) REPORTS.—

23 “(1) IDENTIFICATION OF PROSPECTIVE
24 AREAS.—Not later than 180 days after the date of
25 enactment of the SMART Energy Act, the Secretary

1 shall submit to Congress and the Special Commis-
2 sion a report that includes—

3 “(A) an identification of the most prospec-
4 tive oil and gas areas within areas of the outer
5 Continental Shelf using existing information;

6 “(B) a summary of environmental and so-
7 cioeconomic information relating to the prospec-
8 tive areas; and

9 “(C) a schedule for completion of any envi-
10 ronmental or socioeconomic impact studies or
11 consultations planned for those prospective
12 areas.

13 “(2) POTENTIAL OF PROSPECTIVE AREAS.—Not
14 later than 90 days after the date which the Special
15 Commission submits recommendations to Congress
16 and the Secretary under section 18(j)(2)(B) of the
17 Outer Continental Shelf Lands Act (43 U.S.C.
18 1344(j)(2)(B)), the Secretary shall submit to Con-
19 gress a plan to commence leasing activities in the
20 most prospective areas that includes—

21 “(A) the recommendations of the Special
22 Commission and an explanation for any rec-
23 ommendations that are not followed;

24 “(B) a description of the consultation proc-
25 ess under subsection (f) used to share informa-

1 tion and obtain input from stakeholders and a
2 report on the results of the process; and

3 “(C) recommendations on approaches for
4 recovery of costs expended for acquisition and
5 processing of new geological and geophysical
6 data or conducting other studies for the report.

7 “(h) AUTHORIZATION OF APPROPRIATIONS.—In ad-
8 dition to funds made available from the Energy Security
9 Trust Fund under section 9511(c)(2) of the Internal Rev-
10 enue Code of 1986, there are authorized to be appro-
11 priated such sums as are necessary to carry out this sec-
12 tion.”.

13 **SEC. 302. PRODUCTION INCENTIVES PROGRAM.**

14 (a) PRODUCTION INCENTIVE FEE.—

15 (1) IN GENERAL.—Subject to paragraphs (2)
16 and (3), effective beginning on the date that is 1
17 year after the date a lease is entered into with the
18 Secretary for the production of oil or natural gas on
19 Federal land, the Secretary shall impose an annual
20 production incentive fee on the lessee if oil or nat-
21 ural gas is not being produced under the lease in a
22 quantity for which the lessee is responsible for pay-
23 ing a royalty under Federal law.

24 (2) AMOUNT.—The amount of the production
25 incentive fee shall be \$3.00 per acre.

1 (3) WAIVER.—The Secretary may waive the re-
2 quirement that a lessee pay a production incentive
3 fee for a year under paragraph (1) if the lessee ap-
4 plies to the Secretary for a waiver and demonstrates
5 to the Secretary that, during the 1-year period cov-
6 ered by the fee, the lessee—

7 (A) made significant efforts to produce oil
8 or natural gas, as determined by the Secretary;
9 or

10 (B) was unable to make significant efforts
11 to produce oil or natural gas due to cir-
12 cumstance beyond the control of the lessee.

13 (b) ANNUAL REPORTS.—In the case of leases entered
14 into with the Secretary for the production of oil or natural
15 gas on Federal land that are in effect as of the date of
16 the report, the Secretary shall submit to Congress an an-
17 nual report that describes—

18 (1) the number of the leases;

19 (2) the number of the leases that are producing
20 oil or natural gas and the quantity produced;

21 (3) the number of production incentive fee
22 waivers that are applied for and granted under sub-
23 section (a)(3);

1 (1) civilian nuclear electric power technologies
2 operate in 31 States and have provided the United
3 States with safe, reliable, and competitively priced
4 electricity for over 3 decades, currently supplying
5 consumers with nearly 20 percent of the entire elec-
6 tricity needs of the consumers;

7 (2) civilian nuclear electric power technologies
8 reduce the annual greenhouse gas emission of the
9 United States by nearly 700,000,000 metric tons,
10 according to the energy information voluntary re-
11 porting greenhouse gas program of the Department
12 of Energy, an effective emission control program of
13 the United States;

14 (3) innovations in civilian nuclear electric power
15 technologies (such as high temperature gas reactors
16 and scalable, modular light water reactors) are—

17 (A) attracting public and private sector
18 funding; and

19 (B) poised—

20 (i) to meet changing market condi-
21 tions here in the United States; and

22 (ii) to contribute significantly to do-
23 mestic job growth in the basic manufac-
24 turing industries of the United States;

1 (4) scalable, modular light-water nuclear reac-
2 tors represent an important and promising tech-
3 nology for the future; and

4 (5) the designs of the plants described in para-
5 graph (4) maximize domestic manufacturing capa-
6 bilities and enable plant owners to add power to the
7 grid and incur costs incrementally over a period of
8 years, according to—

9 (A) market conditions; and

10 (B) the pace of electrical demand growth
11 of the consumers of electricity generated by the
12 plants.

13 (b) SENSE OF THE SENATE.—It is the sense of the
14 Senate that the Chairman of the Nuclear Regulatory Com-
15 mission should continue to complete the design certifi-
16 cation phase for scalable, modular light-water nuclear re-
17 actors and electric plants, in particular for applications
18 with respect to which vendors have provided appropriate
19 and timely information.

20 **SEC. 312. NUCLEAR REGULATORY COMMISSION.**

21 There are authorized to be appropriated to the Nu-
22 clear Regulatory Commission such sums as are necessary
23 for the Commission to establish an additional 40 full-time
24 equivalent positions to—

1 (1) expedite the processing of applications for
2 new nuclear plants; and

3 (2) streamline the licensing process.

4 **SEC. 313. NUCLEAR ENERGY WORKFORCE.**

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

7 (1) in subsection (b)(1)—

8 (A) in subparagraph (A), by striking
9 “and” at the end;

10 (B) in subparagraph (B), by striking the
11 period and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(C) nuclear utility and nuclear energy
14 product and service industries.”;

15 (2) by redesignating subsection (d) as sub-
16 section (e); and

17 (3) by inserting after subsection (e) the fol-
18 lowing:

19 “(d) **WORKFORCE TRAINING.**—

20 “(1) **IN GENERAL.**—The Secretary of Labor, in
21 cooperation with the Secretary, shall promulgate
22 regulations to implement a program to provide
23 grants to enhance workforce training for any occu-
24 pation in the workforce of the nuclear utility and nu-
25 clear energy products and services industries for

1 which a shortage is identified or predicted in the re-
2 port under subsection (b)(2).

3 “(2) CONSULTATION.—In carrying out this sub-
4 section, the Secretary of Labor shall consult with
5 representatives of the nuclear utility and nuclear en-
6 ergy products and services industries, including or-
7 ganized labor organizations and multiemployer asso-
8 ciations that jointly sponsor apprenticeship pro-
9 grams that provide training for skills needed in
10 those industries.

11 “(3) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated to the Sec-
13 retary of Labor, working in coordination with the
14 Secretary and the Secretary of Education,
15 \$20,000,000 for each of fiscal years 2009 through
16 2015 to carry out this subsection.”

17 **SEC. 314. INTERAGENCY WORKING GROUP TO PROMOTE**

18 **DOMESTIC MANUFACTURING BASE FOR NU-**

19 **CLEAR COMPONENTS AND EQUIPMENT.**

20 (a) PURPOSES.—The purposes of this section are—

21 (1) to increase the competitiveness of the
22 United States nuclear energy products and services
23 industries;

24 (2) to identify the stimulus or incentives nec-
25 essary to cause United States manufacturers of nu-

1 clear energy products to expand manufacturing ca-
2 pacity;

3 (3) to facilitate the export of United States nu-
4 clear energy products and services;

5 (4) to reduce the trade deficit of the United
6 States through the export of United States nuclear
7 energy products and services;

8 (5) to retain and create nuclear energy manu-
9 facturing and related service jobs in the United
10 States;

11 (6) to integrate the objectives described in para-
12 graphs (1) through (5), in a manner consistent with
13 the interests of the United States, into the foreign
14 policy of the United States; and

15 (7) to authorize funds for increasing United
16 States capacity to manufacture nuclear energy prod-
17 ucts and supply nuclear energy services.

18 (b) ESTABLISHMENT.—

19 (1) IN GENERAL.—There is established an
20 interagency working group (referred to in this sec-
21 tion as the “Working Group”) that, in consultation
22 with representative industry organizations and man-
23 ufacturers of nuclear energy products, shall make
24 recommendations to coordinate the actions and pro-
25 grams of the Federal Government in order to pro-

1 mote increasing domestic manufacturing capacity
2 and export of domestic nuclear energy products and
3 services.

4 (2) COMPOSITION.—The Working Group shall
5 be composed of—

6 (A) the Secretary of Energy (or a des-
7 ignee), who shall serve as Chairperson of the
8 Working Group; and

9 (B) representatives of—

10 (i) the Department of Energy;

11 (ii) the Department of Commerce;

12 (iii) the Department of Defense;

13 (iv) the Department of Treasury;

14 (v) the Department of State;

15 (vi) the Environmental Protection
16 Agency;

17 (vii) the United States Agency for
18 International Development;

19 (viii) the Export-Import Bank of the
20 United States;

21 (ix) the Trade and Development
22 Agency;

23 (x) the Small Business Administra-
24 tion;

1 (xi) the Office of the United States
2 Trade Representative; and

3 (xii) other Federal agencies, as deter-
4 mined by the President.

5 (c) DUTIES OF WORKING GROUP.—The Working
6 Group shall—

7 (1) not later than 180 days after the date of
8 enactment of this Act, identify the actions necessary
9 to promote the safe development and application in
10 foreign countries of nuclear energy products and
11 services—

12 (A) to increase electricity generation from
13 nuclear energy sources through development of
14 new generation facilities;

15 (B) to improve the efficiency, safety, and
16 reliability of existing nuclear generating facili-
17 ties through modifications; and

18 (C) enhance the safe treatment, handling,
19 storage, and disposal of used nuclear fuel;

20 (2) not later than 180 days after the date of
21 enactment of this Act, identify—

22 (A) mechanisms (including tax stimuli for
23 investment, loans and loan guarantees, and
24 grants) necessary for United States companies
25 to increase—

1 (i) the capacity of the companies to
2 produce or provide nuclear energy products
3 and services; and

4 (ii) exports of nuclear energy products
5 and services; and

6 (B) administrative or legislative initiatives
7 that are necessary—

8 (i) to encourage United States compa-
9 nies to increase the manufacturing capac-
10 ity of the companies for nuclear energy
11 products;

12 (ii) to provide technical and financial
13 assistance and support to small and mid-
14 sized businesses to establish quality assur-
15 ance programs in accordance with domestic
16 and international nuclear quality assurance
17 code requirements;

18 (iii) to encourage, through financial
19 incentives, private sector capital invest-
20 ment to expand manufacturing capacity;
21 and

22 (iv) to provide technical assistance
23 and financial incentives to small and mid-
24 sized businesses to develop the workforce
25 necessary to increase manufacturing capac-

1 ity and meet domestic and international
2 nuclear quality assurance code require-
3 ments;

4 (3) not later than 270 days after the date of
5 enactment of this Act, submit to Congress a report
6 that describes the findings of the Working Group
7 under paragraphs (1) and (2), including rec-
8 ommendations for new legislative authority, as nec-
9 essary; and

10 (4) encourage the agencies represented by mem-
11 bership in the Working Group—

12 (A) to provide technical training and edu-
13 cation for international development personnel
14 and local users in other countries;

15 (B) to provide financial and technical as-
16 sistance to nonprofit institutions that support
17 the marketing and export efforts of domestic
18 companies that provide nuclear energy products
19 and services;

20 (C) to develop nuclear energy projects in
21 foreign countries;

22 (D) to provide technical assistance and
23 training materials to loan officers of the World
24 Bank, international lending institutions, com-
25 mercial and energy attaches at embassies of the

1 United States, and other appropriate personnel
2 in order to provide information about nuclear
3 energy products and services to foreign govern-
4 ments or other potential project sponsors;

5 (E) to support, through financial incen-
6 tives, private sector efforts to commercialize
7 and export nuclear energy products and services
8 in accordance with the subsidy codes of the
9 World Trade Organization; and

10 (F) to augment budgets for trade and de-
11 velopment programs in order to support
12 prefeasibility or feasibility studies for projects
13 that use nuclear energy products and services.

14 (d) PERSONNEL AND SERVICE MATTERS.—The Sec-
15 retary and the heads of agencies represented by member-
16 ship in the Working Group shall detail such personnel and
17 furnish such services to the Working Group, with or with-
18 out reimbursement, as are necessary to carry out the func-
19 tions of the Working Group.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the Secretary to carry
22 out this section \$20,000,000 for each of fiscal years 2009
23 through 2015.

24 **SEC. 315. SPENT FUEL RECYCLING PROGRAM.**

25 (a) IN GENERAL.—The Secretary of Energy shall—

1 (1) begin construction of a spent fuel recycling
2 research and development facility not later than 1
3 year after the date of enactment of this Act; and

4 (2) conduct research and development activities
5 to develop spent fuel processes that reduces the
6 quantity of waste in a manner that ensures adequate
7 protection against proliferation and is in accordance
8 with the defense, security, national interests, and
9 treaty obligations of the United States.

10 (b) SPENT FUEL RECYCLING RESEARCH AND DE-
11 VELOPMENT FACILITY.—

12 (1) POLICY.—It shall be the policy of the
13 United States to recycle spent nuclear fuel to ad-
14 vance energy independence by maximizing the en-
15 ergy potential of nuclear fuel in a proliferation re-
16 sistant-manner that reduces the quantity of waste
17 deposited in a Federal repository.

18 (2) PURPOSE.—The facility described in sub-
19 section (a)(1) shall serve as the lead site for con-
20 tinuing research and development of advanced nu-
21 clear fuel cycles and separation technologies.

22 (3) SITE SELECTION.—In selecting a site for
23 the facility, the Secretary shall give preference to a
24 site that has—

25 (A) the most technically sound bid;

1 (B) a demonstrated technical expertise in
2 spent fuel recycling; and

3 (C) community support.

4 (4) COMPETITIVE SELECTION.—Funds for a fa-
5 cility described in subsection (a)(1) shall be awarded
6 on the basis of a competitive bidding process that—

7 (A) maximizes the competitive efficiency of
8 the projects funded;

9 (B) best serves the goal of reducing the
10 quantity of waste requiring disposal under this
11 Act and other laws; and

12 (C) ensures adequate protection against
13 the proliferation of nuclear materials that could
14 be used in the manufacture of nuclear weapons.

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

18 **SEC. 316. STANDBY SUPPORT FOR CERTAIN NUCLEAR**
19 **PLANT DELAYS.**

20 (a) DEFINITIONS.—Section 638(a) of the Energy
21 Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—

22 (1) by redesignating paragraph (4) as para-
23 graph (7); and

24 (2) by inserting after paragraph (3) the fol-
25 lowing:

1 “(4) FULL POWER OPERATION.—The term ‘full
2 power operation’, with respect to a facility, means
3 the earlier of—

4 “(A) the commercial operation date (or the
5 equivalent under the terms of the financing doc-
6 uments for the facility); and

7 “(B) the date on which the facility
8 achieves operation at an average nameplate ca-
9 pacity of 50 percent or more during any con-
10 secutive 30-day period after the completion of
11 startup testing for the facility.

12 “(5) INCREASED PROJECT COSTS.—The term
13 ‘increased project costs’ means the increased cost of
14 constructing, commissioning, testing, operating, or
15 maintaining a reactor prior to full-power operation
16 incurred as a result of a delay covered by the con-
17 tract, including costs of demobilization and re-
18 mobilization, increased costs of equipment, materials
19 and labor due to delay (including idle time), in-
20 creased general and administrative costs, and esca-
21 lation costs for completing construction.

22 “(6) LITIGATION.—The term ‘litigation’ means
23 any—

24 “(A) adjudication in Federal, State, local,
25 or tribal court; and

1 “(B) any administrative proceeding or
2 hearing before a Federal, State, local, or tribal
3 agency or administrative entity.”.

4 (b) CONTRACT AUTHORITY.—Section 638(b) of the
5 Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is
6 amended by striking paragraph (1) and inserting the fol-
7 lowing:

8 “(1) CONTRACTS.—

9 “(A) IN GENERAL.—The Secretary may
10 enter into contracts under this section with
11 sponsors of an advanced nuclear facility that
12 cover at any 1 time a total of not more than
13 12 reactors, which shall consist of not less than
14 2 nor more than 4 different reactor designs, in
15 accordance with paragraph (2).

16 “(B) REPLACEMENT CONTRACTS.—If any
17 contract entered into under this section termi-
18 nates or expires without a claim being paid by
19 the Secretary under the contract, the Secretary
20 may enter into a new contract under this sec-
21 tion in replacement of the contract.”.

22 (c) COVERED COSTS.—Section 638(d) of the Energy
23 Policy Act of 2005 (42 U.S.C. 16014(d)) is amended by
24 striking paragraphs (2) and (3) and inserting the fol-
25 lowing:

1 “(2) COVERAGE.—In the case of reactors that
2 receive combined licenses and on which construction
3 is commenced, the Secretary shall pay—

4 “(A) 100 percent of the covered costs of
5 delay that occur after the initial 30-day period
6 of covered delay; but

7 “(B) not more than \$500,000,000 per con-
8 tract.

9 “(3) COVERED DEBT OBLIGATIONS.—Debt obli-
10 gations covered under subparagraph (A) of para-
11 graph (5) shall include debt obligations incurred to
12 pay increased project costs.”.

13 (d) DISPUTE RESOLUTION.—Section 638 of the En-
14 ergy Policy Act of 2005 (42 U.S.C. 16014) is amended—

15 (1) by redesignating subsections (f) through (h)
16 as subsections (g) through (i), respectively; and

17 (2) by inserting after subsection (e) the fol-
18 lowing:

19 “(f) DISPUTE RESOLUTION.—

20 “(1) IN GENERAL.—Any controversy or claim
21 arising out of or relating to any contract entered
22 into under this section shall be determined by arbi-
23 tration in Washington, DC, in accordance with the
24 applicable Commercial Arbitration Rules of the
25 American Arbitration Association.

1 “(2) TREATMENT OF DECISION.—A decision by
2 an arbitrator shall be final and binding, and the
3 United district court for Washington, DC, or the
4 district in which the project is located shall have ju-
5 risdiction to enter judgment on the decision.”.

6 **SEC. 317. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

7 (a) DEFINITION OF PROJECT COST.—Section
8 1701(1) of the Energy Policy Act of 2005 (42 U.S.C.
9 16511(1)) is amended by adding at the end the following:

10 “(6) PROJECT COST.—The term ‘project cost’
11 means all costs associated with the development,
12 planning, design, engineering, permitting and licens-
13 ing, construction, commissioning, startup, shake-
14 down, and financing of a facility, including reason-
15 able escalation and contingencies, the cost of and
16 fees for the guarantee, reasonably required reserve
17 funds, initial working capital, and interest during
18 construction.”.

19 (b) TERMS AND CONDITIONS.—Section 1702 of the
20 Energy Policy Act of 2005 (42 U.S.C. 16512) is amended
21 by striking subsections (b) and (c) and inserting the fol-
22 lowing:

23 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-
24 TION.—

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

3 “(A) sufficient amounts have been appro-
4 priated to cover the cost of the guarantee;

5 “(B) the Secretary has—

6 “(i) received from the borrower pay-
7 ment in full for the cost of the obligation;
8 and

9 “(ii) deposited the payment into the
10 Treasury; or

11 “(C) any combination of subparagraphs
12 (A) and (B) that is sufficient to cover the cost
13 of the obligation.

14 “(2) RELATION TO OTHER LAWS.—Section
15 504(b) of the Federal Credit Reform Act of 1990 (2
16 U.S.C. 661c (b)) shall not apply to a loan guarantee
17 made in accordance with paragraph (1).

18 “(c) AMOUNT.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary shall guarantee—

21 “(A) 100 percent of the obligation for a fa-
22 cility that is the subject of a guarantee; or

23 “(B) a lesser amount, if requested by the
24 borrower.

1 “(2) LIMITATION.—The total amount of loans
2 guaranteed for a facility by the Secretary shall not
3 exceed 80 percent of the total cost of the facility, as
4 estimated at the time at which the guarantee is
5 issued.”.

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

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

11 “(A) be deposited by the Secretary into a
12 special fund in the Treasury to be known as the
13 ‘Incentives For Innovative Technologies Fund’;
14 and

15 “(B) remain available to the Secretary for
16 expenditure, without further appropriation or
17 fiscal year limitation, for administrative ex-
18 penses incurred in carrying out this title.”.

19 **SEC. 318. MODIFICATION OF CREDIT FOR PRODUCTION**
20 **FROM ADVANCED NUCLEAR POWER FACILI-**
21 **TIES.**

22 (a) IN GENERAL.—Paragraph (2) of section 45J(b)
23 of the Internal Revenue Code of 1986 is amended by strik-
24 ing “6,000 megawatts” and inserting “8,000 megawatts”.

1 (b) ALLOCATION OF CREDIT TO PRIVATE PARTNERS
2 OF TAX-EXEMPT ENTITIES.—

3 (1) IN GENERAL.—Section 45J of the Internal
4 Revenue Code of 1986 is amended—

5 (A) by redesignating subsection (e) as sub-
6 section (f), and

7 (B) by inserting after subsection (d) the
8 following new subsection:

9 “(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNER-
10 SHIPS.—

11 “(1) IN GENERAL.—In the case of an advanced
12 nuclear power facility which is owned by a public-
13 private partnership, any qualified public entity which
14 is a member of such partnership may transfer such
15 entity’s allocation of the credit under subsection (a)
16 to any non-public entity which is a member of such
17 partnership, except that the aggregate allocations of
18 such credit claimed by such non-public entity shall
19 be subject to the limitations under subsections (b)
20 and (c) and section 38(c).

21 “(2) QUALIFIED PUBLIC ENTITY.—For pur-
22 poses of this subsection, the term ‘qualified public
23 entity’ means a Federal, State, or local government
24 entity, or any political subdivision thereof, or a coop-
25 erative organization described in section 1381(a).

1 “(3) VERIFICATION OF TRANSFER OF ALLOCA-
2 TION.—A qualified public entity that makes a trans-
3 fer under paragraph (1), and a non-public entity
4 that receives an allocation under such a transfer,
5 shall provide verification of such transfer in such
6 manner and at such time as the Secretary shall pre-
7 scribe.”.

8 (2) COORDINATION WITH GENERAL BUSINESS
9 CREDIT.—Subsection (c) of section 38 of such Code,
10 as amended by this Act, is amended by adding at
11 the end the following new paragraph:

12 “(7) SPECIAL RULE FOR CREDIT FOR PRODUC-
13 TION FROM ADVANCED NUCLEAR POWER FACILI-
14 TIES.—

15 “(A) IN GENERAL.—In the case of the
16 credit for production from advanced nuclear
17 power facilities determined under section
18 45J(a), paragraph (1) shall not apply with re-
19 spect to any qualified public entity (as defined
20 in section 45J(e)(2)(B)) which transfers the en-
21 tity’s allocation of such credit to a non-public
22 partner as provided in section 45J(e)(2)(A).

23 “(B) VERIFICATION OF TRANSFER.—Sub-
24 paragraph (A) shall not apply to any qualified
25 public entity unless such entity provides

1 verification of a transfer of credit allocation as
 2 required under section 45J(e)(2)(C).”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
 5 subsection (a) shall apply to electricity produced in
 6 taxable years beginning after the date of the enact-
 7 ment of this Act.

8 (2) ALLOCATION OF CREDIT.—The amend-
 9 ments made by subsection (b) shall apply to taxable
 10 years beginning after the date of the enactment of
 11 this Act.

12 **SEC. 319. 5-YEAR ACCELERATED DEPRECIATION FOR NEW**
 13 **NUCLEAR POWER FACILITIES.**

14 (a) IN GENERAL.—Subparagraph (B) of section
 15 168(e)(3) of the Internal Revenue Code of 1986 is amend-
 16 ed—

17 (1) by striking “and” at the end of clause (v);

18 (2) by striking the period at the end of clause
 19 (vi) and inserting “, and”; and

20 (3) by inserting after clause (vi) the following
 21 new clause:

22 “(vii) any qualified nuclear power fa-
 23 cility the original use of which commences
 24 with the taxpayer.”.

1 (b) QUALIFIED NUCLEAR POWER FACILITY.—Sec-
2 tion 168(e) of the Internal Revenue Code of 1986 is
3 amended by adding at the end the following new para-
4 graph:

5 “(9) QUALIFIED NUCLEAR POWER FACILITY.—
6 The term ‘qualified nuclear power facility’ means an
7 advanced nuclear facility (as defined in section
8 45J(d)(2))—

9 “(A) which, when placed in service, will
10 use nuclear power to produce electricity,

11 “(B) the construction of which is approved
12 by the Nuclear Regulatory Commission on or
13 before December 31, 2013, and

14 “(C) which is placed in service before Jan-
15 uary 1, 2021.”.

16 (c) CONFORMING AMENDMENT.—Section
17 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986
18 is amended by inserting “and not described in subpara-
19 graph (B)(vii) of this paragraph” after “section
20 1245(a)(3)”.

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

1 **TITLE IV—ENSURING MARKET**
2 **INTEGRITY**

3 **SEC. 401. DEFINITIONS.**

4 In this title:

5 (1) COMMISSION.—The term “Commission”
6 means the Commodity Futures Trading Commission.

7 (2) COMPTROLLER GENERAL.—The term
8 “Comptroller General” means the Comptroller Gen-
9 eral of the United States.

10 **SEC. 402. DEFINITION OF ENERGY COMMODITY.**

11 (a) DEFINITION OF ENERGY COMMODITY.—Section
12 1a of the Commodity Exchange Act (7 U.S.C. 1a) is
13 amended—

14 (1) by redesignating paragraphs (13) through
15 (34) as paragraphs (14) through (35), respectively;
16 and

17 (2) by inserting after paragraph (12) the fol-
18 lowing:

19 “(13) ENERGY COMMODITY.—The term ‘energy
20 commodity’ means—

21 “(A) coal;

22 “(B) crude oil;

23 “(C) gasoline;

24 “(D) diesel fuel;

25 “(E) jet fuel;

1 “(F) heating oil;
2 “(G) propane;
3 “(H) electricity;
4 “(I) natural gas; and
5 “(J) any other substance that is used as a
6 source of energy, as determined to be appro-
7 priate by the Commission.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 2(c)(2)(B)(i)(II)(cc) of the Com-
10 modity Exchange Act (7 U.S.C.
11 2(c)(2)(B)(i)(II)(cc)) is amended—

12 (A) in subitem (AA), by striking “section
13 1a(20)” and inserting “section 1a(21)”; and

14 (B) in subitem (BB), by striking “section
15 1a(20)” and inserting “section 1a(21)”.

16 (2) Section 13106(b)(1) of the Food, Conserva-
17 tion, and Energy Act of 2008 (7 U.S.C. 2 note;
18 Public Law 110–246) is amended by striking “sec-
19 tion 1a(32)” and inserting “section 1a”.

20 (3) Section 402 of the Legal Certainty for
21 Bank Products Act of 2000 (7 U.S.C. 27) is amend-
22 ed—

23 (A) in subsection (a)(7), by striking “sec-
24 tion 1a(20)” and inserting “section 1a”; and

25 (B) in subsection (d)—

1 (i) in paragraph (1)(B), by striking
2 “section 1a(33)” and inserting “section
3 1a”; and

4 (ii) in paragraph (2)(D), by striking
5 “section 1a(13)” and inserting “section
6 1a”.

7 **SEC. 403. SPECULATIVE LIMITS AND TRANSPARENCY OF**
8 **OFF-SHORE TRADING.**

9 (a) IN GENERAL.—Section 4 of the Commodity Ex-
10 change Act (7 U.S.C. 6) is amended by adding at the end
11 the following:

12 “(e) FOREIGN BOARDS OF TRADE.—

13 “(1) IN GENERAL.—The Commission may not
14 permit a foreign board of trade to provide to the
15 members of the foreign board of trade or other par-
16 ticipants located in the United States direct access
17 to the electronic trading and order matching system
18 of the foreign board of trade with respect to an
19 agreement, contract, or transaction in an energy or
20 agricultural commodity that settles against any price
21 (including the daily or final settlement price) of 1 or
22 more contracts listed for trading on a registered en-
23 tity, unless—

24 “(A) the foreign board of trade makes pub-
25 lic daily trading information regarding the

1 agreement, contract, or transaction that is com-
2 parable to the daily trading information pub-
3 lished by the registered entity for the 1 or more
4 contracts against which the agreement, con-
5 tract, or transaction traded on the foreign
6 board of trade settles; and

7 “(B) the foreign board of trade (or the for-
8 eign futures authority that oversees the foreign
9 board of trade)—

10 “(i) adopts position limits (including
11 related hedge exemption provisions) for the
12 agreement, contract, or transaction that
13 are comparable, taking into consideration
14 the relative sizes of the respective markets,
15 to the position limits (including related
16 hedge exemption provisions) adopted by
17 the registered entity for the 1 or more con-
18 tracts against which the agreement, con-
19 tract, or transaction traded on the foreign
20 board of trade settles;

21 “(ii) has the authority to require or
22 direct market participants to limit, reduce,
23 or liquidate any position the foreign board
24 of trade (or the foreign futures authority
25 that oversees the foreign board of trade)

1 determines to be necessary to prevent or
2 reduce the threat of price manipulation,
3 excessive speculation (as described in sec-
4 tion 4a(a)), price distortion, or disruption
5 of delivery or the cash settlement process;

6 “(iii) agrees to promptly notify the
7 Commission of any change regarding—

8 “(I) the information that the for-
9 eign board of trade will make publicly
10 available;

11 “(II) the position limits that the
12 foreign board of trade or foreign fu-
13 tures authority will adopt and enforce;

14 “(III) the position reductions re-
15 quired to prevent manipulation, exces-
16 sive speculation (as described in sec-
17 tion 4a(a)), price distortion, or disrup-
18 tion of delivery or the cash settlement
19 process; and

20 “(IV) any other area of interest
21 communicated by the Commission to
22 the foreign board of trade or foreign
23 futures authority;

24 “(iv) provides information to the
25 Commission regarding large trader posi-

1 tions in the agreement, contract, or trans-
2 action that is comparable to the large trad-
3 er position information collected by the
4 Commission for the 1 or more contracts
5 against which the agreement, contract, or
6 transaction traded on the foreign board of
7 trade settles; and

8 “(v) provides to the Commission infor-
9 mation necessary to publish reports on ag-
10 gregate trader positions for the agreement,
11 contract, or transaction traded on the for-
12 eign board of trade that are comparable to
13 the reports for the 1 or more contracts
14 against which the agreement, contract, or
15 transaction traded on the foreign board of
16 trade settles.

17 “(2) EXISTING FOREIGN BOARDS OF TRADE.—

18 Paragraph (1) shall not be effective with respect to
19 any agreement, contract, or transaction in an energy
20 commodity executed on a foreign board of trade to
21 which the Commission had granted direct access
22 permission before the date of enactment of this sub-
23 section until the date that is 180 days after the date
24 of enactment of this subsection.”.

1 (b) LIABILITY OF REGISTERED PERSONS TRADING
2 ON A FOREIGN BOARD OF TRADE.—

3 (1) IN GENERAL.—Section 4(a) of the Com-
4modity Exchange Act (7 U.S.C. 6(a)) is amended in
5the matter preceding paragraph (1) by inserting “or
6subsection (f)” after “pursuant to subsection (c)”.

7 (2) VIOLATIONS WITH RESPECT TO CERTAIN
8PERSONS.—Section 4 of the Commodity Exchange
9Act (7 U.S.C. 6) (as amended by subsection (a)) is
10amended by adding at the end the following:

11 “(f) VIOLATIONS WITH RESPECT TO CERTAIN PER-
12SONS.—A person registered with the Commission, or ex-
13empt from registration by the Commission, under this Act
14may not be found to have violated subsection (a) with re-
15spect to a transaction in, or in connection with, a contract
16of sale of a commodity for future delivery if the person
17has reason to believe that the transaction and the contract
18are made on or subject to the rules of a board of trade
19that—

20 “(1) is legally organized under the laws of a
21foreign country;

22 “(2) is authorized to act as a board of trade by
23the appropriate foreign futures authority;

24 “(3) is subject to regulation by the appropriate
25foreign futures authority; and

1 “(4) has not been determined by the Commis-
2 sion to be operating in violation of subsection (a).”.

3 (c) CONTRACT ENFORCEMENT WITH RESPECT TO
4 FOREIGN FUTURES CONTRACTS.—Section 22(a) of the
5 Commodity Exchange Act (7 U.S.C. 25(a)) is amended
6 by adding at the end the following:

7 “(5) EFFECT ON CONTRACTS OF SALE; AU-
8 THORITY OF PARTIES TO CONTRACTS OF SALE.—

9 “(A) EFFECT ON CONTRACTS OF SALE.—

10 For purposes of section 4(a), a contract of sale
11 of a commodity for future delivery traded or ex-
12 ecuted on or through the facilities of a board of
13 trade, exchange, or market located outside of
14 the United States (including the territories and
15 possessions of the United States) shall not be
16 void, voidable, or unenforceable.

17 “(B) AUTHORITY OF PARTIES TO CON-
18 TRACTS OF SALE.—A party to a contract of sale
19 of a commodity for future delivery described in
20 subparagraph (A) shall not be entitled to re-
21 scind or recover any payment made with respect
22 to the contract based on the failure of the for-
23 eign board of trade on which the contract is
24 traded or executed to comply with any provision
25 of this Act.”.

1 **SEC. 404. DISAGGREGATION OF INDEX FUNDS AND OTHER**
 2 **DATA IN ENERGY AND AGRICULTURE MAR-**
 3 **KETS.**

4 Section 4 of the Commodity Exchange Act (7 U.S.C.
 5 6) (as amended by section 403(b)(2)) is amended by add-
 6 ing at the end the following:

7 “(g) DISAGGREGATION OF INDEX FUNDS AND
 8 OTHER DATA IN ENERGY AND AGRICULTURE MAR-
 9 KETS.—Subject to section 8, not later than 30 days after
 10 the date on which the final rule required under section
 11 4(h) is issued, the Commission shall disaggregate and
 12 make public weekly—

13 “(1) the number of positions and total value of
 14 index funds and other passive, long-only and short-
 15 only positions (as defined by the Commission) in
 16 each energy and agriculture market; and

17 “(2) data regarding speculative positions rel-
 18 ative to bona fide physical hedgers in those mar-
 19 kets.”.

20 **SEC. 405. RULEMAKING WITH RESPECT TO REPORTING RE-**
 21 **QUIREMENTS OF INDEX TRADERS AND SWAP**
 22 **DEALERS.**

23 Section 4 of the Commodity Exchange Act (7 U.S.C.
 24 6) (as amended by section 404) is amended by adding at
 25 the end the following:

1 “(h) RULEMAKING WITH RESPECT TO REPORTING
2 REQUIREMENTS OF INDEX TRADERS AND SWAP DEAL-
3 ERS.—

4 “(1) PROPOSED RULEMAKING.—Not later than
5 60 days after the date of enactment of this sub-
6 section, the Commission shall issue a notice of pro-
7 posed rulemaking—

8 “(A) to define and classify index traders
9 and swap dealers (as each term is defined by
10 the Commission); and

11 “(B) to specify data reporting require-
12 ments, and establish routine detailed reporting
13 requirements, with respect to significant price
14 discovery contracts relating to exempt and agri-
15 cultural commodities for index traders and
16 swap dealers in—

17 “(i) designated contract markets;

18 “(ii) derivatives transaction execution
19 facilities;

20 “(iii) foreign boards of trade subject
21 to subsection (e); and

22 “(iv) electronic trading facilities.

23 “(2) FINAL RULE.—Not later than 120 days
24 after the date of enactment of this subsection, the

1 Commission shall promulgate a final rule to accom-
2 plish the purposes described in paragraph (1).”.

3 **SEC. 406. TRANSPARENCY AND RECORDKEEPING AUTHORI-**
4 **TIES.**

5 (a) IN GENERAL.—Section 4g(a) of the Commodity
6 Exchange Act (7 U.S.C. 6g(a)) is amended—

7 (1) by striking “as futures commission” and in-
8 serting “as a futures commission”; and

9 (2) by inserting “and transactions and positions
10 traded pursuant to subsection (g), (h)(1), or (h)(2)
11 of section 2, or any exemption issued by the Com-
12 mission by rule, regulation, or order,” after “United
13 States or elsewhere,”.

14 (b) REPORTS OF DEALS EQUAL TO OR IN EXCESS
15 OF TRADING LIMITS.—Section 4i of the Commodity Ex-
16 change Act (7 U.S.C. 6i) is amended—

17 (1) by striking “SEC. 4i. It shall be” and insert-
18 ing the following:

19 **“SEC. 4i. REPORTS REGARDING DEALS EQUAL TO OR IN EX-**
20 **CESS OF TRADING LIMITS.**

21 “(a) IN GENERAL.—It shall be”;

22 (2) in subsection (a) (as designated by para-
23 graph (1)), in the first sentence, in the matter fol-
24 lowing clause (2), by inserting before “, and of cash
25 or spot” the following: “located in the United States

1 or elsewhere, and of transactions and positions in
2 any such commodity entered into pursuant to sub-
3 section (g), (h)(1), or (h)(2) of section 2, or any ex-
4 emption issued by the Commission by rule, regula-
5 tion, or order”; and

6 (3) by striking the second and third sentences
7 and inserting the following:

8 “(b) DOCUMENTATION REQUIREMENTS OF CERTAIN
9 PERSONS.—With respect to agricultural and energy com-
10 modities, upon special call by the Commission, a person
11 shall provide to the Commission, in such form, in such
12 manner, and within such period as is required under the
13 special call, and in accordance with subsection (d), books
14 and records of each transaction and position traded by the
15 person on or subject to the rules of any board of trade
16 or electronic trading facility located in the United States
17 or elsewhere, pursuant to subsection (g), (h)(1), or (h)(2)
18 of section 2, or any exemption issued by the Commission
19 by rule, regulation, or order, as the Commission deter-
20 mines to be appropriate—

21 “(1) to deter and prevent price manipulation or
22 any other disruption to market integrity; or

23 “(2) to diminish, eliminate, or prevent excessive
24 speculation (as described in section 4a(a)).

1 “(c) REQUIREMENTS RELATING TO BOOKS AND
2 RECORDS.—

3 “(1) IN GENERAL.—The books and records de-
4 scribed in subsections (a) and (b) shall contain com-
5 plete descriptions of each transaction, position, in-
6 ventory, and commitment (including the name and
7 address of each person that has an interest in each
8 transaction, position, inventory, and commitment) of
9 the person covered by the books and records.

10 “(2) MAINTENANCE.—The books and records of
11 a person described in subsections (a) and (b) shall
12 be—

13 “(A) maintained for a period of 5 years;
14 and

15 “(B) during the period described in sub-
16 paragraph (A), available for inspection by any
17 representative of the Commission or the De-
18 partment of Justice.

19 “(d) INCLUSIONS WITH RESPECT TO FUTURES AND
20 CASH OR SPOT TRANSACTIONS AND POSITIONS.—For the
21 purposes of this section, the futures and cash or spot
22 transactions and positions of any person shall include each
23 transaction and position of any person directly or indi-
24 rectly controlled by the person.”.

25 “(e) CONFORMING AMENDMENTS.—

1 (1) Section 2(g) of the Commodity Exchange
2 Act (7 U.S.C. 2(g)) is amended in the matter pre-
3 ceding paragraph (1)—

4 (A) by striking “than section 5a” and in-
5 serting “than subsection (j), section 4g(a), 4i,
6 5a”; and

7 (B) by inserting “(including any regulation
8 promulgated by the Commission pursuant to
9 section 4c(b) requiring reports with respect to
10 commodity option transactions)” before “shall
11 apply”.

12 (2) Section 2(h)(2) of the Commodity Exchange
13 Act (7 U.S.C. 2(h)(2)) is amended by striking sub-
14 paragraph (A) and inserting the following:

15 “(A) sections 4g(a), 4i, 5b, and
16 12(e)(2)(B) (including any regulation promul-
17 gated by the Commission pursuant to section
18 4c(b) requiring reports with respect to com-
19 modity option transactions);”.

20 **SEC. 407. TRADING LIMITS TO PREVENT EXCESSIVE SPECU-**
21 **LATION.**

22 (a) IN GENERAL.—Section 4a of the Commodity Ex-
23 change Act (7 U.S.C. 6a) is amended—

24 (1) by striking “SEC. 4a. (a) Excessive specula-
25 tion” and inserting the following:

1 **“SEC. 4a. EXCESSIVE SPECULATION.**

2 “(a) BURDEN ON INTERSTATE COMMERCE; ESTAB-
3 LISHMENT OF POSITION LIMITS.—

4 “(1) IN GENERAL.—Excessive speculation”;

5 (2) in subsection (a) (as amended by paragraph
6 (1)), by adding at the end the following:

7 “(2) ESTABLISHMENT OF POSITION LIMITS.—

8 Not later than 60 days after the date of enactment
9 of this paragraph, in accordance with each standard
10 described in paragraph (1), and consistent with the
11 good faith exception described in subsection (b)(2),
12 with respect to agricultural and energy commodities,
13 the Commission shall by rule, regulation, or order
14 establish limits on the amount of positions that may
15 be held by any person with respect to contracts of
16 sale for future delivery (including options on the
17 contracts or commodities)—

18 “(A) traded on or subject to the rules of
19 a contract market or derivatives transaction
20 execution facility; or

21 “(B) traded on an electronic trading facil-
22 ity as a significant price discovery contract.

23 “(3) REQUIREMENTS WITH RESPECT TO POSI-
24 TION LIMITS.—In establishing position limits under
25 paragraph (2), the Commission shall set limits—

1 “(A) on the number of positions that may
2 be held by any person during—

3 “(i) a spot month; and

4 “(ii) each month other than a spot
5 month;

6 “(B) on the aggregate number of positions
7 that may be held by any person during each
8 month; and

9 “(C) to the maximum extent practicable—

10 “(i) to diminish, eliminate, or prevent
11 excessive speculation;

12 “(ii) to deter and prevent market ma-
13 nipulation, squeezes, and corners;

14 “(iii) to ensure sufficient market li-
15 quidity for bona fide hedgers;

16 “(iv) to ensure that the price dis-
17 covery function of the underlying market is
18 not disrupted; and

19 “(v) to take into account the total
20 number of positions in fungible agree-
21 ments, contracts, or transactions that a
22 person can hold in agricultural and energy
23 commodities in other markets.

24 “(4) ADVISORY GROUPS.—

1 “(A) IN GENERAL.—Not later than 150
2 days after the date of enactment of this para-
3 graph, the Commission shall convene—

4 “(i) an advisory group to be known as
5 the ‘Position Limit Agricultural Advisory
6 Group’; and

7 “(ii) an advisory group to be known
8 as the ‘Position Limit Energy Advisory
9 Group’.

10 “(B) COMPOSITION.—Each advisory group
11 convened by the Commission under subpara-
12 graph (A) shall be comprised of—

13 “(i) 5 predominantly commercial short
14 hedgers of the actual physical commodity
15 for future delivery;

16 “(ii) 5 predominantly commercial long
17 hedgers of the actual physical commodity
18 for future delivery;

19 “(iii) 4 noncommercial participants in
20 markets for commodities for future deliv-
21 ery; and

22 “(iv) a representative of—

23 “(I) each designated contract
24 market or derivatives transaction exe-
25 cution facility upon which a contract

1 in the commodity for future delivery is
2 traded; and

3 “(II) each electronic trading fa-
4 cility that has a significant price dis-
5 covery contract in the commodity de-
6 scribed in subclause (I).

7 “(C) ANNUAL REPORTS.—Not later than
8 60 days after the date on which each advisory
9 group is convened under subparagraph (A), and
10 annually thereafter, each advisory group shall
11 submit to the Commission a report containing
12 recommendations regarding—

13 “(i) the position limits established
14 under paragraph (2); and

15 “(ii) whether the position limits estab-
16 lished under paragraph (2) should be ad-
17 ministered—

18 “(I) directly by the Commission;

19 or

20 “(II) by the registered entity on
21 which the commodity is listed, with
22 enforcement carried out by the reg-
23 istered entity and the Commission.”;

24 and

25 (3) in subsection (c)—

1 (A) by striking “(c) No rule” and inserting
2 the following:

3 “(c) APPLICABILITY OF RULES, REGULATIONS, AND
4 ORDERS.—

5 “(1) IN GENERAL.—No rule”; and

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

7 “(2) DEFINITION OF BONA FIDE HEDGING
8 TRANSACTION OR POSITION.—With respect to agri-
9 cultural and energy commodities, for the purposes of
10 contracts of sale for future delivery (including an op-
11 tion on any contract or commodity), the term ‘bona
12 fide hedging transaction or position’ means a trans-
13 action or position that—

14 “(A)(i) represents a substitute for a trans-
15 action to be made or a position to be taken at
16 a later time in a physical marketing channel;

17 “(ii) is economically appropriate for
18 the reduction of risks in the conduct and
19 management of a commercial enterprise;
20 and

21 “(iii) arises from the potential change
22 in the value of—

23 “(I) assets that a person owns,
24 produces, manufactures, processes, or
25 merchandises (or anticipates owning,

1 producing, manufacturing, processing,
2 or merchandising);

3 “(II) liabilities that a person
4 owns or anticipates incurring; or

5 “(III) services that a person pro-
6 vides or purchases (or anticipates pro-
7 viding or purchasing); or

8 “(B) reduces risks attendant to a position
9 resulting from a transaction that was—

10 “(i) executed—

11 “(I) pursuant to—

12 “(aa) subsection (g), (h)(1),
13 or (h)(2) of section 2; or

14 “(bb) an exemption issued
15 by the Commission by rule, regu-
16 lation, or order; and

17 “(II) opposite to a counterparty
18 for which the transaction would qual-
19 ify as a bona fide hedging transaction
20 pursuant to subparagraph (A); or

21 “(ii) in accordance with each position
22 level and procedure established by any
23 rule, regulation, or order of the Commis-
24 sion, executed by a person that—

1 “(I) reports to the Commission in
2 the event that any counterparty of the
3 person reaches a specified futures-
4 equivalent position level; and

5 “(II) certifies to the Commission
6 that no counterparty has reached a
7 specified futures-equivalent position
8 level.”.

9 **SEC. 408. MODIFICATIONS TO CORE PRINCIPLES APPLICA-**
10 **BLE TO POSITION LIMITS FOR CONTRACTS IN**
11 **AGRICULTURAL AND ENERGY COMMODITIES.**

12 (a) **CONTRACTS TRADED ON CONTRACT MARKETS.—**
13 Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C.
14 7(d)(5)) is amended by striking “adopt position” and all
15 that follows through “and appropriate” and inserting
16 “adopt, for speculators, position limitations with respect
17 to agricultural commodities or energy commodities, and
18 position limitations or position accountability with respect
19 to other commodities, where necessary and appropriate.”.

20 (b) **CONTRACTS TRADED ON DERIVATIVES TRANS-**
21 **ACTION EXECUTION FACILITIES.—**Section 5a(d)(4) of the
22 Commodity Exchange Act (7 U.S.C. 7a(d)(4)) is amended
23 by striking “adopt position” and all that follows through
24 “deliverable supply” and inserting “adopt, for speculators,
25 position limitations with respect to energy commodities,

1 and position limitations or position accountability with re-
2 spect to other commodities, where necessary and appro-
3 priate for a contract, agreement, or transaction with an
4 underlying commodity that has a physically deliverable
5 supply.”.

6 (c) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—
7 Section 2(h)(7)(C)(ii)(IV) of the Commodity Exchange
8 Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by striking
9 “where necessary” and all that follows through “in signifi-
10 cant price discovery contracts” and inserting “for specu-
11 lators, position limitations with respect to significant price
12 discovery contracts in energy commodities, and position
13 limitations or position accountability with respect to sig-
14 nificant price discovery contracts in other commodities”.

15 **SEC. 409. ADMINISTRATION OF COMMODITY FUTURES**
16 **TRADING COMMISSION.**

17 (a) ADDITIONAL COMMODITY FUTURES TRADING
18 COMMISSION EMPLOYEES FOR IMPROVED ENFORCE-
19 MENT.—Section 2(a)(7) of the Commodity Exchange Act
20 (7 U.S.C. 2(a)(7)) is amended by adding at the end the
21 following:

22 “(D) ADDITIONAL EMPLOYEES.—As soon
23 as practicable after the date of enactment of
24 this subparagraph, subject to the availability of
25 appropriations, the Commission shall appoint at

1 least 100 full-time employees (in addition to the
 2 employees employed by the Commission as of
 3 the date of enactment of this subparagraph)—

4 “(i) to increase the public trans-
 5 parency of operations in agriculture and
 6 energy markets;

7 “(ii) to improve the enforcement of
 8 this Act in those markets; and

9 “(iii) to carry out such other duties as
 10 are prescribed by the Commission.”.

11 (b) INSPECTOR GENERAL OF COMMODITY FUTURES
 12 TRADING COMMISSION.—

13 (1) IN GENERAL.—Section 2(a) of the Com-
 14 modity Exchange Act (7 U.S.C. 2(a)) is amended by
 15 adding at the end the following:

16 “(13) INSPECTOR GENERAL.—

17 “(A) OFFICE.—There shall be in the Com-
 18 mission, as an independent office, an Office of
 19 the Inspector General.

20 “(B) APPOINTMENT.—The Office shall be
 21 headed by an Inspector General, appointed in
 22 accordance with the Inspector General Act of
 23 1978 (5 U.S.C. App.).

24 “(C) COMPENSATION.—The Inspector
 25 General shall be compensated at the rate pro-

1 vided for level IV of the Executive Schedule
2 under section 5315 of title 5, United States
3 Code.

4 “(D) TRANSITION.—Until the date on
5 which the Inspector General is appointed under
6 subparagraph (B), the Inspector General of the
7 Commission shall continue to carry out the re-
8 sponsibilities of the Inspector General of the
9 Commission.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 8G(a)(2) of the Inspector Gen-
12 eral Act of 1978 (5 U.S.C. App.) is amended by
13 striking “the Commodity Futures Trading
14 Commission,”.

15 (B) Section 11(2) of the Inspector General
16 Act of 1978 (5 U.S.C. App.) is amended by
17 striking “or the Export-Import Bank” and in-
18 serting “, the Export-Import Bank, or the Com-
19 modity Futures Trading Commission”.

20 **SEC. 410. REVIEW OF PRIOR ACTIONS.**

21 Notwithstanding any other provision of the Com-
22 modity Exchange Act (7 U.S.C. 1 et seq.), to ensure the
23 compliance of each prior action described in paragraphs
24 (1) and (2) with the Commodity Exchange Act (7 U.S.C.
25 1 et seq.), the Commission shall review, as appropriate—

1 (1) each regulation, rule, exemption, exclusion,
2 guidance, no action letter, order, and other action
3 taken by or on behalf of the Commission that is in
4 effect as of the date of enactment of this Act; and

5 (2) each action taken pursuant to the Com-
6 modity Exchange Act (7 U.S.C. 1 et seq.) by an ex-
7 change, self-regulatory organization, or any other
8 registered entity that is in effect as of the date of
9 enactment of this Act.

10 **SEC. 411. REVIEW OF OVER-THE-COUNTER MARKETS.**

11 (a) STUDY.—

12 (1) IN GENERAL.—As soon as practicable after
13 the date of enactment of this Act, the Commission
14 shall conduct a study—

15 (A) to deter and prevent price manipula-
16 tion or any other disruption to market integrity;
17 and

18 (B) to diminish, eliminate, or prevent ex-
19 cessive speculation (as described in section
20 4a(a) of the Commodity Exchange Act (7
21 U.S.C. 6a(a))) for physical-based commodities.

22 (2) SCOPE.—In conducting the study under
23 paragraph (1), the Commission shall determine the
24 efficacy, practicality, and consequences of estab-
25 lishing—

1 (A) position limits for agreements, con-
2 tracts, or transactions conducted in reliance on
3 subsections (g) and (h) of section 2 of the Com-
4modity Exchange Act (7 U.S.C. 2), and any ex-
5emption issued by the Commission by rule, reg-
6ulation, or order—

7 (i) to deter and prevent price manipu-
8lation or any other disruption to market
9integrity; or

10 (ii) to diminish, eliminate, or prevent
11excessive speculation (as described in sec-
12tion 4a(a) of the Commodity Exchange Act
13(7 U.S.C. 6a(a))) for physical-based com-
14modities; and

15 (B) aggregate position limits for similar
16agreements, contracts, or transactions for phys-
17ical-based commodities traded—

18 (i) on designated contract markets;

19 (ii) on derivatives transaction execu-
20tion facilities; and

21 (iii) in reliance on subsections (g) and
22(h) of section 2 of the Commodity Ex-
23change Act (7 U.S.C. 2), and any exemp-
24tion issued by the Commission by rule, reg-
25ulation, or order.

1 (3) PUBLIC HEARINGS.—To gather information
2 to prepare the report under paragraph (1), the Com-
3 mission shall provide not less than 2 public hearings
4 at which the testimony provided at each hearing
5 shall be recorded.

6 (b) REPORT.—Not earlier than 1 year after the date
7 of enactment of this Act, the Commission shall submit to
8 the Committee on Agriculture of the House of Representa-
9 tives and the Committee on Agriculture, Nutrition, and
10 Forestry of the Senate a report that contains—

11 (1) a description of the results of the study car-
12 ried out under subsection (a)(1); and

13 (2) recommendations regarding any action that
14 the Commission determines to be necessary to deter
15 and prevent price manipulation or any other disrup-
16 tion to market integrity, or to diminish, eliminate, or
17 prevent excessive speculation (as described in section
18 4a(a) of the Commodity Exchange Act (7 U.S.C.
19 6a(a))) for physical-based commodities, including—

20 (A) any additional statutory authority that
21 the Commission determines to be necessary to
22 implement each recommendation; and

23 (B) a description of the resources that the
24 Commission considers to be necessary to imple-
25 ment each recommendation.

1 **SEC. 412. STUDIES; REPORTS.**

2 (a) STUDY RELATING TO INTERNATIONAL REGULA-
3 TION OF ENERGY COMMODITY MARKETS.—

4 (1) IN GENERAL.—The Comptroller General
5 shall conduct a study of the international regime for
6 regulating the trading of energy commodity futures
7 and derivatives.

8 (2) ANALYSIS.—The study shall include an
9 analysis of, at a minimum—

10 (A) key common features and differences
11 among countries in the regulation of energy
12 commodity trading, including with respect to
13 market oversight and enforcement standards
14 and activities;

15 (B) variations among countries with re-
16 spect to the use of position limits, position ac-
17 countability levels, or other thresholds to detect
18 and prevent price manipulation, excessive spec-
19 ulation (as described in section 4a(a) of the
20 Commodity Exchange Act (7 U.S.C. 6a(a))), or
21 other unfair trading practices;

22 (C) variations in practices regarding the
23 differentiation of commercial and noncommer-
24 cial trading;

25 (D) agreements and practices for sharing
26 market and trading data among futures au-

1 thorities and the entities that the futures au-
2 thorities oversee; and

3 (E) agreements and practices for facili-
4 tating international cooperation on market over-
5 sight, compliance, and enforcement.

6 (3) REPORT.—Not later than 1 year after the
7 date of enactment of this Act, the Comptroller Gen-
8 eral shall submit to the Committee on Agriculture of
9 the House of Representatives and the Committee on
10 Agriculture, Nutrition, and Forestry of the Senate a
11 report that—

12 (A) contains—

13 (i) a description of the results of the
14 study carried out under paragraph (1);
15 and

16 (ii) recommendations to improve open-
17 ness, transparency, and other necessary
18 elements of a properly functioning market
19 in a manner that protects consumers in
20 the United States; and

21 (B) addresses whether there is excessive
22 speculation, and if so, the effects of the specula-
23 tion and energy price volatility on energy fu-
24 tures.

1 (b) STUDY RELATING TO EFFECTS OF SPECULATORS
2 ON AGRICULTURE AND ENERGY FUTURES MARKETS AND
3 AGRICULTURE AND ENERGY PRICES.—

4 (1) STUDY.—The Comptroller General shall
5 conduct a study of the effects of speculators on agri-
6 culture and energy futures markets and agriculture
7 and energy prices.

8 (2) ANALYSIS.—The study shall include an
9 analysis of, at a minimum—

10 (A) the effect of increased amounts of cap-
11 ital in agriculture and energy futures markets;

12 (B) the impact of the roll-over of positions
13 by index fund traders and swap dealers on—

14 (i) agriculture and energy futures
15 markets; and

16 (ii) agriculture and energy prices; and

17 (C) the extent to which each factor de-
18 scribed in subparagraphs (A) and (B) and spec-
19 ulators—

20 (i) affect—

21 (I) the pricing of agriculture and
22 energy commodities; and

23 (II) risk management functions;
24 and

1 (ii) contribute to economically efficient
2 price discovery.

3 (3) REPORT.—Not later than 2 years after the
4 date of enactment of this Act, the Comptroller Gen-
5 eral shall submit to the Committee on Agriculture of
6 the House of Representatives and the Committee on
7 Agriculture, Nutrition, and Forestry of the Senate a
8 report that contains a description of the results of
9 the study carried out under paragraph (1).

10 **SEC. 413. OVER-THE-COUNTER AUTHORITY.**

11 (a) IN GENERAL.—Section 2 of the Commodity Ex-
12 change Act (7 U.S.C. 2) is amended by adding at the end
13 the following:

14 “(j) OVER-THE-COUNTER AUTHORITY.—

15 “(1) AGRICULTURAL AND ENERGY COMMOD-
16 ITIES.—Not later than 60 days after the date of en-
17 actment of this subsection, the Commission shall, by
18 rule, regulation, or order, require, on not less than
19 a monthly basis, the periodic reporting of agree-
20 ments, contracts, or transactions, with regard to
21 any—

22 “(A) agricultural or energy commodity en-
23 tered into in reliance on subsection (g), (h)(1),
24 or (h)(2); or

1 “(B) exemption issued by the Commission
2 by rule, regulation, or order that is fungible (as
3 defined by the Commission) with agreements,
4 contracts, or transactions traded on or subject
5 to the rules of any board of trade or of any
6 electronic trading facility with respect to a sig-
7 nificant price discovery contract.

8 “(2) DUTY OF COMMISSION TO ISSUE FIND-
9 INGS.—Notwithstanding subsections (g), (h)(1), and
10 (h)(2), and any exemption issued by the Commission
11 by rule, regulation, or order, the Commission shall
12 assess and issue a finding on whether each agree-
13 ment, contract, or transaction reported pursuant to
14 paragraph (1), alone or in conjunction with other
15 similar agreements, contracts, or transactions, has
16 the potential—

17 “(A) to disrupt the liquidity or price dis-
18 covery function on a registered entity;

19 “(B) to cause a severe market disturbance
20 in the underlying cash or futures market for an
21 agricultural or energy commodity; or

22 “(C) to prevent or otherwise impair the
23 price of a contract listed for trading on a reg-
24 istered entity from reflecting the forces of sup-

1 ply and demand in any market for an agricul-
2 tural commodity or an energy commodity.

3 “(3) AUTHORITY OF COMMISSION.—If the Com-
4 mission makes a finding under paragraph (2), the
5 Commission, in accordance with section 8a(9),
6 may—

7 “(A) impose position limits for speculators
8 on the agreements, contracts, or transactions
9 involved; and

10 “(B) take corrective actions to enforce the
11 position limits described in subparagraph (A).”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 2(h)(2)(A) of the Commodity Ex-
14 change Act (7 U.S.C. 2(h)(2)(A)) is amended by in-
15 serting “subsection (j), and” before “sections”.

16 (2) Section 8a(9) of the Commodity Exchange
17 Act (7 U.S.C. 12a(9)) is amended in the matter pre-
18 ceding the first sentence by striking “of the Com-
19 mission’s action” and inserting the following: “the
20 action of the Commission, and to fix and enforce
21 limits to any agreement, contract, or transaction
22 subject to section 2(j)(1) pursuant to a finding made
23 under section 2(j)(2)”.

1 **SEC. 414. EXPEDITED PROCEDURES.**

2 The Commission may use emergency and expedited
3 procedures (including any administrative or other proce-
4 dure as appropriate) to carry out this Act (including the
5 amendments made by this Act) if the Commission deter-
6 mines that the use of emergency and expedited procedures
7 is necessary.

8 **SEC. 415. TREATMENT OF EMISSION ALLOWANCES AND**
9 **OFFSET CREDITS.**

10 (a) EXEMPT COMMODITY.—Section 1a of the Com-
11 modity Exchange Act (7 U.S.C. 1a) is amended by strik-
12 ing paragraph (15) (as redesignated by section 402(a)(1))
13 and inserting the following:

14 “(15) EXEMPT COMMODITY.—The term ‘exempt
15 commodity’ means a commodity that is not—

16 “(A) an agricultural commodity;

17 “(B) an excluded commodity;

18 “(C) an allowance authorized under any
19 law (including regulations) to emit a green-
20 house gas; or

21 “(D) a credit authorized under any law
22 (including regulations) for—

23 “(i) a reduction in greenhouse gas
24 emissions; or

25 “(ii) an increase in carbon sequestra-
26 tion.”.

1 (b) MEMORANDUM OF UNDERSTANDING.—Not later
2 than 180 days after the date of enactment of this Act,
3 the Commodity Futures Trading Commission shall enter
4 into a memorandum of understanding with the Secretary
5 of Agriculture, which shall include provisions—

6 (1) consistent with section 1245 of the Food
7 Security Act of 1985 (16 U.S.C. 3845); and

8 (2) to ensure that the development of any pro-
9 cedures and protocols for a market-based greenhouse
10 gas program are properly constructed and coordi-
11 nated to maximize credits for carbon sequestration.

12 **SEC. 416. INSPECTOR GENERAL OF COMMODITY FUTURES**
13 **TRADING COMMISSION.**

14 (a) OFFICE OF INSPECTOR GENERAL.—

15 (1) HEAD OF THE ESTABLISHMENT.—Section
16 12(1) of the Inspector General Act of 1978 (5
17 U.S.C. App.) is amended by inserting “the Chair-
18 man of the Commodity Futures Trading Commis-
19 sion;” after “Export-Import Bank;”.

20 (2) ESTABLISHMENT.—Section 12(2) of the In-
21 spector General Act of 1978 (5 U.S.C. App.) is
22 amended by inserting “the Commodity Futures
23 Trading Commission,” after “Export-Import
24 Bank;”.

1 (3) DESIGNATED FEDERAL ENTITY.—Section
 2 8G(a)(2) of the Inspector General Act of 1978 (5
 3 U.S.C. App.) is amended by striking “the Com-
 4 modity Futures Trading Commission,”.

5 (b) EFFECTIVE DATE; TRANSITION.—

6 (1) EFFECTIVE DATE.—The amendments made
 7 by subsection (a) take effect on the date that is 30
 8 days after the date of enactment of this Act.

9 (2) TRANSITION.—An individual serving as In-
 10 spector General of the Commodity Futures Trading
 11 Commission as of the date described in paragraph
 12 (1) may continue to serve as Inspector General of
 13 the Commodity Futures Trading Commission until
 14 the date on which the President appoints an Inspec-
 15 tor General for the Commodity Futures Trading
 16 Commission under section 3(a) the Inspector Gen-
 17 eral Act of 1978 (5 U.S.C. App.).

18 **TITLE V—NATIONAL COMMIS-**
 19 **SION ON ENERGY POLICY**
 20 **AND GLOBAL CLIMATE**
 21 **CHANGE**

22 **SEC. 501. ESTABLISHMENT OF COMMISSION.**

23 There is established in the legislative branch the Na-
 24 tional Commission on Energy Policy and Global Climate
 25 Change (referred to in this title as the “Commission”).

1 **SEC. 502. PURPOSES.**

2 The purposes of the Commission are—

3 (1) to advise and assist Congress in developing
4 a comprehensive energy policy that ensures national
5 energy security and significantly reduces greenhouse
6 gas emissions in order to address global climate
7 change without damaging the economy;

8 (2) to examine all aspects of the energy situa-
9 tion of the United States and related policies in
10 order to develop a comprehensive, economy-wide pol-
11 icy approach to energy issues;

12 (3) to examine the relevant facts and science re-
13 lated to global climate change, including impacts
14 from human activities; and

15 (4) to report to Congress and the President on
16 the findings, conclusions, and recommendations of
17 the Commission for legislation creating a com-
18 prehensive energy policy for the United States that
19 ensures national energy security and significantly re-
20 duces greenhouse gas emissions in order to address
21 global climate change without damaging the econ-
22 omy.

23 **SEC. 503. COMPOSITION OF COMMISSION.**

24 (a) MEMBERS.—The Commission shall be composed
25 of 12 members, of whom—

1 (1) 1 member shall be jointly appointed by the
2 majority leader of the Senate and the Speaker of the
3 House of Representatives, who shall serve as Chair-
4 person of the Commission;

5 (2) 1 member shall be jointly appointed by the
6 minority leader of the Senate and the minority lead-
7 er of the House of Representatives, who shall serve
8 as Vice-Chairperson of the Commission;

9 (3)(A) 1 member shall be jointly appointed by
10 the Chair and Ranking Member of the Committee on
11 the Environment and Public Works of the Senate;
12 and

13 (B) 1 member shall be jointly appointed by the
14 Chair and Ranking Member of the Committee on
15 Natural Resources of the House of Representatives,
16 in consultation with the Select Committee on Energy
17 Independence and Global Warming of the House of
18 Representatives;

19 (4)(A) 1 member shall be jointly appointed by
20 the Chair and Ranking Member of the Committee on
21 Energy and Natural Resources of the Senate; and

22 (B) 1 member shall be jointly appointed by the
23 Chair and Ranking Member of the Committee on
24 Energy and Commerce of the House of Representa-
25 tives;

1 (5)(A) 1 member shall be jointly appointed by
2 the Chair and Ranking Member of the Committee on
3 Commerce, Science and Transportation of the Sen-
4 ate; and

5 (B) 1 member shall be jointly appointed by the
6 Chair and Ranking Member of the Committee on
7 Science and Technology of the House of Representa-
8 tives and the Committee on Transportation and In-
9 frastructure of the House of Representatives;

10 (6)(A) 1 member shall be jointly appointed by
11 the Chair and Ranking Member of the Committee on
12 Agriculture, Nutrition and Forestry of the Senate;
13 and

14 (B) 1 member shall be jointly appointed by the
15 Chair and Ranking Member of the Committee on
16 Agriculture of the House of Representatives; and

17 (7)(A) 1 member shall be jointly appointed by
18 the Chair and Ranking Member of the Committee on
19 Finance of the Senate; and

20 (B) 1 member shall be jointly appointed by the
21 Chair and Ranking Member of the Committee on
22 Ways and Means of the House of Representatives.

23 (b) QUALIFICATIONS; INITIAL MEETING.—

24 (1) POLITICAL PARTY AFFILIATION.—Each ap-
25 pointment to the Commission shall be made without

1 regard to political party affiliation and on a non-
2 partisan basis.

3 (2) NONGOVERNMENTAL APPOINTEES.—An in-
4 dividual appointed to the Commission may not be an
5 officer or employee of the Federal Government or
6 any State or local government.

7 (3) OTHER QUALIFICATIONS.—It is the sense of
8 Congress that individuals appointed to the Commis-
9 sion should be prominent United States citizens,
10 with national recognition and significant depth of ex-
11 perience in such professions as governmental service,
12 science, energy, economics, environment, agriculture,
13 manufacturing, public administration, and commerce
14 (including aviation matters).

15 (4) DEADLINE FOR APPOINTMENT.—Each
16 member of the Commission shall be appointed not
17 later than 90 days after the date of enactment of
18 this Act.

19 (c) MEETINGS.—

20 (1) INITIAL MEETING.—The Commission shall
21 hold the initial meeting of the Commission as soon
22 as practicable, and not later than 60 days, after the
23 date on which all members of the Commission are
24 appointed.

1 (2) SUBSEQUENT MEETINGS.—After the initial
2 meeting under paragraph (1), the Commission shall
3 meet at the call of—

4 (A) the Chairperson; or

5 (B) a majority of the members of the Com-
6 mission.

7 (d) QUORUM.—7 members of the Commission shall
8 constitute a quorum.

9 (e) VACANCIES.—A vacancy on the Commission—

10 (1) shall not affect the powers of the Commis-
11 sion; and

12 (2) shall be filled in the same manner in which
13 the original appointment was made.

14 **SEC. 504. FUNCTIONS OF COMMISSION.**

15 (a) IN GENERAL.—The functions of the Commission
16 are—

17 (1) to examine, study, and evaluate the relevant
18 facts, studies, and proposals relating to national en-
19 ergy policies and policies to address global climate
20 change, including to any relevant legislation, Execu-
21 tive order, regulation, plan, policy, practice, proce-
22 dure relating to—

23 (A) domestic production and consumption
24 of energy from all sources and imported sources
25 of energy, particularly oil and natural gas;

1 (B) domestic and international oil and gas
2 exploration, production, refining, oil and gas
3 pipelines, and other forms of infrastructure and
4 transportation;

5 (C) energy markets, including market spec-
6 ulation, transparency, and oversight;

7 (D) the structure of the energy industry
8 including the impacts of consolidation, antitrust
9 and oligopolistic concerns, market manipulation
10 and collusion concerns, and other similar mat-
11 ters;

12 (E) electricity production and transmission
13 issues, including fossil fuels, renewable energy,
14 energy efficiency and energy conservation mat-
15 ters;

16 (F) transportation fuels, biofuels and other
17 renewable fuels, fuel cells, motor vehicle power
18 systems, efficiency and conservation;

19 (G) nuclear energy, including matters per-
20 taining to permitting, regulation, and legal li-
21 ability;

22 (2) to examine the relevant facts and science re-
23 lated to global climate change and the national and
24 global environment, including—

1 (A) the impacts on the global climate sys-
2 tem and environment from human activities,
3 particularly greenhouse gas emissions and pol-
4 lution;

5 (B) the consequences to the global climate
6 system and environment; and

7 (C) the consequences of global climate
8 change on humans and other species, particu-
9 larly consequences to the national security,
10 economy, public health and well-being of the
11 United States, including the citizens and resi-
12 dents of the United States;

13 (3) to identify, review, and evaluate the lessons
14 learned from previous energy policies, energy crises,
15 environmental problems, and attempts to address
16 global climate change;

17 (4) to evaluate proposals for energy and global
18 climate change policies, including proposals devel-
19 oped by Members of Congress, congressional Com-
20 mittees, all relevant Federal, State, and regional
21 governmental agencies, nongovernmental organiza-
22 tions, independent organizations, and international
23 organizations, with a focus to build on proposals for
24 developing a blueprint for comprehensive energy and
25 global climate change legislation; and

1 (5) to submit to Congress and the President
2 such reports as are required by section 506 con-
3 taining such findings, conclusions, and recommenda-
4 tions as the Commission shall determine necessary
5 to advise and assist Congress and the President in
6 developing energy and climate change legislation,
7 procedures, rules, and regulations.

8 (b) RELATIONSHIP TO THE EFFORTS OF CONGRES-
9 SIONAL COMMITTEES.—The Commission shall—

10 (1) review the information compiled by, and the
11 findings, conclusions, and recommendations of, all
12 congressional Committees of relevant jurisdiction;
13 and

14 (2) after that review, pursue any appropriate
15 area of inquiry that the Commission determines nec-
16 essary to carry out this title.

17 **SEC. 505. POWERS OF COMMISSION.**

18 (a) IN GENERAL.—

19 (1) RULES.—The Commission may establish
20 such rules and regulations relating to administrative
21 procedures as are reasonably necessary to enable the
22 Commission to carry out this title.

23 (2) HEARINGS AND EVIDENCE.—The Commis-
24 sion or, on the authority of the Commission, any
25 subcommittee or member of the Commission may,

1 for the purpose of carrying out this title hold such
2 hearings and sit and act at such times and places,
3 take such testimony, receive such evidence, admin-
4 ister such oaths as the Commission determines to be
5 appropriate.

6 (b) CONTRACTING.—To the extent amounts are made
7 available in appropriations Acts, the Commission may
8 enter into contracts to assist the Commission in carrying
9 out the duties of the Commission under this title.

10 (c) INFORMATION FROM FEDERAL AGENCIES.—

11 (1) IN GENERAL.—The Commission may secure
12 directly from a Federal agency such information,
13 suggestions, estimates, and statistics as the Commis-
14 sion considers to be necessary to carry out this title.

15 (2) PROVISION OF INFORMATION.—On request
16 of the Commission, the head of the agency shall pro-
17 vide the information, suggestions, estimates, and
18 statistics to the Commission.

19 (3) TREATMENT.—Information provided to the
20 Commission under this paragraph shall be received,
21 handled, stored, and disseminated by members and
22 staff of the Commission in accordance with applica-
23 ble law (including regulations) and Executive orders.

24 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

1 (1) GENERAL SERVICES ADMINISTRATION.—
2 The Administrator of General Services shall provide
3 to the Commission, on a reimbursable basis, admin-
4 istrative support and other services to assist the
5 Commission in carrying out the duties of the Com-
6 mission under this title.

7 (2) OTHER DEPARTMENTS AND AGENCIES.—In
8 addition to the assistance described in paragraph
9 (1), any other Federal department or agency may
10 provide to the Commission such services, funds, fa-
11 cilities, staff, and other support as the head of the
12 department or agency determines to be appropriate.

13 (e) GIFTS.—The Commission may accept, use, and
14 dispose of gifts or donations of services or property only
15 in accordance with the ethical rules applicable to congres-
16 sional officers and employees.

17 (f) VOLUNTEER SERVICES.—

18 (1) IN GENERAL.—Notwithstanding section
19 1342 of title 31, United States Code, the Commis-
20 sion may accept and use the services of volunteers
21 serving without compensation.

22 (2) REIMBURSEMENT.—The Commission may
23 reimburse a volunteer for office supplies, local travel
24 expenses, and other travel expenses, including per

1 diem in lieu of subsistence, in accordance with sec-
2 tion 5703 of title 5, United States Code.

3 (3) TREATMENT.—A volunteer of the Commis-
4 sion shall be considered to be an employee of the
5 Federal Government in carrying out activities for
6 the Commission, for purposes of—

7 (A) chapter 81 of title 5, United States
8 Code;

9 (B) chapter 11 of title 18, United States
10 Code; and

11 (C) chapter 171 of title 28, United States
12 Code.

13 (g) POSTAL SERVICES.—The Commission may use
14 the United States mails in the same manner and under
15 the same conditions as other agencies of the Federal Gov-
16 ernment.

17 **SEC. 506. REPORTS OF COMMISSION; TERMINATION.**

18 (a) INTERIM REPORTS.—The Commission shall sub-
19 mit to Congress and the President such interim reports
20 as the Commission considers necessary, containing such
21 findings, conclusions, and recommendations as have been
22 agreed to by a majority of the members of the Commis-
23 sion.

24 (b) FINAL REPORT.—Not later than 1 year after the
25 date on which all members of the Commission are ap-

1 pointed under section 503, the Commission shall submit
2 to Congress and the President a final report that contains
3 a legislative blueprint for a comprehensive national policy
4 for energy security that—

5 (1) addresses global climate change; and

6 (2) contains all findings, conclusions, and rec-
7 ommendations agreed to by a majority of members
8 of the Commission.

9 **SEC. 507. STAFF OF COMMISSION.**

10 (a) **IN GENERAL.**—The Chairperson of the Commis-
11 sion (in consultation with the Vice-Chairperson of the
12 Commission) may, without regard to the civil service laws
13 (including regulations), appoint and terminate a staff di-
14 rector and such other additional personnel as are nec-
15 essary to enable the Commission to perform the duties of
16 the Commission.

17 (b) **COMPENSATION.**—

18 (1) **IN GENERAL.**—Except as provided in clause
19 (ii), the Chairperson of the Commission may fix the
20 compensation of the staff director and other per-
21 sonnel without regard to the provisions of chapter
22 51 and subchapter III of chapter 53 of title 5,
23 United States Code, relating to classification of posi-
24 tions and General Schedule pay rates.

1 (2) MAXIMUM RATE OF PAY.—The rate of pay
2 for the staff director and other personnel shall not
3 exceed the rate payable for level IV of the Executive
4 Schedule under section 5316 of title 5, United
5 States Code.

6 (c) STATUS.—The staff director and any employee
7 (not including any member) of the Commission shall be
8 considered to be employees under section 2105 of title 5,
9 United States Code, for purposes of chapters 63, 81, 83,
10 84, 85, 87, 89, and 90 of that title.

11 (d) CONSULTANT SERVICES.—The Commission may
12 procure the services of experts and consultants in accord-
13 ance with section 3109 of title 5, United States Code, at
14 rates not to exceed the daily rate paid to an individual
15 occupying a position at level IV of the Executive Schedule
16 under section 5315 of title 5, United States Code.

17 **SEC. 508. COMPENSATION AND TRAVEL EXPENSES.**

18 (a) COMPENSATION OF MEMBERS.—A member of the
19 Commission shall be compensated at a rate equal to the
20 daily equivalent of the annual rate of basic pay prescribed
21 for level IV of the Executive Schedule under section 5315
22 of title 5, United States Code, for each day (including
23 travel time) during which the member is engaged in the
24 performance of the duties of the Commission.

1 (b) TRAVEL EXPENSES.—A member of the Commis-
2 sion shall be allowed travel expenses, including per diem
3 in lieu of subsistence, at rates authorized for an employee
4 of an agency under subchapter I of chapter 57 of title
5 5, United States Code, while away from the home or reg-
6 ular place of business of the member in the performance
7 of the duties of the Commission.

8 **SEC. 509. MEETINGS.**

9 (a) IN GENERAL.—The Federal Advisory Committee
10 Act (5 U.S.C. App.) shall not apply to the Commission.

11 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
12 VERSIONS OF REPORTS.—The Commission shall ensure,
13 to the maximum extent practicable, that—

14 (1) all hearings of the Commission are available
15 to the public, including by—

16 (A) providing live and recorded public ac-
17 cess to hearings on the Internet; and

18 (B) publishing all transcripts and records
19 of hearings at such time and in such manner as
20 is agreed to by the majority of members of the
21 Commission; and

22 (2) transcripts and records of all meetings of
23 the Commission are published in a time and manner
24 agreed to by a majority of the members of the Com-
25 mission; and

1 (3) all reports, findings, and conclusions are
2 made public.

3 (c) PUBLIC HEARINGS.—Public hearings of the Com-
4 mission shall be conducted in a manner consistent with
5 the protection of information provided to or developed for
6 or by the Commission as required by any applicable law
7 (including regulations) or Executive order.

8 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated to the Com-
10 mission such sums as are necessary to carry out this title,
11 to remain available until the later of—

12 (1) the date on which the funds are expended;

13 or

14 (2) the date of termination of the Commission
15 under section 511.

16 **SEC. 511. TERMINATION.**

17 (a) IN GENERAL.—The Commission shall terminate
18 on the date that is 60 days after the date on which the
19 final report is submitted under section 506(b).

20 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
21 NATION.—During the 60-day period described in sub-
22 section (a), the Commission may conclude the activities
23 of the Commission, including—

1 (1) providing testimony to appropriate commit-
2 tees of Congress regarding the reports of the Com-
3 mission; and

4 (2) disseminating the final report of the Com-
5 mission.

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