3268, supra; which was ordered to lie on the table.

SA 5226. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5227. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5228. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5229. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5230. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5231. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5232. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5233. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5234. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5235. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5236. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5237. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5238. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5239. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5240. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5241. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5242. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5243. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5244. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5245. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

SA 5246. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5114. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.

Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended by adding at the end the following:

''(e) FUNDING.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior $500,000,000 to carry out this section, without further appropriation or fiscal year limitation.''.

SA 5115. Mr. DOMENICI (for himself, Mr. VOINOVICH, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

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

SEC. ___. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 5116. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Energy Production Act of 2008''.

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

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of Energy.

TITLE I—TRADITIONAL RESOURCES

Subtitle A—Outer Continental Shelf

SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the American Energy Production Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

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

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

SEC. 103. CONFORMING AMENDMENT.

Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

Subtitle B—Leasing Program for Land Within Coastal Plain

SEC. 111. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 113. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

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

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

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 114. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 115. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 117. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 119. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 122(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 122(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 121. PROHIBITION ON EXPORTS.

An oil lease issued under this subtitle shall prohibit the exportation of oil produced under the lease.

SEC. 122. ALLOCATION OF REVENUES.

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 50 percent shall be deposited in the general fund of the Treasury.

(2) The remainder shall be available as follows:

(A) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section 120(a)(1).

(B) The remainder shall be disbursed to the State of Alaska.

Subtitle C—Permitting

SEC. 131. REFINERY PERMITTING PROCESS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''BUREAU OF LAND MANAGEMENT'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be reduced'' and all that follows through ''each new application,''.

Subtitle D—Restoration of State Revenue

SEC. 141. RESTORATION OF STATE REVENUE.

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109) is amended by striking ''Notwithstanding'' and all that follows through ''Treasury.''.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

SEC. 201. DEFINITION OF RENEWABLE BIOMASS.

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

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials or precommercial thinnings that—

''(I) are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are harvested from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702))—

''(aa) where permitted by law; and

''(bb) in accordance with applicable land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or from land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''.

SEC. 202. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

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

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

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

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

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

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

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

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

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

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

(ii) 25 years;

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

(D) shall be made by the Federal Financing Bank.

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

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Assistant Administrator of the Office of Research and Development of the Environmental Protection Agency (referred to in this section as the ''Assistant Administrator''), in consultation with the Secretary and the National Institute of Standards and Technology, shall carry out a program of research and development of materials to be added to biofuels to make the biofuels more compatible with infrastructure used to store and deliver petroleum-based fuels to the point of final sale.

(b) REQUIREMENTS.—In carrying out the program described in subsection (a), the Assistant Administrator shall address—

(1) materials to prevent or mitigate—

(A) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(B) dissolving of storage tank sediments;

(C) clogging of filters;

(D) contamination from water or other adulterants or pollutants;

(E) poor flow properties relating to low temperatures;

(F) oxidative and thermal instability in long-term storage and use; and

(G) microbial contamination;

(2) problems associated with electrical conductivity;

(3) alternatives to conventional methods for refurbishment and cleaning of gasoline and diesel tanks, including tank lining applications;

(4) strategies to minimize emissions from infrastructure;

(5) issues with respect to certification by a nationally recognized testing laboratory of components for fuel-dispensing devises that specifically reference compatibility with alcohol-blended fuels and other biofuels that contain greater than 15 percent alcohol;

(6) challenges for design, reforming, storage, handling, and dispensing hydrogen fuel from various feedstocks, including biomass, from neighborhood fueling stations, including codes and standards development necessary beyond that carried out under section 809 of the Energy Policy Act of 2005 (42 U.S.C. 16158);

(7) issues with respect to at which point in the fuel supply chain additives optimally should be added to fuels; and

(8) other problems, as identified by the Assistant Administrator, in consultation with the Secretary and the National Institute of Standards and Technology.

SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETHANOL-BLENDED GASOLINE WITH HIGHER LEVELS OF ETHANOL.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, and after providing notice and an opportunity for public comment, shall conduct a study of the feasibility of increasing consumption in the United States of ethanol-blended gasoline with levels of ethanol that are not less than 10 percent and not more than 40 percent.

(b) STUDY.—The study under subsection (a) shall include—

(1) a review of production and infrastructure constraints on increasing consumption of ethanol;

(2) an evaluation of the economic, market, and energy-related impacts of State and regional differences in ethanol blends;

(3) an evaluation of the economic, market, and energy-related impacts on gasoline retailers and consumers of separate and distinctly labeled fuel storage facilities and dispensers;

(4) an evaluation of the environmental impacts of mid-level ethanol blends on evaporative and exhaust emissions from on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(5) an evaluation of the impacts of mid-level ethanol blends on the operation, durability, and performance of on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(6) an evaluation of the safety impacts of mid-level ethanol blends on consumers that own and operate off-road and marine engines, recreational boats, vehicles, or equipment; and

(7) an evaluation of the impacts of increased use of renewable fuels derived from food crops on the price and supply of agricultural commodities in both domestic and global markets.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E–85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

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

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

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

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

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

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

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

(B) shall not—

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

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

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

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0.

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

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

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

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

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

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

(ii) the ratio that—

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

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

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021,

the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

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

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

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

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

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

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

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

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

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

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

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

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

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

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

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

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

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

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

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

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

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

Subtitle C—Oil Shale

SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development

SEC. 231. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

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

SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410r. Multiyear contract authority: purchase of synthetic fuels

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

SA 5117. Mr. DOMENICI (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—CLEAN COAL-DERIVED FUELS FOR ENERGY SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

SEC. 202. DEFINITIONS.

In this title:

(1) CLEAN COAL-DERIVED FUEL.—

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

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

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

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

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(4) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

SEC. 203. CLEAN COAL-DERIVED FUEL PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

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

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

(B) shall not—

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

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

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

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0.

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

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

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

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

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

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

(ii) the ratio that—

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

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

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

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

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

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

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

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

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

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

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

under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

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

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

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

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

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

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

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

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

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

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

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

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

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

SEC. 204. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E–85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE III—ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES

SEC. 301. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

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

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5118. Mr. DOMENICI (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410r. Multiyear contract authority: purchase of synthetic fuels

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

SA 5119. Mr. GRAHAM (for himself, Mr. KYL, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—NUCLEAR POWER GENERATION

Subtitle A—Nuclear Power Technology and Manufacturing

SEC. __01. DEFINITIONS.

In this subtitle:

(1) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the costs of engineering tasks relating to—

(A) the redesign of manufacturing processes to produce qualifying components and nuclear power generation technologies;

(B) the design of new tooling and equipment for production facilities that produce qualifying components and nuclear power generation technologies; and

(C) the establishment or expansion of manufacturing operations for qualifying components and nuclear power generation technologies.

(2) NUCLEAR POWER GENERATION.—The term ''nuclear power generation'' means generation of electricity by an electric generation unit that—

(A) emits no carbon dioxide into the atmosphere;

(B) uses uranium as its fuel source; and

(C) was placed into commercial service after the date of enactment of this Act.

(3) NUCLEAR POWER GENERATION TECHNOLOGY.—The term ''nuclear power generation technology'' means a technology used to produce nuclear power generation.

(4) QUALIFYING COMPONENT.—The term ''qualifying component'' means a component that the Secretary of Energy determines to be specially designed for nuclear power generation technology.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. __02. FINANCIAL INCENTIVES PROGRAM.

(a) IN GENERAL.—For each fiscal year beginning on or after October 1, 2010, the Secretary shall competitively award financial incentives under this subtitle in the following technology categories:

(1) The production of electricity from new nuclear power generation.

(2) Facility establishment or conversion by manufacturers and suppliers of nuclear power generation technology and qualifying components.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall make awards under this section to—

(A) domestic producers of new nuclear power generation;

(B) manufacturers and suppliers of nuclear power generation technology and qualifying components; and

(C) owners or operators of existing nuclear power generation facilities.

(2) BASIS FOR AWARDS.—The Secretary shall make awards under this section—

(A) in the case of producers of new nuclear power generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated;

(B) in the case of manufacturers and suppliers of nuclear power generation technology and qualifying components, based on the criteria described in section __04; and

(C) in the case of owners or operators of existing nuclear power generating facilities, based upon criteria described in section __04.

(3) ACCEPTANCE OF BIDS.—In making awards under this subsection, the Secretary shall—

(A) solicit bids for reverse auction from appropriate producers, manufacturers, and suppliers, as determined by the Secretary; and

(B) award financial incentives to the producers, manufacturers, and suppliers that submit the lowest bids that meet the requirements established by the Secretary.

SEC. __03. FORMS OF AWARDS.

(a) NUCLEAR POWER GENERATORS.—

(1) IN GENERAL.—An award for nuclear power generation under this subtitle shall be in the form of a contract to provide a production payment for commercial service of the generation unit in an amount equal to the product obtained by multiplying—

(A) the amount bid by the producer of the nuclear power generation; and

(B) except as provided in paragraph (2), the net megawatt-hours generated by the nuclear power generation unit each year during the first 10 years following the end of the calendar year of the award.

(2) FIRST YEAR.—For purposes of paragraph (1)(B), the first year of commercial service of the generating unit shall be within 5 years of the end of the calendar year of the award.

(b) MANUFACTURING OF NUCLEAR POWER GENERATION TECHNOLOGY.—

(1) IN GENERAL.—An award for facility establishment or conversion costs for nuclear power generation technology under this subtitle shall be in an amount equal to not more than 30 percent of the cost of—

(A) establishing, reequipping, or expanding a manufacturing facility to produce—

(i) qualifying nuclear power generation technology; or

(ii) qualifying components;

(B) engineering integration costs of nuclear power generation technology and qualifying components; and

(C) property, machine tools, and other equipment acquired or constructed primarily to enable the recipient to test equipment necessary for the construction or operation of a nuclear power generation facility.

(2) AMOUNT.—The Secretary shall use the amounts made available to carry out this section to make awards to entities for the manufacturing of nuclear power generation technology.

SEC. __04. SELECTION CRITERIA.

In making awards under this subtitle to producers, manufacturers, and suppliers of nuclear power generation technology and qualifying components, the Secretary shall select producers, manufacturers, and suppliers that—

(1) document the greatest use of domestically-sourced parts and components;

(2) return to productive service existing idle manufacturing capacity;

(3) are located in States with the greatest availability of unemployed manufacturing workers;

(4) demonstrate a high probability of commercial success; and

(5) meet other appropriate criteria, as determined by the Secretary.

Subtitle B—Accelerated Depreciation

SEC. _11. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

Subtitle C—Next Generation Nuclear Plant Project Modifications

SEC. _21. NEXT GENERATION NUCLEAR PLANT PROJECT MODIFICATIONS.

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means any nongreenhouse gas-emitting nuclear energy technology that provides—

''(i) an alternative to the burning of fossil fuels for industrial applications; and

''(ii) process heat to generate, for example, electricity, steam, hydrogen, and oxygen for activities such as—

''(I) petroleum refining;

''(II) petrochemical processes;

''(III) converting coal to synfuels and other hydrocarbon feedstocks; and

''(IV) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users (such as owners and operators of nuclear energy facilities, petrochemical entities, and petroleum entities), as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) demonstrates the capability of the nuclear energy system to provide high-temperature process heat to produce—

''(A) electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended to read as follows:

''SEC. 642. PROJECT MANAGEMENT.

''(a) DEPARTMENTAL MANAGEMENT.—

''(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy.

''(2) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Project may be carried out in coordination with the Generation IV Nuclear Energy Systems Initiative.

''(B) REQUIREMENT.—Regardless of whether the Project is carried out in coordination with the Generation IV Nuclear Energy Systems Initiative under subparagraph (A), the Secretary shall establish a separate budget line-item for the Project.

''(3) INTERACTION WITH INDUSTRY.—Any activity to support the Project by an individual or entity in the private industry shall be carried out pursuant to a competitive cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Department and the industry group established under subsection (c).

''(b) LABORATORY MANAGEMENT.—

''(1) IN GENERAL.—The Idaho National Laboratory shall be the lead National Laboratory for the Project.

''(2) COLLABORATION.—The Idaho National Laboratory shall collaborate regarding research and development activities with other National Laboratories, institutions of higher education, research institutes, representatives of industry, international organizations, and Federal agencies to support the Project.

''(c) INDUSTRY GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish a group of appropriate industrial partners in the private sector to carry out cost-shared activities with the Department to support the Project.

''(2) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a cooperative agreement or other assistance agreement with the industry group established under paragraph (1) to manage and support the development, licensing, construction, and initial operation of the Project.

''(B) REQUIREMENT.—The agreement under subparagraph (A) shall contain a provision under which the industry group may enter into contracts with entities in the public sector for the provision of services and products to that sector that reflect typical commercial practices, including (without limitation) the conditions applicable to sales under section 2563 of title 10, United States Code.

''(C) PROJECT MANAGEMENT.—

''(i) IN GENERAL.—The industry group shall use commercial practices and project management processes and tools in carrying out activities to support the Project.

''(ii) INTERFACE REQUIREMENTS.—The requirements for interface between the project management requirements of the Department (including the requirements contained in the document of the Department numbered DOE O 413.3A and entitled 'Program and Project Management for the Acquisition of Capital Assets') and the commercial practices and project management processes and tools described in clause (i) shall be defined in the agreement under subparagraph (A).

''(3) COST SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

''(4) PREFERENCE.—Preference in determining the final structure of industrial partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

''(d) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

''(e) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transport and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (A), (B), and (D) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking ''powerplant'' and inserting ''power plant'';

(B) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY GROUP.—The industry group established under section 642(c) may enter into any necessary contracts for services, support, or equipment in carrying out an agreement with the Department.''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''RESEARCH'';

(ii) in the matter preceding subparagraph (A), by striking ''Research'';

(iii) by striking ''NERAC'' each place it appears and inserting ''NEAC'';

(iv) in subparagraph (A)—

(I) by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy and all progress under the Project on an ongoing basis;'';

(II) in clause (ii), by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(iii) ensure that industrial support for the first project phase under subsection (b)(1)(A) is continued before initiating the second project phase under subsection (b)(1)(B).'';

(v) in subparagraph (B), by striking ''or appoint'' and inserting ''by appointing''; and

(vi) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Secretary and the industry group established under section 642(c).''.

(d) NUCLEAR REGULATORY COMMISSION.—Section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Not later than'' and inserting the following:

''(1) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(2) REQUIREMENT.—To the maximum extent practicable, in carrying out subparagraphs (B) and (C) of paragraph (1), the Nuclear Regulatory Commission shall independently review and, as appropriate, use the results of analyses conducted for or by the license applicant.''; and

(2) by striking subsection (c) and inserting the following:

''(c) ONGOING INTERACTION.—The Nuclear Regulatory Commission shall establish a separate program office for advanced reactors—

''(1) to develop and implement regulatory requirements consistent with the safety bases of the type of nuclear reactor developed by the Project, with the specific objective that the requirements shall be applied to follow-on commercialized high-temperature, gas-cooled nuclear reactors;

''(2) to avoid conflicts in the availability of resources with licensing activities for light water reactors;

''(3) to focus and develop resources of the Nuclear Regulatory Commission for the review of advanced reactors;

''(4) to support the effective and timely review of preapplication activities and review of applications to support applicant needs; and

''(5) to provide for the timely development of regulatory requirements, including through the preapplication process, and review of applications for advanced technologies, such as high-temperature, gas-cooled nuclear technology systems.''.

(e) PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.—Section 645 of the Energy Policy Act of 2005 (42 U.S.C. 16025) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) SUMMARY OF AGREEMENT.—Not later than December 31, 2009, the Secretary shall submit to Congress a report that contains a summary of each cooperative agreement or other assistance agreement (such as a technology investment agreement) entered into between the Secretary and the industry group under section 642(a)(3), including a description of the means by which the agreement will provide for successful completion of the development, design, licensing, construction, and initial operation and demonstration period of the prototype facility of the Project.

''(b) OVERALL PROJECT PLAN.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall submit to Congress an overall plan for the Project, to be prepared jointly by the Secretary and the industry group established under section 642(c), pursuant to a cooperative agreement or other assistance agreement (such as a technology investment agreement).

''(2) INCLUSIONS.—The plan under paragraph (1) shall include—

''(A) a summary of the schedule for the design, licensing, construction, and initial operation and demonstration period for the nuclear energy system prototype facility and hydrogen production prototype facility of the Project;

''(B) the process by which a specific design for the prototype nuclear energy system facility and hydrogen production facility will be selected;

''(C) the specific licensing strategy for the Project, including—

''(i) resource requirements of the Nuclear Regulatory Commission; and

''(ii) the schedule for the submission of a preapplication, the submission of an application, and application review for the prototype nuclear energy system facility of the Project;

''(D) a summary of the schedule for each major event relating to the Project; and

''(E) a time-based cost and cost-sharing profile to support planning for appropriations.''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''research and construction activities'' and inserting ''research and development, design, licensing, construction, and initial operation and demonstration activities''.

SA 5120. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, insert the following:

SEC. 17. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the hydrogen infrastructure costs credit determined under subsection (b), and

''(2) the hydrogen fuel costs credit determined under subsection (c).

''(b) HYDROGEN INFRASTRUCTURE COSTS CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the hydrogen infrastructure costs credit determined under this subsection with respect to each eligible hydrogen production and distribution facility of the taxpayer is an amount equal to 30 percent of so much of the infrastructure costs for the taxable year as does not exceed $200,000 with respect to such facility.

''(2) ELIGIBLE HYDROGEN PRODUCTION AND DISTRIBUTION FACILITY.—For purposes of this subsection, the term 'eligible hydrogen production and distribution facility' means a hydrogen production and distribution facility which is placed in service after December 31, 2007.

''(c) HYDROGEN FUEL COSTS CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the hydrogen fuel costs credit determined under this subsection with respect to each eligible hydrogen device of the taxpayer is an amount equal to the qualified hydrogen expenditure amount with respect to such device.

''(2) QUALIFIED HYDROGEN EXPENDITURE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified hydrogen expenditure amount' means, with respect to each eligible hydrogen energy conversion device of the taxpayer with a production capacity of not more than 25 kilowatts of electricity, the lesser of—

''(i) 30 percent of the amount paid or incurred by the taxpayer during the taxable year for hydrogen which is consumed by such device, and

''(ii) $2,000.

In the case of any device which is not owned by the taxpayer at all times during the taxable year, the $2,000 amount in clause (ii) shall be reduced by an amount which bears the same ratio to $2,000 as the portion of the year which such device is not owned by the taxpayer bears to the entire year.

''(B) HIGHER LIMITATION FOR DEVICES WITH MORE PRODUCTION CAPACITY.—In the case of any eligible hydrogen energy conversion device with a production capacity of—

''(i) more than 25 but less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting '$4,000' for '$2,000' each place it appears, and

''(ii) not less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting '$6,000' for '$2,000' each place it appears.

''(3) ELIGIBLE HYDROGEN ENERGY CONVERSION DEVICES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible hydrogen energy conversion device' means, with respect to any taxpayer, any hydrogen energy conversion device which—

''(i) is placed in service after December 31, 2004, and

''(ii) is wholly owned by the taxpayer during the taxable year.

If an owner of a device (determined without regard to this subparagraph) provides to the primary user of such device a written statement that such user shall be treated as the owner of such device for purposes of this section, then such user (and not such owner) shall be so treated.

''(B) HYDROGEN ENERGY CONVERSION DEVICE.—The term 'hydrogen energy conversion device' means—

''(i) any electrochemical device which converts hydrogen into electricity, and

''(ii) any combustion engine which burns hydrogen as a fuel.

''(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(e) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the

credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to amounts which (but for subsection (g)) would be allowed as a deduction under section 162 shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, over

''(B) the tentative minimum tax for the taxable year.

''(f) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in determining the amount of the credit under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(g) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(h) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(j) TERMINATION.—This section shall not apply to any costs paid or incurred after the end of the 3-year period beginning on the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ''plus'', and by adding at the end the following new paragraph:

''(33) the portion of the hydrogen infrastructure and fuel credit to which section 30D(e)(1) applies.''.

(2) Section 55(c)(3) of such Code is amended by inserting ''30D(e)(2),'' after ''30C(d)(2),''.

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30D(d).''.

(4) Section 6501(m) of such Code is amended by inserting ''30D(h),'' after ''30C(e)(5),''.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Hydrogen infrastructure and fuel costs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007, in taxable years ending after such date.

SA 5121. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. OFFSHORE OIL PRODUCTION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.—Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(7) QUALIFIED REVENUE.—The term 'qualified revenue' means the amount estimated by the Secretary of the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of the enactment of the Stop Excessive Energy Speculation Act of 2008 for new producing areas under this section.

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by

the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

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

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. ___. OIL CONSERVATION THROUGH ADVANCED VEHICLE BATTERIES AND HYBRID AND PLUG-IN VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED VEHICLE BATTERY.—The term ''advanced vehicle battery'' means an electrochemical energy storage system powered directly by electrical current that provides motive power to an electric vehicle, hybrid electric vehicle, or plug-in hybrid electric vehicle.

(2) ELECTRIC VEHICLE.—The term ''electric vehicle'' means an on-road light-duty or nonroad vehicle that uses an advanced vehicle battery or a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

(3) HYBRID ELECTRIC VEHICLE.—The term ''hybrid electric vehicle'' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

(4) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means a hybrid electric vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) STATEMENT OF POLICY.—It is the policy of the United States to conserve oil by aggressively promoting advanced vehicle battery technology and the domestic manufacturing capability of the Unites States necessary for widespread commercial viability of hybrid electric vehicles, plug-in hybrid electric vehicles, and electric vehicles.

(c) ADVANCED VEHICLE BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced vehicle batteries; and

(B) emphasize lower cost enablers for abuse-tolerant batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(d) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING PROCESS IMPROVEMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to improve domestic manufacturing equipment and assembly process capabilities for advanced vehicle batteries and components that—

(A) reduce manufacturing time;

(B) reduce manufacturing energy intensity;

(C) reduce negative environmental impact or byproducts; or

(D) increase spent battery or component recycling.

(2) INCLUSION.—The Secretary shall include in the program established under paragraph (1) grants to support the development and deployment of domestic high-speed, automated, production-scale advanced vehicle battery and component manufacturing equipment.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this subsection be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2010 through 2014.

(e) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING SUPPLY BASE EXPANSION.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to expand the domestic manufacturing supply base for advanced vehicle batteries, battery cell materials, and battery system components.

(2) USE OF FUNDS.—The Secretary may provide grants under paragraph (1) to reequip, expand, or establish manufacturing facilities in the United States.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this subsection be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $750,000,000 for each of fiscal years 2010 through 2014.

SA 5122. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC. _____. OIL CONSERVATION THROUGH ADVANCED VEHICLE BATTERIES FOR HYBRID, PLUG-IN HYBRID AND ELECTRIC VEHICLES.

(a) DEFINITIONS.—In this section:

(1) AVANCED VEHICLE BATTERY.—The term ''advanced vehicle battery'' means an electrochemical energy storage system powered directly by electrical current that provides motive power to an electric vehicle, hybrid electric vehicle, or plug-in hybrid electric vehicle.

(2) ELECTRIC VEHICLE.—The term ''electric vehicle'' means an on-road light-duty or nonroad vehicle that uses either an advanced vehicle battery or a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

(3) HYBRID ELECTRIC VEHICLE.—The term ''hybrid electric vehicle'' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

(4) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means a hybrid electric vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(b) POLICY.—It is the policy of the United States to conserve oil by aggressively promoting advanced vehicle battery technology and U.S. domestic manufacturing capability necessary for widespread commercial viability of hybrid electric vehicles, plug-in hybrid electric vehicles, and electric vehicles.

(c) ADVANCED VEHICLE BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall expand and accelerate research and development efforts for advanced vehicle batteries

with an emphasis on lowering costs and increasing abuse tolerance with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(d) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING PROCESS IMPROVEMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to improve domestic manufacturing equipment and assembly process capabilities for advanced vehicle batteries and components that—

(A) reduce manufacturing time;

(B) reduce manufacturing energy intensity;

(C) reduce negative environmental impact or byproducts; or

(D) increase spent battery or component recycling.

(2) INCLUSION.—The Secretary shall include in the program established under subsection (c) grants to support the development and deployment of domestic high-speed, automated, production-scale advanced vehicle battery and component manufacturing equipment.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for each of fiscal years 2010 through 2014.

(e) ADVANCED VEHICLE BATTERY DOMESTIC MANUFACTURING SUPPLY BASE EXPANSION.

(1) IN GENERAL.—The Secretary shall establish a program to provide grants to expand the domestic manufacturing supply base for advanced vehicle batteries, battery cell materials and battery system components.

(2) USE OF FUNDS.—The Secretary may provide grants under paragraph (1) to reequip, expand or establish manufacturing facilities in the United States.

(3) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $750,000,000 for each of fiscal years 2010 through 2014.

SA 5123. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3268, to amend Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC.—. OFFSHORE OIL PRODUCTION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTENTIAL SHELF.—Section 4(a)(2)(A) of the Outer Contential Shelf Lands Act (43 U.S.C. 1333 (a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1) (B) (i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) ofparagraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A) (v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1) (B) shall

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under-

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); or

''(iii) any other provisions of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTENTIAL SHELF REVENUES FROM OTHER AREAS.—Not withstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5–year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SA 5124. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ____—NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008

SEC. ___. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008.

(a) SHORT TITLE.—This section may be cited as the ''No Oil Producing and Exporting Cartels Act of 2008'' or ''NOPEC''.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

SA 5125. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. BAN ON EXPORTING PETROLEUM EXTRACTED FROM PUBLIC LANDS.

(a) DEFINITIONS.—In this section:

(1) PETROLEUM PRODUCT.—The term ''petroleum product'' means any of the following:

(A) Finished reformulated or conventional motor gasoline.

(B) Finished aviation gasoline.

(C) Kerosene-type jet fuel.

(D) Kerosene.

(E) Distillate fuel oil.

(F) Residual fuel oil.

(G) Lubricants.

(H) Waxes.

(I) Petroleum coke.

(J) Asphalt and road oil.

(2) PUBLIC LANDS.—The term ''public lands'' means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management or the Minerals Management Service, without regard to how the United States acquired ownership.

(b) BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (2), petroleum extracted from public lands in the United States (including lands located on the outer continental shelf), or a petroleum product produced from such petroleum, may not be exported from the United States.

(2) APPLICATION.—The prohibition on exportation described in paragraph (1) shall apply to petroleum, or petroleum products produced from such petroleum, extracted from public lands leased after the date of the enactment of this Act.

SA 5126. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. BAN ON EXPORTING PETROLEUM EXTRACTED FROM PUBLIC LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, petroleum extracted from public lands in the United States (including lands located on the outer continental shelf), or a petroleum product produced from such petroleum, may not be exported from the United States.

(b) DEFINITIONS.—In this section:

(1) PETROLEUM PRODUCT.—The term ''petroleum product'' means any of the following:

(A) Finished reformulated or conventional motor gasoline.

(B) Finished aviation gasoline.

(C) Kerosene-type jet fuel.

(D) Kerosene.

(E) Distillate fuel oil.

(F) Residual fuel oil.

(G) Lubricants.

(H) Waxes.

(I) Petroleum coke.

(J) Asphalt and road oil.

(2) PUBLIC LANDS.—The term ''public lands'' means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management or the Minerals Management Service, without regard to how the United States acquired ownership.

SA 5127. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION B—EXTENSION OF ENERGY EFFICIENCY INITIATIVES

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—NON-BUSINESS ENERGY IMPROVEMENTS

SEC. 101. PERFORMANCE BASED ENERGY IMPROVEMENTS FOR NON-BUSINESS PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. PERFORMANCE BASED ENERGY IMPROVEMENTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of qualified energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) shall not exceed the product of—

''(A) the qualified energy savings achieved, and

''(B) $4,000.

''(2) MINIMUM AMOUNT OF QUALIFIED ENERGY SAVINGS.—No credit shall be allowed under subsection (a) with respect to any principal residence which achieves a qualified energy savings of less than 20 percent.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—In the case of taxable years to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credit allowable under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.

''(c) QUALIFIED ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section:

''(1) IN GENERAL.—The term 'qualified energy efficiency expenditures' means any amount paid or incurred which is related to producing qualified energy savings in a principal residence of the taxpayer which is located in the United States.

''(2) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified energy efficiency expenditures' shall not include any expenditure for which a deduction or credit is otherwise allowed to the taxpayer under this chapter.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121, except that—

''(A) no ownership requirement shall be imposed, and

''(B) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as used as a principal residence.

''(d) QUALIFIED ENERGY SAVINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy savings' means, with respect to any principal residence, the amount (measured as a percentage) by which—

''(A) the annual energy use with respect to the principal residence after qualified energy efficiency expenditures are made, as certified under paragraph (2), is less than

''(B) the annual energy use with respect to the principal residence before the qualified energy efficiency expenditures were made, as certified under paragraph (2).

In determining annual energy use under subparagraph (B), any energy efficiency improvements which are not attributable to qualified energy efficiency expenditures shall be disregarded.

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall prescribe the procedures and methods for the making of certifications under this paragraph based on the Residential Energy Services Network (RESNET) Technical Guidelines in effect on the date of the enactment of this section.

''(B) QUALIFIED INDIVIDUALS.—Any certification made under this paragraph may only be made by an individual who is recognized by an organization certified by the Secretary for such purposes.

''(e) SPECIAL RULES.—For purposes of this section rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) and section 25C(e)(2) shall apply.

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

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2011.''.

(b) INTERIM GUIDANCE ON CERTIFICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall issue interim guidance on—

(A) the procedures and methods for making certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A) of the Internal Revenue Code of 1986, as added by subsection (a) and section 203, respectively;

(B) the recognition of qualified individuals under sections 25E(d)(2)(B) and 179F(d)(2)(B) of such Code for the purpose of making such certifications; and

(C) how participation in State energy efficiency programs can be used in the procedures and methods described in subparagraph (A).

(2) CONSULTATION WITH STAKEHOLDERS.—

(A) IN GENERAL.—The Secretary of the Treasury, in issuing guidance pursuant to paragraph (1), shall consider comments from energy efficiency experts and other interested parties.

(B) OTHER CONSIDERATIONS.—In the case of guidance issued pursuant to paragraph (1)(B), the Secretary of the Treasury shall also consider—

(i) the Residential Energy Services Network Technical Guidelines and other pertinent guidelines for evaluating energy savings;

(ii) energy modeling software, including software accredited through the Residential Energy Services Network; and

(iii) quality assurance procedures of the Building Performance Institute, Home Performance through Energy Star, and the Residential Energy Services Network.

(c) ALTERNATIVE CERTIFICATION METHODS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish a procedure for individuals and businesses to petition for the approval of alternative methods of certification under sections 25E(d)(2)(A) and 179F(d)(2)(A) of the Internal Revenue Code of 1986, as added by subsection (a) and section 203, respectively.

(2) DETERMINATION.—The Secretary of the Treasury shall make a determination on the approval or disapproval of such alternative methods of certification not later than 90 days after receiving a petition under paragraph (1).

(d) CONFORMING AMENDMENTS.—

(1) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(f).''.

(3) The table of sections for subpart A of part IV of subchapter A chapter 1 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Performance based energy improvements.''.

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 102. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION.—Subsection (g) of section 25C (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2011''.

(b) LABOR COSTS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—Section 25C(c)(1) is amended by adding at the end the following new flush sentence:

''The amount taken into account under subsection (a)(1) with respect to qualified energy efficiency improvements shall include expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of any component described in this paragraph.''.

(c) MODIFICATIONS FOR RESIDENTIAL ENERGY EFFICIENCY PROPERTY EXPENDITURES.—

(1) INCREASED LIMITATION FOR OIL FURNACES AND NATURAL GAS, PROPANE, AND OIL HOT WATER BOILERS.—

(A) IN GENERAL.—Subparagraphs (B) and (C) of section 25C(b)(3) are amended to read as follows:

''(B) $150 for any qualified natural gas furnace or qualified propane furnace, and

''(C) $300 for—

''(i) any item of energy-efficient building property, and

''(ii) any qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler.''.

(B) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

''(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or''.

(2) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(A) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(B) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(C) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(D) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot

water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(3) ELIMINATION OF LIFETIME LIMITATION.—Paragraph (1) of section 25C(b) is amended by inserting ''by reason of subsection (a)(1)'' after ''under this section''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) NATURAL GAS FIRED HEAT PUMPS.—Section 25C(d)(3), as amended by this section, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) a natural gas fired heat pump with a heating coefficient of performance (COP) of at least 1.1.''.

(f) ELIMINATION OF CREDIT FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS IN 2010.—

(1) IN GENERAL.—Subsection (a) of section 25C is amended to read as follows:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of residential energy property expenditures paid or incurred by the taxpayer during the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(b), as amended by subsection (b), is amended by striking paragraphs (1) and (2) and by redesignating paragraph (3) as paragraph (1).

(B) Section 25C(b)(1), as redesignated by subparagraph (A), is amended by striking ''by reason of subsection (a)(2)''.

(C) Section 25C is amended by striking subsection (c).

(g) CLARIFICATION OF ELIGIBILITY OF STANDARDS FOR QUALIFIED ENERGY PROPERTY.—Section 25C(d)(2)(C) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

''(iii) shall allow for the testing of products regardless of the size or capacity of the product.''.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) STANDARDS FOR ELECTRIC HEAT PUMPS AND CENTRAL AIR CONDITIONERS.—The amendments made by subparagraphs (A) and (B) subsection (c)(2) shall apply to property placed in service after December 31, 2007.

(3) ELIMINATION OF CREDIT FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (f) shall apply to property placed in service after December 31, 2009.

SEC. 103. MODIFICATION OF CREDIT FOR SOLAR ELECTRIC PROPERTY AND SOLAR HOT WATER PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 25D (relating to allowance of credit) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) 100 percent of the qualified solar electric property expenditures made by the taxpayer during such year,

''(2) 100 percent of the qualified solar hot water property expenditures made by the taxpayer during such year, and''.

(b) LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

''(A) $2 with respect to each peak watt of capacity of qualified solar electric property for which qualified solar electric property expenditures are made,

''(B) in the case of qualified solar water heating property expenditures, an amount equal to—

''(i) in the case of a dwelling unit which uses electricity to heat water, $0.35 with respect to each kilowatt per year of savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, or

''(ii) in the case of a dwelling unit which uses natural gas to heat water, $7 with respect to each annual Therm of natural gas savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, and''.

(2) DETERMINATION OF SAVINGS.—Paragraph (1) of section 25D(b) is amended by adding at the end the following new flush sentence:

''For purposes of subparagraph (B), savings shall be determined under regulations prescribed by the Secretary based on the OG–300 Standard for the Annual Performance of OG–300 Certified Systems of the Solar Rating and Certification Corporation.''.

(c) DEFINITIONS.—

(1) IN GENERAL.—Section 25D(d) is amended—

(A) by redesignating paragraph (3) as paragraph (5), and

(B) by striking paragraphs (1) and (2) and inserting the following:

''(1) QUALIFIED SOLAR ELECTRIC PROPERTY EXPENDITURES.—The term 'qualified solar electric property expenditures' means any amount paid or incurred for qualified solar electric property.

''(2) QUALIFIED SOLAR ELECTRIC PROPERTY.—The term 'qualified solar electric property' means solar electric property (as defined in section 179G(c)(2)(B)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(3) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURES.—The term 'qualified solar water heating property expenditures' means any amount paid or incurred for qualified solar hot water property.

''(4) QUALIFIED SOLAR HOT WATER PROPERTY.—The term 'qualified solar hot water property' means solar hot water property (as defined in section 179G(c)(2)(C)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(e)(2) is amended by striking ''property described in paragraph (1) and (2) of subsection (d)'' and inserting ''qualified solar electric property or qualified solar hot water property''.

(B) Section 25D(e)(4)(C) is amended by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1),(3), and (5)''.

(d) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—Clauses (i) and (ii) of section 25D(e)(4)(A) are amended to read as follows:

''(i) $2 in the case of each peak watt of capacity of qualified solar electric property for which qualified solar electric property expenditures are made,

''(ii) in the case of qualified solar water heating property expenditures, an amount equal to—

''(I) in the case of a dwelling unit which uses electricity to heat water, $0.35 with respect to each kilowatt per year of savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, or

''(II) in the case of a dwelling unit which uses natural gas to heat water, $7 with respect to each annual Therm of natural gas savings of qualified solar hot water property for which qualified solar water heating property expenditures are made, and''.

(e) EXTENSION OF CREDIT.—Subsection (g) of section 25D is amended by striking ''2007'' and inserting ''2010''.

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

TITLE II—BUSINESS-RELATED ENERGY IMPROVEMENTS

SEC. 201. EXTENSION AND MODIFICATION OF NEW ENERGY EFFICIENT HOME CREDIT.

(a) EXTENSION.—Subsection (g) of section 45L (relating to termination), as amended by section 205 of division A of the Tax Relief and Health Care Act of 2006, is amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

(b) MODIFICATION.—

(1) IN GENERAL.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

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

SEC. 202. EXTENSION AND MODIFICATION OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.

(a) EXTENSION.—Subsection (h) of section 179D (relating to termination) is amended to read as follows:

''(h) TERMINATION.—This section shall not apply with respect to property—

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

''(2) which is placed in service after December 31, 2014.

A provisional certification shall be treated as meeting the requirements of paragraph (1) if it is based on the building plans, subject to inspection and testing after installation.''.

(b) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) is amended by striking ''$1.80'' and inserting ''$2.25''.

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

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

(1) METHODS OF CALCULATING ENERGY SAVINGS.—

(A) IN GENERAL.—Paragraph (2) of section 179D(d) is amended—

(i) by striking ''based on'' and inserting ''in accordance with'',

(ii) by inserting '', except as necessary to carry out the requirements of this section, to accommodate a reference to Standard 90.1–2001, to extend the applicability of such manual to national conditions, or to update technical standards based on new information'' before the period at the end, and

(iii) by adding at the end the following new sentence: ''The calculation methods contained in such regulations shall also provide for the calculation of appropriate energy savings for design methods and technologies not otherwise credited in such manual or standard, including energy savings associated with natural ventilation, evaporative cooling, automatic lighting controls (such as occupancy sensors, photocells, and timeclocks), daylighting, designs utilizing semiconditioned spaces which maintain adequate comfort conditions without air conditioning or without heating, improved fan system efficiency (including reductions in static pressure), advanced unloading mechanisms for mechanical cooling (such as multiple or variable speed compressors), on-site generation of electricity (including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy), and wiring with lower energy losses than wiring satisfying Standard 90.1-2001 requirements for building power distribution systems.''.

(B) REQUIREMENTS FOR COMPUTER SOFTWARE USED IN CALCULATING ENERGY AND POWER CONSUMPTION COSTS.—Paragraph (3)(B) of section 179D(d) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) which automatically—

''(I) generates the features, energy use, and energy and power consumption costs of a reference building which meets Standard 90.1–2001,

''(II) generates the features, energy use, and energy and power consumption costs of a compliant building or system which reduces the annual energy and power costs by 50 percent compared to Standard 90.1–2001, and

''(III) compares such features, energy use, and consumption costs to the features, energy use, and consumption costs of the building or system with respect to which the calculation is being made.''.

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

(A) by striking ''The Secretary'' and inserting the following:

''(i) IN GENERAL.—The Secretary'', and

(B) by adding at the end the following:

''(ii) ADDITIONAL REQUIREMENTS.—For purposes of clause (i)—

''(I) the Secretary shall determine prescriptive criteria that can be modeled explicitly for reference buildings which meet the requirements of subsection (c)(1)(D) for different building types and regions,

''(II) a system may be certified as meeting the target under subparagraph (A)(ii) if the appropriate reference building either meets the requirements of subsection (c)(1)(D) with such system rather than the comparable reference system (using the calculation under paragraph (2)) or meets the relevant prescriptive criteria under subclause (I), and

''(III) the lighting system target shall be based on lighting power density, except that it shall allow lighting controls credits that trade off for lighting power density savings based on Section 3.2.2 of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

''(iii) PUBLICATION.—The Secretary shall publish in the Federal Register the bases for the target levels established in the regulations under clause (i).''.

(d) ALTERNATIVE STANDARDS.—Section 179D(d) is amended by adding at the end the following new paragraph:

''(7) ALTERNATIVE STANDARDS PENDING FINAL REGULATIONS.—Until such time as the Secretary issues final regulations under paragraph (1)(B)—

''(A) in the case of property which is part of a building envelope, the building envelope system target under paragraph (1)(A)(ii) shall be a 7 percent reduction in total annual energy and power costs (determined in the same manner as under subsection (c)(1)(D)), and

''(B) in the case of property which is part of the heating, cooling, ventilation, and hot water systems, the heating, cooling, ventilation, and hot water system shall be treated as meeting the target under paragraph (1)(A)(ii) if it would meet the requirement in subsection (c)(1)(D) if combined with a building envelope system and lighting system which met their respective targets under paragraph(1)(A)(ii) (including interim targets in effect under subsections (f) and subparagraph (A)).''.

(e) MODIFICATIONS TO LIGHTING STANDARDS.—

(1) STANDARDS TO BE ALTERNATE STANDARDS.—Subsection (f) of section 179D is amended by—

(A) striking ''INTERIM'' in the heading and inserting ''ALTERNATIVE'', and

(B) inserting '', or, if the taxpayer elects, in lieu of the target set forth in such final regulations'' after ''lighting system'' at the end of the matter preceding paragraph (1).

(2) QUALIFIED INDIVIDUALS.—Section 179D(d)(6)(C) is amended by adding at the end the following: ''For purposes of certification of whether the alternative target for lighting systems under subsection (f) is met, individuals qualified to determine compliance shall include individuals who are certified as Lighting Certified (LC) by the National Council on Qualifications for the Lighting Professions, Certified Energy Managers (CEM) by the Association of Energy Engineers, and LEED Accredited Professionals (AP) by the U.S. Green Buildings Council.''.

(3) REQUIREMENT FOR BILEVEL SWITCHING.—Section 179D(f)(2) is amended by adding at the end the following new subparagraph:

''(3) APPLICATION OF SUBSECTION TO BILEVEL SWITCHING.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(C)(i), this subsection shall apply to a system which does not include provisions for bilevel switching if the reduction in lighting power density is at least 37.5 percent of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2. (not including additional interior lighting allowances) of Standard 90.1–2001.

''(B) REDUCTION IN DEDUCTION.—In the case of a system to which this subsection applies by reason of subparagraph (A), paragraph (2) shall be applied—

''(i) by substituting '50 percent' for '40 percent' in subparagraph (A) thereof, and

''(ii) in subparagraph (B)(ii) thereof—

''(I) by substituting '37.5 percentage points' for '25 percentage points', and

''(II) by substituting '12.5' for '15'.''.

(f) PUBLIC PROPERTY.—Paragraph (4) of section 179(d) is amended by striking ''the Secretary shall promulgate a regulation to allow the allocation of the deduction'' and inserting ''the deduction under this section shall be allowed''.

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

SEC. 203. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE BUILDINGS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by section 404 of division A of the Tax Relief and Health Care Act of 2006, is amended by inserting after section 179E the following new section:

''SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the amount of qualified energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

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

''(A) the qualified energy savings achieved, and

''(B) $12,000.

''(2) MINIMUM AMOUNT OF QUALIFIED ENERGY SAVINGS.—No credit shall be allowed under subsection (a) with respect to any dwelling unit in a qualified low-rise building which achieves a qualified energy savings of less than 20 percent.

''(c) QUALIFIED ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy efficiency expenditures' means any amount paid or incurred which is related to producing qualified energy savings in any dwelling unit located in a qualified low-rise building of the taxpayer which is located in the United States.

''(2) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified energy efficiency expenditures' shall not include any expenditure for any property for which a deduction has been allowed to the taxpayer under section 179F.

''(3) QUALIFIED LOW-RISE BUILDING.—The term 'qualified low-rise building' means a building—

''(A) with respect to which depreciation is allowable under section 167,

''(B) which is used for multifamily housing, and

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

''(d) QUALIFIED ENERGY SAVINGS.—For purposes of this section—

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

''(A) the annual energy use with respect to such dwelling unit after qualified energy efficiency expenditures are made, as certified under paragraph (2), is less than

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

In determining annual energy use under subparagraph (B), any energy efficiency improvements which are not attributable to qualified energy efficiency expenditures shall be disregarded.

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall prescribe the procedures and method for the making of certifications under this paragraph based on the Residential Energy Services Network (RESNET) Technical Guidelines in effect on the date of the enactment of this Act.

''(B) QUALIFIED INDIVIDUALS.—Any certification made under this paragraph may only be made by an individual who is recognized by an organization certified by the Secretary for such purposes.

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

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

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2011.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 404 of division A of the Tax Relief and Health Care Act of 2006, the is amended by striking ''or'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', or'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) expenditures for which a deduction is allowed under section 179F.''.

(2) Section 312(k)(3)(B) is amended by striking ''179, 179A, 179B, 179C, 179D, or 179E'' each place it appears in the heading and text and inserting ''179, 179A, 179B, 179C, 179D, 179E, or 179F''.

(3) Section 1016(a), as amended by section 101, is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following new paragraph:

''(39) to the extent provided in section 179F(f).''.

(4) Section 1245(a) is amended by inserting ''179F,'' after ''179E,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B is amended by inserting after the item relating to section 179E the following new item:

''Sec. 179F. Energy efficient low-rise buildings deduction.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 204. ENERGY EFFICIENT PROPERTY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by section 203, is amended by inserting after section 179F the following new section:

''SEC. 179G. ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to the energy efficient property expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The amount of the deduction allowed under subsection (a) for any taxable years shall not exceed—

''(1) $150 for any advanced main air circulating fan,

''(2) $450 for any qualified natural gas furnace or qualified propane furnace,

''(3) $900 for—

''(A) any item of energy-efficient building property, and

''(B) any qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler,

''(4) $9 with respect to each peak watt of capacity of solar electric property,

''(5) in the case of solar hot water property, an amount equal to—

''(A) in the case of a dwelling unit which uses electricity to heat water, $1 with respect to each kilowatt per year of savings of such solar hot water property, or

''(B) in the case of a dwelling unit which uses natural gas to heat water, $21 with respect to each annual Therm of natural gas savings of such solar hot water property.

For purposes of paragraph (5), savings shall be determined under regulations prescribed by the Secretary based on the OG–300 Standard for the Annual Performance of OG–300 Certified Systems of the Solar Rating and Certification Corporation.

''(c) ENERGY EFFICIENT PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient property expenditures' means expenditures paid by the taxpayer for qualified energy property which is—

''(A) of a character subject to the allowance for depreciation, and

''(B) originally placed in service by the taxpayer.

''(2) QUALIFIED ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy property' has the meaning given such term by section 25C(d)(2), except that such term shall include solar electric property and solar hot water property.

''(B) SOLAR ELECTRIC PROPERTY.—The term 'solar electric property' means property which uses solar energy to generate electricity.

''(C) SOLAR HOT WATER PROPERTY.—The term 'solar hot water property' means property used to heat water if at least half of the energy used by such property for such purpose is derived from the sun.

''(d) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(e) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2010.''.

(b) NO DOUBLE BENEFIT.—Section 179D(c) is amended by adding at the end the following new paragraph:

''(3) CERTAIN PROPERTY EXCLUDED.—The term 'energy efficient commercial building property' does not include any property with respect to which a credit has been allowed to the taxpayer under section 179G.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by section 203, is amended by striking ''or'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', or'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) expenditures for which a deduction is allowed under section 179G.''.

(2) Section 312(k)(3)(B), as amended by section 203, is amended by striking ''179, 179A, 179B, 179C, 179D, 179E, or 179F'' each place it appears in the heading and text and inserting ''179, 179A, 179B, 179C, 179D, 179E, 179F, or 179G''.

(3) Section 1016(a), as amended by section 203, is amended by striking ''and'' at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting '', and'', and by adding at the end the following new paragraph:

''(40) to the extent provided in section 179G(e).''.

(4) Section 1245(a), as amended by section 203 is amended by inserting ''179G,'' after ''179F,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B is amended by inserting after the item relating to section 179F the following new item:

''Sec. 179G. Energy efficient property.''.

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

SEC. 205. EXTENSION OF INVESTMENT TAX CREDIT WITH RESPECT TO SOLAR ENERGY PROPERTY AND QUALIFIED FUEL CELL PROPERTY.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a), as amended by section 207 of division A of the Tax Relief and Health Care Act of 2006, are each amended by striking ''2009'' and inserting ''2012''.

(b) ELIGIBLE FUEL CELL PROPERTY.—Paragraph (1)(E) of section 48(c), as so amended, is amended by striking ''2008'' and inserting ''2011''.

TITLE III—INCENTIVES FOR ENERGY SAVINGS CERTIFICATIONS

SEC. 301. CREDIT FOR ENERGY SAVINGS CERTIFICATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by section 405 of division A of the Tax Relief and Health Care Act of 2006, is amended by adding at the end the following new section:

''SEC. 45O. ENERGY SAVINGS CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the energy savings certification credit determined under this section for any taxable year is an amount equal to the sum of—

''(1) the qualified training and certification costs paid or incurred by the taxpayer which may be taken into account for such taxable year, plus

''(2) the qualified certification equipment expenditures paid or incurred by the taxpayer which may be taken into account for such taxable year.

''(b) QUALIFIED TRAINING AND CERTIFICATION COSTS.—

''(1) IN GENERAL.—The term 'qualified training and certification costs' means costs paid or incurred for training which is required for the taxpayer or employees of the taxpayer to be certified by the Secretary under section 25D(d)(2)(B) or 179F(d)(2)(B) for the purpose of certifying energy savings.

''(2) LIMITATION.—The qualified training and certification costs taken into account under subsection (a)(1) for the taxable year with respect to any individual shall not exceed $500 reduced by the amount of the credit allowed under subsection (a)(1) to the taxpayer (or any predecessor) with respect to such individual for all prior taxable years.

''(3) YEAR COSTS TAKEN INTO ACCOUNT.—Qualified training and certifications costs with respect to any individual shall not be taken into account under subsection (a)(1) before the taxable year in which the individual with respect to whom such costs are paid or incurred has performed 25 certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A).

''(c) QUALIFIED CERTIFICATION EQUIPMENT EXPENDITURES.—

''(1) IN GENERAL.—The term 'qualified training equipment expenditures' means costs paid or incurred for—

''(A) blower doors,

''(B) duct leakage testing equipment,

''(C) flue gas combustion equipment, and

''(D) digital manometers.

''(2) LIMITATION.—

''(A) IN GENERAL.—The qualified certification equipment expenditures taken into account under subsection (a)(2) with respect to any taxpayer for any taxable year shall not exceed $1,000.

''(B) LIMITATION ON INDIVIDUAL ITEMS.—The qualified certification equipment expenditures taken into account under subsection (a)(2) shall not exceed—

''(i) $500 with respect to any blower door or duct leakage testing equipment, and

''(ii) $100 with respect to any flue gas combustion equipment or digital manometer.

''(3) YEAR EXPENDITURES TAKEN INTO ACCOUNT.—The qualified certification equipment expenditures of any taxpayer shall not be taken into account under subsection (a)(2) before the taxable year in which the taxpayer has performed 25 certifications under sections 25E(d)(2)(A) and 179F(d)(2)(A).

''(d) SPECIAL RULES.—

''(1) AGGREGATION RULES.—For purposes of this section, all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.

''(2) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(3) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount taken into account under subsection (a) for such taxable year.

''(B) AMOUNT PREVIOUSLY DEDUCTED.—No credit shall be allowed under subsection (a) with respect to any amount for which a deduction has been allowed in any preceding taxable year.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ''plus'', and by adding at the end the following new paragraph:

''(32) the energy savings certification credit determined under section 45O(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (39), by striking the period at the end of paragraph (40) and inserting ''and'', and by adding at the end the following new paragraph:

''(41) to the extent provided in section 45O(d)(2).''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45N the following new item:

''Sec. 45O. Energy savings certification credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 5128. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. DOMESTIC PRODUCTION.

(a) REPEAL.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

(b) COMMENCEMENT OF COMMERCIAL LEASING.—Section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)) is amended in the second sentence by inserting '', not earlier than December 31, 2011,'' before ''conduct''.

SEC. ___. ENERGY SAVINGS REPORT.

Not later than 120 days after the date of enactment of this Act and annually thereafter, the Secretary of Energy shall—

(1) conduct an analysis of all policies of the Federal Government (including mandates, subsidies, tariffs, the use of hydrogen and tax policy) that encourage, or have the potential to encourage, the reduction of fossil fuel energy consumption in the United States; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains recommendations for the adjustment of the policies described in paragraph (1) to reduce—

(A) the dependence of the United States on fossil fuel;

(B) the quantity of air pollutants in the environment;

(C) greenhouse gas emissions; and

(D) the cost of energy.

SA 5129. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, insert the following:

TITLE II—INCENTIVES FOR PLUG-IN ELECTRIC DRIVE VEHICLES

SEC. 21. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is the sum of—

''(A) $2,000, plus

''(B) $400 for each kilowatt hour of traction battery capacity in excess of 2.5 kilowatt hours.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2)(A) shall not exceed—

''(A) $7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

''(B) $10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

''(C) $15,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $20,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and section 27 for the taxable year.

''(3) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—No credit shall be allowed under subsection (a) for any new qualified plug-in electric drive motor vehicle which is a passenger vehicle or light truck in any calendar year following the calendar year which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2007, is at least 250,000.

''(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section, the term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

''(1) which draws propulsion using one or more traction batteries with an aggregate capacity of not less than 2.5 kilowatt hours,

''(2) which uses an offboard source of electricity to recharge one or more such batteries,

''(3) which, where required for the applicable make and model, has received a certificate of conformity under the Clean Air Act, or which meets all Federal safety and emissions requirements for on-road use,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails).

''(2) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) TRACTION BATTERY CAPACITY.—Traction battery capacity shall be measured in

kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

''(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

''(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(e) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.''.

(b) COORDINATION WITH OTHER MOTOR VEHICLE CREDITS.—

(1) ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (1) of section 30(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(2) NEW QUALIFIED FUEL CELL MOTOR VEHICLES.—Paragraph (3) of section 30B(b) of such Code is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(3) NEW QUALIFIED HYBRID MOTOR VEHICLES.—Paragraph (3) of section 30B(d) of such Code is amended by adding at the end the following new flush sentence:

''Such term shall not include any motor vehicle which is a new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)).''

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30D(d)(5).''

(2) Section 6501(m) of such Code is amended by inserting ''30D(d)(10)'' after ''30C(e)(5)''.

(3) The table of sections for subpart B of part IV of such Code is amended by adding at the end the following new item:

''Sec. 30D. Plug-in electric drive motor vehicle credit.''

(d) CONVERSION KITS.—

(1) IN GENERAL.—Section 30B of the Internal Revenue Code of 1986 (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) PLUG-IN CONVERSION CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is the lesser of—

''(A) an amount equal to—

''(i) $2,000, plus

''(ii) $400 for each kilowatt hour of capacity of the plug-in traction battery module installed in such vehicle in excess of 2.5 kilowatt hours, or

''(B) 50 percent of the cost of the plug-in traction battery module installed in such vehicle as part of such conversion.

''(2) LIMITATIONS.—The amount of the credit allowed under this subsection shall not exceed $4,000 with respect to the conversion of any motor vehicle.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(c), determined without regard to paragraphs (4) and (6) thereof).

''(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

''(i) has a traction battery capacity of not less than 2.5 kilowatt hours,

''(ii) is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

''(iii) consists of a standardized configuration and is mass produced,

''(iv) has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program, and

''(v) is certified by a battery manufacturer as meeting the requirements of clauses (i) through (iv).

''(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

''(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(4) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2010.''.

(2) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) of such Code is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(3) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) of such Code is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years beginning after such date.

SEC. 22. CLASSIFICATION OF SMART METERS AS 5-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 5-year property) is amended—

(1) by striking ''and'' at the end of clause (v),

(2) by redesignating clause (vi) as clause (vii), and

(3) by inserting after clause (v) the following new clause:

''(vi) any advanced electricity time-based meter that—

''(I) measures and records electricity usage data on a time differentiated basis,

''(II) has 2-way communications capability,

''(III) provides data that enables the electricity supplier to provide usage information to customers electronically, and

''(IV) is placed in service before January 1, 2014, and''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 168(e) of such Code (relating to classification of certain property) is amended by striking ''clause (vi)(I)'' in the last sentence and inserting ''clause (vii)(I)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 23. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C of the Internal Revenue Code of 1986 is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXPANSION OF ELECTRIC PROPERTY.—Subsection (c) of section 30C of the Internal Revenue Code of 1986 (relating to qualified alternative fuel vehicle refueling property) is amended—

(1) by striking ''and'' at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3),

(3) by striking ''Any mixture—'' and all that follows in paragraph (3)(B), as so redesignated, and inserting ''Any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.'', and

(4) by inserting after paragraph (1) the following new paragraph:

''(2) paragraph (3)(B) of section 179A(d) applied to all electric property used to support the charging of electric vehicles, neighborhood electric vehicles, or plug-in hybrids, without regard to the gross vehicle weight rating of such vehicles, and''.

(c) EXTENSION OF CREDIT.—Section 30C(g) of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''electric property and'' before ''property relating to hydrogen'' in paragraph (1), and

(2) by striking ''December 31, 2009'' in paragraph (2) and inserting ''December 31, 2010''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 24. INCENTIVES FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE AND COMPONENTS.

(a) DEDUCTION FOR MANUFACTURING FACILITIES.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

''SEC. 179F. EXPENSING FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE AND COMPONENTS.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the applicable percentage of the cost of any qualified plug-in electric drive motor vehicle manufacturing facility property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified manufacturing facility property is placed in service.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 100 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2013, and

''(2) 50 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2012, and before January 1, 2015.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' means any qualified property—

''(A) the original use of which commences with the taxpayer,

''(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2015, and

''(C) no written binding contract for the construction of which was in effect on or before the date of the enactment of this section.

''(2) QUALIFIED PROPERTY.—

''(A) IN GENERAL.—The term 'qualified property' means any property which is a facility or a portion of a facility used for the production of—

''(i) any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), or

''(ii) any eligible component.

''(B) ELIGIBLE COMPONENT.—The term 'eligible component' means any battery, any electric motor or generator, or any power control unit which is designed specifically for use in a new qualified plug-in electric drive motor vehicle (as so defined).

''(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subsection (a) shall be reduced by an amount equal to—

''(1) the total amount of such costs (determined before the application of this subsection), multiplied by

''(2) the percentage of property expected to be produced which is not qualified property.''.

(b) REFUND OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Section 53 of the Internal Revenue Code of 1986 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(f) ELECTION TO TREAT AMOUNTS ATTRIBUTABLE TO QUALIFIED MANUFACTURING FACILITY.—

''(1) IN GENERAL.—In the case of an eligible taxpayer, the amount determined under subsection (c) for the taxable year (after the application of subsection (e)) shall be increased by an amount equal to the applicable percentage of any qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 35 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2013, and

''(B) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2012, and before January 1, 2015.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means any taxpayer—

''(A) who places in service qualified plug-in electric drive motor vehicle manufacturing facility property during the taxable year,

''(B) who does not make an election under section 179F(c), and

''(C) who makes an election under this subsection.

''(4) OTHER DEFINITIONS AND SPECIAL RULES.—

''(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' has the meaning given such term under section 179F(d).

''(B) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property (as defined in section 179F(d)) and other property which is not qualified property, the amount of costs taken into account under paragraph (1)shall be reduced by an amount equal to—

''(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

''(ii) the percentage of property expected to be produced which is not qualified property.

''(C) ELECTION.—

''(i) IN GENERAL.—An election under this subsection for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

''(ii) ELECTION IRREVOCABLE.—Any election made under this subsection may not be revoked except with the consent of the Secretary.

''(5) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.''.

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

SA 5130. Mr. ENSIGN (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—CLEAN ENERGY TAX STIMULUS

SEC. 21. SHORT TITLE.

This title may be cited as the ''Clean Energy Tax Stimulus Act of 2008''.

Subtitle A—Extension of Clean Energy Production Incentives

SEC. 22. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).
(6) Paragraph (6).
(7) Paragraph (7).
(8) Paragraph (8).
(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine an*d hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 23. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 24. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same

manner as the provisions of such Act to which such amendments relate.

SEC. 25. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

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

SEC. 26. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 2 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

SEC. 27. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

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

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 28. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 29. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

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

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

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

SEC. 30. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SA 5131. Mr. BUNNING (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TAX CREDIT FOR ALTERNATIVE JET FUEL.

(a) CREDIT.—

(1) ALLOWANCE OF CREDIT.—Section 6426 of the Internal Revenue Code of 1986 is amended by redesignating subsections (f) through (h) as subsections (h) through (i), respectively, and by inserting after subsection (e) the following new subsections:

''(f) ALTERNATIVE JET FUEL CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alternative jet fuel credit is the product of $1.00 and the number of gallons of alternative jet fuel or gasoline gallon equivalents (as defined in subsection (d)(3)) of a nonliquid alternative jet fuel sold by the taxpayer for use as a fuel in an aircraft, or so used by the taxpayer.

''(2) ALTERNATIVE JET FUEL.—For purposes of this section, the term 'alternative jet fuel' means an alternative fuel—

''(A) which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel, and

''(B) the lifecycle greenhouse gas emissions associated with the production and combustion of which are less than or equal to such emissions associated with the production and combustion of aviation fuel produced from conventional petroleum sources, as determined by peer-reviewed research conducted or reviewed by a National Laboratory or as determined by the head of a Federal agency.

''(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2014.

''(g) ALTERNATIVE JET FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alterative jet fuel mixture credit is the product of $1.00 and the number of gallons of alternative jet fuel used by the taxpayer in producing any alternative jet fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) ALTERNATIVE JET FUEL MIXTURE.—For purposes of this section, the term 'alternative jet fuel mixture' means a mixture of alternative jet fuel and aviation gasoline or kerosene which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel in an aircraft, or

''(B) is used as a fuel in an aircraft by the taxpayer producing such mixture

''(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2014.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6426(a) of the Internal Revenue Code of 1986 is amended—

(i) in paragraph (1), by striking ''and (e)'' and inserting ''(e), and (g)'',

(ii) in paragraph (2), by striking ''subsection (d)'' and inserting ''subsections (d) and (f)'', and

(iii) in the second sentence, by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e), (f), and (g)''.

(B) Section 6426(e)(2) of such Code is amended by adding at the end the following new flush sentence:

''Such term does not include any alternative jet fuel mixture.''.

(C) Section 6426(i) of such Code, as redesignated by paragraph (1), is amended by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e), (f), and (g)''.

(b) PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 6427(e) of the Internal Revenue Code of 1986 is amended—

(A) by inserting '', or if such person sells or uses an alternative jet fuel (as defined in section 6526(f)(2)) for a purpose described in section 6426(f)(1) in such person's trade or business'' after ''trade or business'', and

(B) in the heading, by inserting ''; ALTERNATIVE JET FUEL'' after ''FUEL''.

(2) REGISTRATION.—Paragraph (4) of section 6427(e) of such Code is amended by striking ''or alternative fuel mixture credit'' and inserting '', alternative fuel mixture credit, alternative jet fuel credit, or alternative jet fuel mixture credit''.

(3) TERMINATION.—Paragraph (5) of section 6427(e) of such Code is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ''and'', and by adding at the end the following new subparagraph:

''(E) any alternative jet fuel or alternative jet fuel mixture (as defined in subsection

(f)(2) or (g)(2) of section 6426) sold or used after December 31, 2014.''.

(c) TIME FOR FILING CLAIMS.—Section 6427(i)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting ''or an alternative jet fuel (as defined in section 6426(f)(2))'' after ''6426(d)(2))''.

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

SEC. ___. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

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

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5132. Mr. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—IDENTIFICATION OF MOST PROSPECTIVE OUTER CONTINENTAL SHELF OIL AND NATURAL GAS AREAS UNDER MORATORIA

SEC. 21. DEFINITIONS.

In this title:

(1) MORATORIUM AREA.—

(A) IN GENERAL.—The term ''moratorium area'' means any area on the Outer Continental Shelf covered by—

(i) sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521);

(ii) section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432); or

(iii) any area withdrawn from disposition by leasing by the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'' (34 Weekly Comp. Pres. Doc. 1111), and dated June 12, 1998, as modified by the President on January 9, 2007.

(B) EXCLUSIONS.—The term ''moratorium area'' does not include an area of the outer Continental Shelf designated by the National Oceanic and Atmospheric Administration as a national marine sanctuary.

(2) PROSPECTIVE AREA.—The term ''prospective area'' means a portion of any moratorium area that may contain recoverable oil or gas.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 22. IDENTIFICATION OF MOST PROSPECTIVE OUTER CONTINENTAL SHELF OIL AND NATURAL GAS AREAS UNDER MORATORIA.

(a) INVENTORY.—

(1) IN GENERAL.—The Secretary shall identify the 10 most prospective areas for recoverable oil and gas accumulations, including if appropriate the 5 most prospective areas for oil and the 5 most prospective areas for natural gas in the prospective areas that industry would likely explore if allowed.

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

(3) TECHNOLOGY.—The Secretary may use any available geological, geophysical, economic, engineering, and other scientific technology to obtain accurate estimates of resource potential.

(b) ACQUISITION OF GEOLOGICAL AND GEOPHYSICAL DATA.—

(1) IN GENERAL.—The Secretary may acquire and process new geological and geophysical data or use existing geological and geophysical data for any moratorium area if the Secretary determines that additional information is needed to identify and assess potential prospective areas.

(2) TECHNOLOGY.—In carrying out this subsection, the Secretary shall use any available technology (other than drilling), including 3-D seismic technology, to obtain an accurate estimate of resource potential.

(3) AVAILABILITY OF DATA.—The Secretary may make available newly acquired geological and geophysical data under this subsection on a cost recovery basis to recover the full costs expended for acquisition and processing of new geological and geophysical data.

(c) ADMINISTRATION.—

(1) IN GENERAL.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, to expedite collection of geological and geophysical data under this section, each Federal agency shall conduct and complete any analyses or consultations that are required to carry out this section.

(2) PROTECTED SPECIES.—Before conducting any geological and geophysical survey required under this title in any prospective area, the Secretary shall, at a minimum, implement the mitigation, monitoring, and reporting measures that are used for protected species in the Gulf of Mexico region.

(d) ENVIRONMENTAL AND SOCIOECONOMIC STUDIES.—

(1) IN GENERAL.—The Secretary may conduct, directly or by contract, environmental or socioeconomic studies for any prospective area identified under subsection (a).

(2) INTERAGENCY ACTION.—The Secretary, acting through the Minerals Management Service, may work jointly with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, or other relevant agencies—

(A) to compile existing environmental and socioeconomic information on prospective areas; or

(B) obtain new environmental or socioeconomic studies for identified prospective areas.

SEC. 23. SHARING INFORMATION WITH STATES AND OTHER STAKEHOLDERS.

(a) IN GENERAL.—The Secretary shall establish a process—

(1) to share information identified by actions taken under section 22 to identify 10 most prospective areas; and

(2) to obtain input from States or other stakeholders on the prospective areas.

(b) PROCESS.—The process shall include workshops or meetings with—

(1) the public;

(2) Governors or designated officials from appropriate States; and

(3) other relevant user groups.

SEC. 24. REPORTS.

(a) IDENTIFICATION OF PROSPECTIVE AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) an identification of the 10 most prospective oil and gas areas within the moratorium areas using existing information;

(2) a summary of environmental and socioeconomic information relating to the 10 prospective areas; and

(3) a schedule for completion of any environmental or socioeconomic impact studies or consultations planned for those prospective areas.

(b) POTENTIAL OF PROSPECTIVE AREAS.—Not later than 42 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) a summary of the potential oil and gas resources in the 10 most prospective areas based on all available and newly acquired information;

(2) a description of the consultation process under section 23 that will be used to share information and obtain input from stakeholders concerning the 10 most prospective areas; and

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

(c) INPUT.—Not later than 180 days after submission of the report required under subsection (b), the Secretary shall submit to Congress a summary of the input from the process required under section 23.

SEC. 25. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $450,000,000, to remain available until expended.

SA 5133. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—AMERICAN ENERGY INDEPENDENCE AND SECURITY

SEC. ___01. SHORT TITLE.

This title may be cited as the ''American Energy Independence and Security Act of 2008''.

SEC. ___02. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. ___03. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Subject to section ___14, Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—Subject to section ___14, the Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this title, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this title that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this title; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife,

subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this title.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. ___04. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

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

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this title;

(2) not later than September 30, 2010, conduct a second lease sale under this title; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. ___05. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section ___04 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. ___06. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this title shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section ___03(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this title and regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this title negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. ___07. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section ___03, the Secretary shall administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this title for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. ___08. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this title (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this title; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this title shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. ___09. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. ___10. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. ___11. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury (referred to in this section as the ''Secretary'') shall deposit in the Fund, $35,000,000 each year from the amount available under section ___13(1).

(3) INVESTMENT.—The Secretary shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Secretary, in cooperation with the Mayor of the North Slope

Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this title, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Secretary.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Secretary, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Secretary may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Secretary each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF SECRETARY.—The Secretary shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. ___12. PROHIBITION ON EXPORTS.

An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

SEC. ___13. ALLOCATION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, all adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this title, plus an appropriated amount equal to the amount of Federal income tax attributable to sales of oil and gas produced from those operations, shall be deposited in an account in the Treasury which shall be available, without further appropriation or fiscal year limitation, each fiscal year as follows:

(1) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section ___11(a)(1).

(2) The remainder shall be available as follows:

(A) 50 percent shall be available to the Department of Energy to carry out alternative energy programs established under the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), the Energy Independence and Security Act of 2007 (42 U.S.C. 17001 et seq.), or an amendment made by either of those Acts, as determined by the Secretary of Energy.

(B) 16.67 percent shall be available to the Department of Health and Human Services to provide low-income home energy assistance under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.).

(C) 16.67 percent shall be available to the Department of Energy to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.)).

(D) 16.66 percent shall be available for use in accordance with subsection (b)(2).

(b) GRANTS FOR IMPROVEMENT IN ENERGY EFFICIENCY.—The Secretary of Energy shall establish a program within the Department of Energy under which the Secretary of Energy shall—

(1) conduct a study to determine, to the maximum extent practicable, the greatest economically feasible percentage by which each State may decrease energy use within the State through the significant modification of residential and commercial building codes to promote energy efficiency; and

(2) using amounts made available under subsection (a)(2)(D), provide grants to States for use in making the significant modifications to building codes and decreasing energy use in the States as described in paragraph (1).

SEC. ___14. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of such provisions to any person or circumstance shall not be affected thereby.

SA 5134. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. OCS JOINT PERMITTING OFFICES.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall establish Federal OCS Joint Regional Permitting Offices (referred to in this section as the ''Regional Permitting Offices'') in accordance with this section.

(b) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(1) the Secretary of Commerce;

(2) the Administrator of the Environmental Protection Agency; and

(3) the Chief of Engineers.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall assign to each of the Regional Permitting Offices identified in subsection (d) a sufficient number of employees with expertise to address the full spectrum of agency regulatory issues relating to the Regional Permitting Office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

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

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

(D) the consultations and preparation of documents under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

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

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Minerals Management Service Regional Director in the Regional Permitting Office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) REGIONAL PERMITTING OFFICES.—The following Minerals Management Service Regional Headquarters shall serve as the Regional Permitting Offices:

(1) Anchorage, Alaska.

(2) New Orleans, Louisiana.

(3) MMS Pacific Regional Headquarters.

(4) MMS Atlantic Regional Headquarters.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the Regional Permitting Offices.

(f) TRANSFER OF FUND.—For the purposes of coordination and processing of oil and gas use authorizations on the Federal outer Continental Shelf under the administration of the Regional Permitting Offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Environmental Protection Agency;

(4) the National Oceanic and Atmospheric Administration; and

(5) the Corps of Engineers.

SA 5135. Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr.

SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—OIL SUPPLY AND MANAGEMENT

Subtitle A—Diligent Development

SEC. 201. DILIGENT DEVELOPMENT OF FEDERAL OIL AND GAS LEASES.

(a) CLARIFICATION OF EXISTING LAW.—Each lease that authorizes the exploration for or production of oil or natural gas under a provision of law described in subsection (b) shall be diligently developed by the person holding the lease in order to ensure timely production from the lease.

(b) COVERED PROVISIONS.—Subsection (a) shall apply to—

(1) section 17 of the Mineral Leasing Act (30 U.S.C. 226);

(2) section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a); and

(3) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—

(1) set forth requirements and benchmarks for oil and gas development that will ensure that leaseholders—

(A) diligently develop each lease; and

(B) to the maximum extent practicable, produce oil and gas from each lease during the primary term of the lease;

(2) require each leaseholder to submit to the Secretary a diligent development plan describing how the lessee will meet the benchmarks; and

(3) take into account differences in development conditions and circumstances in the areas to be developed.

SEC. 202. DILIGENT DEVELOPMENT OF NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) LENGTH OF LEASE.—Section 107(i) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(i)) is amended by striking paragraph (1) and inserting the following:

''(1) LENGTH OF LEASE.—

''(A) IN GENERAL.—Leases issued under this section shall be for a primary term to be determined by the Secretary by regulation of not less than 8 years and not more than 10 years.

''(B) DILIGENT PRODUCTION.—In determining the length of the lease term, the Secretary shall seek to maximize the timely production of oil and gas and diligent development of the lease.

''(C) CONTINUATION OF LEASE.—Each lease issued under this section shall continue so long after the primary term of the lease as oil or gas is produced in paying quantities.

''(D) ACTUAL DRILLING OPERATIONS COMMENCED.—Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling or reworking operations were commenced prior to the end of the primary term of the lease and are being diligently prosecuted at that time shall be extended for 5 years and so long thereafter as oil or gas is produced in paying quantities.''.

(b) REPEAL AND RENTAL.—Section 107(i) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(i)) is amended—

(1) in the subsection heading, by inserting ''; ANNUAL RENTAL PAYMENT'' after ''TERMS''; and

(2) by striking paragraphs (2) through (6) and inserting the following:

''(2) ANNUAL RENTAL PAYMENT.—

''(A) IN GENERAL.—Each lease issued under this section shall be conditioned on a payment by the lessee of an annual rental payment.

''(B) AMOUNT.—The Secretary shall establish the rental payment at a rate determined by the Secretary that maximizes the timely production of oil and gas and diligent development of the lease.

''(C) ESCALATING RATE.—The rent shall—

''(i) be established at a fixed rate for the first year of the lease which shall be not less than $3.00 per acre; and

''(ii) escalate annually in an increment of not less than $1.00 per acre per year.''.

SEC. 203. LENGTH OF LEASE TERMS.

Section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended—

(1) by striking ''(e)'' and all that follows through the end of the first sentence and inserting the following:

''(e) PRIMARY TERMS.—

''(1) IN GENERAL.—Leases issued under this section shall be for a primary term to be determined by the Secretary by regulation of not less than 5 years and not more than 10 years.

''(2) DILIGENT PRODUCTION.—In determining the length of the lease term, the Secretary shall seek to maximize the timely production of oil and gas and diligent development of the lease.'';

(2) by striking ''Each such lease'' and inserting the following:

''(3) CONTINUATION OF LEASE.—Each lease issued under this section''; and

(3) by striking ''Any lease issued'' and inserting the following:

''(4) ACTUAL DRILLING OPERATIONS COMMENCED.—Any lease issued''.

SEC. 204. RENTALS.

(a) LEASES UNDER MINERAL LEASING ACT.—Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is amended—

(1) by striking ''(d) All leases'' and all that follows through the end of the first sentence and inserting the following:

''(d) ANNUAL RENTALS; MINIMUM ROYALTY.—

''(1) ANNUAL RENTAL PAYMENT.—

''(A) IN GENERAL.—Each lease issued under this section shall be conditioned on a payment by the lessee of an annual rental payment.

''(B) AMOUNT.—The Secretary shall establish the rental payment at a rate determined by the Secretary that maximizes the timely production of oil and gas and diligent development of the lease.

''(C) ESCALATING RATE.—The rent shall—

''(i) be not less than $1.50 per acre for the first year of the lease; and

''(ii) escalate annually through the last year of the primary term of the lease in an increment of not less than $1.00 per acre per year.''; and

(2) by striking ''A minimum royalty'' and inserting the following:

''(2) MINIMUM ROYALTY.—A minimum royalty''.

(b) LEASES ON OUTER CONTINENTAL SHELF.—Section 8(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(b)) is amended by striking paragraph (6) and inserting the following:

''(6) contain such other provisions as the Secretary may prescribe at the time of offering the area for lease, including annual rental payments that—

''(A) are established at a rate determined by the Secretary to maximize the timely production of oil and gas and diligent development of the lease;

''(B) escalate annually; and

''(C) may be established to reflect differences in development conditions and circumstances in areas to be developed; and''.

Subtitle B—Leasing on Outer Continental Shelf Not Subject to Moratoria

SEC. 211. OFFSHORE OIL AND GAS LEASING IN PORTION OF 181 AREA AUTHORIZED TO BE LEASED UNDER THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

Section 103(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking ''shall offer'' and inserting ''shall—

''(1) offer'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) offer unleased areas of the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this paragraph.''.

SEC. 212. ACCELERATION OF LEASE SALES IN WESTERN AND CENTRAL PLANNING AREAS OF GULF OF MEXICO.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by adding at the end the following:

''(9) FREQUENCY OF LEASE SALES IN GULF OF MEXICO.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), at least once every 180 days, the Secretary shall conduct lease sales under paragraph (1) for land in the Western and Central Planning Areas of the Gulf of Mexico.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary—

''(i) determines it is not practicable to conduct lease sales with the frequency required under subparagraph (A); and

''(ii) provides to Congress a report that—

''(I) describes the reasons for the determination under clause (i); and

''(II) certifies that, in the judgment of the Secretary, holding lease sales less frequently will not adversely affect the production of oil and gas from the areas described in subparagraph (A).

''(C) LEASING PROGRAM.—The lease sales required under this paragraph shall be conducted notwithstanding the omission of those sales from the outer Continental Shelf Leasing Program for 2007–2012 prepared by the Secretary under section 18.''.

SEC. 213. LEASE SALES FOR AREAS OFFSHORE ALASKA.

(a) SURVEY.—Not later than 1 year after the date of enactment of this Act, in the case of each outer Continental Shelf planning area that is offshore of the State of Alaska and is not covered by the Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a survey of oil and gas industry interest in oil and gas leasing and development in the planning area.

(b) EVALUATION.—In the case of any planning area described in subsection (a) in which there is a high level of interest in oil

and gas leasing and development, as determined by the Secretary, the Secretary shall evaluate—

(1) the oil and gas potential of the area;

(2) the environmental and natural values of the area; and

(3) the importance of the area for subsistence use, after consulting with interested Native Alaskan communities.

(c) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing—

(A) the results of the survey; and

(B) the evaluation and the conclusions of the Secretary as to whether leasing should be pursued in any portion of a planning area described in subsection (a).

(2) LEASING TO BE PURSUED IN AREA.—If the Secretary concludes that leasing should be pursued in any planning area described in subsection (a), the Secretary shall describe in the report—

(A) the further determinations and actions required by law to be taken by the Secretary; and

(B) the time line leading up to any lease sale in the planning area.

(3) LEASING NOT TO BE PURSUED IN AREA.—If the Secretary concludes that leasing will not be pursued in any such planning area, the Secretary shall describe in the report the reasons for the conclusion.

(4) ADMINISTRATION.—In preparing the report, the Secretary shall—

(A) consult with the Governor of Alaska; and

(B) provide an opportunity for public comment.

(d) EFFECT ON OTHER LAWS.—Nothing in this section waives or modifies any environmental or other law applicable to oil and gas leasing and development on the outer Continental Shelf.

Subtitle C—Leasing in National Petroleum Reserve in Alaska

SEC. 221. ACCELERATION OF LEASE SALES FOR NATIONAL PETROLEUM RESERVE IN ALASKA.

Section 107(d) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a(d)) is amended—

(1) by striking ''(d)'' and all that follows through ''; first lease sale'' and inserting the following:

''(d) LEASE SALES.—

''(1) FIRST LEASE SALE.—The first lease sale''; and

(2) by adding at the end the following:

''(2) SUBSEQUENT LEASE SALES.—The Secretary shall accelerate, to the maximum extent practicable, competitive and environmentally responsible leasing of oil and gas in the Reserve in accordance with this Act and all applicable environmental laws, including at least 1 lease sale during each of calendar years 2009 through 2013.''.

Subtitle D—Strategic Petroleum Reserve

SEC. 231. DEFINITIONS.

In this subtitle:

(1) HEAVY-GRADE PETROLEUM.—The term ''heavy-grade petroleum'' means crude oil with an American Petroleum Institute gravity of 26 degrees or lower.

(2) LIGHT-GRADE PETROLEUM.—The term ''light-grade petroleum'' means—

(A) crude oil in the Strategic Petroleum Reserve categorized as Bayou Choctaw Sweet, Big Hill Sweet, West Hackberry Sweet, or Bryan Mound Sweet; and

(B) oil acquired for storage in the Strategic Petroleum Reserve with any category of oil referred to in subparagraph (A).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(4) SPR PETROLEUM ACCOUNT.—The term ''SPR Petroleum Account'' means the SPR Petroleum Account established under section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247).

(5) STRATEGIC PETROLEUM RESERVE.—The term ''Strategic Petroleum Reserve'' means the Strategic Petroleum Reserve established under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.).

SEC. 232. MODERNIZATION OF THE STRATEGIC PETROLEUM RESERVE.

(a) INITIAL PETROLEUM EXCHANGE FROM RESERVE.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), not later than 15 days after the date of enactment of this Act, the Secretary shall—

(1) exchange, in the quantity described in subsection (b), light-grade petroleum from the Strategic Petroleum Reserve for—

(A) an equivalent volume of heavy-grade petroleum; plus

(B) any additional cash bonus bids received that reflect the difference in—

(i) the market value between light-grade petroleum and heavy-grade petroleum; and

(ii) the timing of deliveries of the heavy-grade petroleum;

(2) of the gross proceeds of the cash bonus bids, deposit the amount required to pay for the direct administrative and operational costs of the exchange in the SPR Petroleum Account; and

(3) disburse the remaining net proceeds from the exchange to the Secretary of Health and Human Services to carry out the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), to be available without further appropriation and to remain available until expended.

(b) QUANTITIES AND SCHEDULE.—

(1) SALE OF LIGHT-GRADE PETROLEUM.—Not later than 180 days after the date of enactment of this Act, to carry out subsection (a), the Secretary shall sell at least 70,000,000 barrels of light-grade petroleum from the Strategic Petroleum Reserve.

(2) ACQUISITION OF HEAVY-GRADE PETROLEUM.—The acquisition of heavy-grade petroleum through purchase or exchange shall—

(A) commence not earlier than 1 year after the date of enactment of this Act;

(B) be completed, at the discretion of the Secretary, not later than 5 years after the date of enactment of this Act; and

(C) be carried out in a manner that maximizes the monetary value of the exchange to the Federal Government.

SEC. 233. DEFERRALS.

As the Secretary determines to be economically beneficial and practical, the Secretary is encouraged to grant any request to defer a scheduled delivery of petroleum to the Strategic Petroleum Reserve if the deferral will result in a premium paid in additional barrels of oil that will—

(1) reduce the cost of oil acquisition; and

(2) increase the volume of oil delivered to the Reserve.

Subtitle E—Resource Estimates

SEC. 241. RESOURCE ESTIMATES.

(a) IN GENERAL.—The Secretary of the Interior shall annually collect and report to Congress—

(1) data on the number of acres of land under Federal onshore oil and gas lease—

(A) on which exploration activity is occurring; and

(B) on which production is occurring;

(2) resource estimates and number of acres for Federal onshore and offshore land under lease;

(3) resource estimates and number of acres for unleased Federal onshore and offshore land available for oil and gas leasing;

(4) resource estimates and number of acres for areas of the outer Continental Shelf—

(A) under lease but not producing;

(B) offered for lease in a lease sale conducted during the previous year but not leased;

(C) included in proposed sale areas in the 5-year plan developed by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344); and

(D) available for oil and gas leasing but not included in the 5-year plan; and

(5) resource estimates and number of acres for Federal onshore land—

(A) under lease but not producing; and

(B) offered for lease in a lease sale conducted during the previous year but not leased.

(b) COVERED PROVISIONS.—Subsection (a) shall apply with respect leases and land eligible for leasing pursuant to—

(1) section 17 of the Mineral Leasing Act (30 U.S.C. 226);

(2) section 107 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6506a); and

(3) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

Subtitle F—Sense of Senate on Alaska Natural Gas Pipeline

SEC. 251. SENSE OF SENATE ON ALASKA NATURAL GAS PIPELINE.

(a) FINDINGS.—Congress finds that—

(1) more than 35,000,000,000,000 cubic feet of natural gas reserves have been discovered on Federal and State land open to leasing as of the date of enactment of this Act in the North Slope area of the State of Alaska, but that natural gas is being injected underground because the natural gas cannot be transported to markets in the lower 48 States; and

(2) in 2004, Congress passed the Alaska Natural Gas Pipeline Act (15 U.S.C. 720 et seq.)—

(A) to expedite the Federal regulatory process for siting of an Alaska natural gas pipeline;

(B) to establish a Federal office to coordinate the permitting process;

(C) to authorize a loan guarantee for the construction of an Alaska natural gas pipeline;

(D) to provide accelerated depreciation for an Alaska natural gas pipeline; and

(E) to provide favorable tax treatment for a gas conditioning plant in the North Slope area of the State of Alaska.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Alaska natural gas pipeline is a critically important national infrastructure project that would benefit all consumers in the United States;

(2) all parties interested in the development of an Alaska natural gas pipeline, including oil and gas producers, pipeline companies, the State of Alaska, Federal agencies, Canadian authorities, and others, should, and are encouraged by the Senate, to accelerate their efforts to work together to allow that critical national infrastructure project to move forward; and

(3) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada

and, to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—

(A) use steel that is manufactured in North America; and

(B) negotiate a project labor agreement to expedite construction of the pipeline.

Subtitle G—Roan Plateau Oil and Gas Leasing

SEC. 261. SHORT TITLE.

This subtitle may be cited as the ''Roan Plateau Oil and Gas Leasing Improvement Act of 2008''.

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Roan Plateau Planning Area likely contains significant energy resources, especially natural gas;

(2) the Roan Plateau Planning Area also is—

(A) an important part of the natural heritage of the State of Colorado that provides important habitat for fish and wildlife, including genetically pure populations of Colorado River cutthroat trout, mule deer, and Rocky Mountain elk; and

(B) increasingly important for hunters, fishermen, and other outdoor recreationists as development has made other land in the western part of the State less conducive to those uses;

(3) oil and gas development activities have the potential to disturb the environment and pose a particular threat to habitats for wildlife and aquatic species on the Roan Plateau, while phased leasing of the energy resources associated with the Roan Plateau can result in payment by the leaseholders of greater revenues than would result from more rapid leasing; and

(4) phased development and long-range planning pursuant to unit agreements will—

(A) maximize lease revenues;

(B) reduce duplicative infrastructure, such as roads, pipelines, and compressor stations;

(C) reduce overall ground disturbance; and

(D) minimize habitat fragmentation.

(b) PURPOSE.—The purpose of this subtitle is to provide for balanced development of the energy resources of the Roan Plateau in a manner that minimizes the adverse impacts on fish and wildlife habitats and environmental resources and values while increasing the financial returns to the United States and the State of Colorado.

SEC. 263. DEFINITIONS.

In this subtitle:

(1) DRAFT RESOURCE MANAGEMENT PLAN.—The term ''draft resource management plan'' means the Draft Resource Management Plan Amendment and Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Planning Area (2004).

(2) ELIGIBLE PUBLIC LAND.—The term ''eligible public land'' means —

(A) the public land within the 6,000-acre developed tract of Oil Shale Reserve Numbered 3 described in section 7439(a)(2) of title 10, United States Code; and

(B) in the case of public land described in the proposed resource management plan—

(i) a phased development area; and

(ii) any public land within the northeastern, northwestern, southeastern, or southwestern quadrant of the Roan Plateau Planning Area that is defined as ''below the rim'' or ''below the cliffs'' in figure 1–3.

(3) JUNE 2007 RECORD OF DECISION.—The term ''record of decision'' means the Record of Decision made available pursuant to the notice entitled ''Notice of Availability of the Record of Decision for the Resource Management Plan Amendment (RMPA) for Portions of the Roan Plateau Planning Area and Supplemental Information for Proposed Areas of Critical Environmental Concern (ACEC) With Associated Resource Use Limitations for Public Lands in Garfield and Rio Blanco Counties, CO'' (72 Fed. Reg. 32138), dated June 11, 2007.

(4) MARCH 2008 RECORD OF DECISION.—The term ''March 2008 Record of Decision'' means the Record of Decision for the Designation of Areas of Critical Environmental Concern for the Roan Plateau Resource Management Plan Amendment and Environmental Impact Statement, dated March 15, 2008.

(5) MINERAL LEASE.—The term ''mineral lease'' means a lease of minerals owned by the United States pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(6) PHASED DEVELOPMENT AREA.—The term ''phased development area'' means each of the 6 tracts of public domain land on the top of the Roan Plateau, each of which is—

(A) depicted in figure 2–1 on page 2–26 of the proposed resource management plan; and

(B) described, respectively, as—

(i) the Anvil Ridge Oil & Gas Phased Development Area;

(ii) the Cook Ridge Oil & Gas Phased Development Area;

(iii) the Corral Ridge Oil & Gas Phased Development Area;

(iv) the Long Ridge East Oil & Gas Phased Development Area;

(v) the Long Ridge West Oil & Gas Phased Development Area; and

(vi) the Short Ridge Oil & Gas Phased Development Area.

(7) PROPOSED RESOURCE MANAGEMENT PLAN.—The term ''proposed resource management plan'' means the proposed Resource Management Plan and Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Management Area (August 2006).

(8) PUBLIC LAND.—The term ''public land'' has the meaning given the term ''public lands'' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(9) RESOURCE MANAGEMENT PLAN AMENDMENT.—The term ''resource management plan amendment'' means the Resource Management Plan Amendment and Final Environmental Impact Statement of the Bureau of Land Management for the Roan Plateau Planning Area (2006).

(10) ROAN PLATEAU PLANNING AREA.—The term ''Roan Plateau Planning Area'' means public land in the State that is covered by the draft resource management plan.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(12) STATE.—The term ''State'' means the State of Colorado.

SEC. 264. SPECIAL PROTECTION AREAS.

(a) DESIGNATION.—There are designated the following Special Protection Areas:

(1) All public land identified as an Area of Critical Environmental Concern (ACEC) on the map entitled ''Alternative II Management'' of the draft resource management plan.

(2) All public land located within the watersheds or drainages of Northwater Creek and the East Fork of Parachute Creek above the confluence with First Anvil Creek.

(3) All public land identified as subject to a No Ground Disturbance (NGD/NSO) stipulation on the map entitled ''Alternative II Stipulations'' of the resource management plan amendment.

(b) MANAGEMENT.—Except as otherwise provided in this subtitle, the Secretary shall manage the Special Protection Areas in a manner that prevents irreparable damage to the fish and wildlife resources and the historical, cultural, scenic, and environmental resources and values within those areas.

(c) TERMS AND CONDITIONS.—Except as provided in subsection (d), the Secretary shall include in any mineral lease entered into for any land within a Special Protection Area and for any Federal minerals underlying the Northwater Creek drainage—

(1) a stipulation prohibiting surface occupancy or surface disturbance for purposes of exploration for or development of oil or natural gas; and

(2) such other terms and conditions as are necessary to protect and enhance the biological and ecological values associated with public land covered by the lease.

(d) NONWAIVABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), a stipulation, term, or condition described in subsection (c)(1) shall not be subject to waiver, exemption, or exception.

(2) EXCEPTIONS FOR EXISTING RIDGE-TOP ROADS.—The Secretary may allow the holder of a mineral lease to occupy the surface of public land identified on the map entitled ''Alternative II Management'' of the draft resource management plan that has a surveyed slope of not more than 20 percent and is within 600 feet on either side of the center line of the following existing ridge-top roads (not including any secondary roads or spur roads appurtenant to the ridge-top roads, other than the road described in subparagraph (F)):

(A) Anvil Points Road.

(B) Long Ridge Road.

(C) Short Ridge Road.

(D) Cook Ridge Road.

(E) Corral Ridge Road, numbered 8,000 off of Cow Creek Road, but only in areas that are outside the watershed of Trapper Creek.

(F) The spur road off of Cow Creek Road and Corral Ridge Road in sec. 1, 2, and 11, T. 5 S., R. 95 W., but only on the north and west sides of the road.

(e) CONDITIONS FOR OIL AND GAS EXPLORATION AND DEVELOPMENT ALONG EXISTING RIDGE-TOP ROADS.—

(1) IN GENERAL.—The Secretary may permit oil and gas exploration and development activities within the development corridors designated under subsection (d) only after—

(A) site-specific consultation with the Department of Natural Resources of the State;

(B) the conduct of a detailed review and analysis of the proposed location and activities; and

(C) incorporation of operational and procedural practices to avoid, minimize, or mitigate any potential impacts to biological or ecological resources, including state-of-the-art measures to minimize erosion from stormwater runoff.

(2) COMPLIANCE WITH FEDERAL AND STATE LAW.—Any oil and gas exploration and development activities authorized under subsection (d)(2) shall comply with applicable Federal and State laws (including regulations).

(f) PUBLIC COMMENT.—Before permitting oil and gas exploration and development activities under subsection (d)(2), the Secretary shall provide notice and an opportunity for public comment.

SEC. 265. PHASED MINERAL LEASING.

(a) IN GENERAL.—

(1) LEASES.—Except as provided in paragraph (2) and to the extent consistent with

this subtitle, the Secretary may issue mineral leases affecting public land within the Roan Plateau Planning Area pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) OIL SHALE.—The Secretary may not permit through a lease or other means any exploration for or development of oil shale resources within the Roan Plateau Planning Area.

(b) PHASED DEVELOPMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not at any time issue mineral leases for public land within more than 1 of the phased development areas.

(2) INITIAL PHASED DEVELOPMENT AREA.—The Secretary, in consultation with and concurrence by the Department of Natural Resources of the State and pursuant to this subsection, may select an area for initial issuance of mineral leases.

(3) FACTORS.—In making the selection under paragraph (2), the Secretary shall, to the maximum extent practicable—

(A) minimize environmental and ecological impact;

(B) minimize disturbance to natural areas atop the Roan Plateau;

(C) maximize use of existing access roads and oil and gas pipeline and production infrastructure;

(D) consider patterns of private land ownership adjacent to public land;

(E) protect and promote ecological diversity;

(F) minimize adverse effects on wildlife populations, habitat, and migration patterns;

(G) minimize adverse effects on watershed values; and

(H) maximize the revenues likely to be obtained by the United States and, pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.), the State.

(4) CHOICE OF INITIAL AREA.—The Secretary may select as the initial area for offering of leases only—

(A) the Anvil Ridge Oil and Gas Development Area; or

(B) the Corral Ridge Oil and Gas Development Area.

(5) PUBLIC COMMENT.—Before making a selection of a phased development area under this subsection, the Secretary shall provide notice and an opportunity for public comment.

(c) ENVIRONMENTAL PROTECTION.—Each mineral lease affecting public land within the Roan Plateau Planning Area shall include provisions to ensure the protection of the environment, including minimum pad spacing that incorporates current state-of-the-art drilling technologies and clustered development.

(d) BONUS BIDS AND LEASES.—In entering into leases for oil or gas exploration and development on public land within the Roan Plateau Planning Area, the Secretary may include minimum bonus bid amounts and lease sizes that are above the limits established under subparagraphs (A) and (B) of section 17(b)(1) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)), to the extent the Secretary considers the amounts and sizes appropriate to accomplish the purposes of this subtitle, including maximization of lease revenues and protection of the environment.

(e) REPORTS.—Not later than 1 year after the date on which leases are first offered pursuant to this section and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that includes detailed information about—

(1) the status of exploration or development activities pursuant to leases entered into under this section and the stipulations and other terms and conditions applicable to each such lease;

(2) the nature and effectiveness of actions taken to mitigate adverse effects of exploration or development activities pursuant to the leases and to reclaim land affected by the activities;

(3) the effectiveness of the actions described in paragraph (2); and

(4) the effects of such exploration or development activities on—

(A) water quality and quantity;

(B) air quality;

(C) the viability of native fish populations;

(D) wildlife habitat and populations;

(E) opportunities for hunting, fishing, and other recreational activities; and

(F) land affected by any discharges or spills related to the activities.

SEC. 266. SELECTION OF SUBSEQUENT LEASING AREAS.

(a) IN GENERAL.—Subject to subsection (d) and consistent with this subtitle, the Secretary, in consultation with and concurrence by the Department of Natural Resources of the State, may select the second and each subsequent phased development area for issuance of mineral leases.

(b) REQUIREMENTS.—Each selection under this section shall be made in accordance with the requirements of section 265(b)(3) that apply to the initial selection.

(c) PUBLIC COMMENT.—Before making a selection of a subsequent phased development area under this section, the Secretary shall provide notice and an opportunity for public comment.

(d) CONDITIONS.—Selection and leasing of the second or any subsequent phased development area shall occur only if—

(1) wells have been completed to recover at least 90 percent of the recoverable natural gas in each previously selected phased development area; and

(2) reclamation of ground disturbance to a 5-year interim reclamation standard as set forth in Appendix C of the June 2007 Record of Decision has occurred on at least 99 percent of the public land leased in each previously-selected phased development area.

SEC. 267. FEDERAL UNITIZATION AGREEMENTS.

(a) IN GENERAL.—The Secretary, in consultation with and concurrence by the Department of Natural Resources of the State, shall ensure that each lease for oil or gas exploration and development on public land within the Roan Plateau Planning Area under this subtitle contains a stipulation that requires the lessee to join a Federal unitization agreement that is approved by the Secretary covering all leases offered in the relevant phased development area.

(b) CONTENTS.—The unitization agreement under subsection (a) shall—

(1) identify the operator of the unit;

(2) allocate costs and benefits of production to all of the covered lessees; and

(3) provide a development plan for the leased area.

SEC. 268. RECORD OF DECISION.

(a) RECLAMATION REQUIREMENTS AND DISTURBANCE LIMITATIONS.—Each development activity conducted under a mineral lease affecting public land within the Roan Plateau Planning Area shall be subject to the reclamation requirements and disturbance limitations of the June 2007 Record of Decision and the March 2008 Record of Decision, including the limitation on the total unreclaimed surface disturbance on the Plateau to 350 acres.

(b) CONTINUED APPLICATION.—The June 2007 Record of Decision and the March 2008 Record of Decision shall continue to apply to the Roan Plateau Planning Area to the extent that the June 2007 Record of Decision and the March 2008 Record of Decision are consistent with this subtitle.

SEC. 269. CONFORMING AMENDMENTS.

Section 7439 of title 10, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''(1) Beginning on November 18, 1997, or as soon thereafter as practicable, the'' and inserting ''The''; and

(ii) in the first sentence—

(I) by striking ''shall'' and inserting ''may''; and

(II) by inserting '', as authorized under the Roan Plateau Oil and Gas Leasing Improvement Act of 2008'' before the period at the end; and

(B) by striking paragraph (2); and

(2) in subsection (f)—

(A) in paragraph (1), by striking ''specified in paragraph (2)'' and inserting ''beginning on November 18, 1997, and ending on the date of enactment of the Roan Plateau Oil and Gas Leasing Improvement Act of 2008''; and

(B) by striking paragraph (2) and inserting the following:

''(2) Beginning on the date of enactment of the Roan Plateau Oil and Gas Leasing Improvement Act of 2008, any amounts received by the United States from a lease under this section (including amounts in the form of sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be deposited in the Treasury of the United States, for use in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

Subtitle H—Export of Refined Petroleum Products

SEC. 271. EXPORT OF REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—The President shall report to Congress if net petroleum product exports to any country outside of North America exceed 1 percent of total United States consumption of refined petroleum products for any period of more than 7 days.

(b) CONTENTS.—The report shall—

(1) describe the reasons for the exports; and

(2) state whether those petroleum products that were exported could otherwise have been consumed inside the United States.

TITLE III—OIL DEMAND

Subtitle A—Oil Savings

SEC. 301. FINDINGS.

Congress finds that—

(1) the United States imports more oil from the Middle East today than before the attacks on the United States on September 11, 2001;

(2) the United States remains the most oil-dependent industrialized nation in the world, consuming approximately 25 percent of the oil supply of the world;

(3) the ongoing dependence of the United States on foreign oil is one of the greatest threats to the national security and economy of the United States; and

(4) the United States needs to take transformative steps to wean itself from its addiction to oil.

SEC. 302. POLICY ON REDUCING OIL DEPENDENCE.

It is the policy of the United States to reduce the dependence of the United States on oil, and thereby—

(1) alleviate the strategic dependence of the United States on oil-producing countries;

(2) reduce the economic vulnerability of the United States; and

(3) reduce the greenhouse gas emissions associated with oil use.

SEC. 303. OIL SAVINGS PLAN.

(a) INITIAL OIL SAVINGS TARGET AND ACTION PLAN.—Not later than 270 days after the date of enactment of this Act, an interagency task force composed of the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines appropriate (referred to in this section as the ''Interagency Task Force'') shall publish in the Federal Register an action plan consisting of—

(1) a draft list of proposals for agency action that will be sufficient, when taken together, to save from the baseline determined under subsection (d)—

(A) 2,500,000 barrels of oil per day on average during calendar year 2016;

(B) 7,000,000 barrels of oil per day on average during calendar year 2026; and

(C) 10,000,000 barrels per day on average during calendar year 2030; and

(2) a Federal Government-wide analysis demonstrating—

(A) the expected oil savings from the baseline to be accomplished by—

(i) chapter 329 of title 49, United States Code (including regulations promulgated to carry out that chapter); and

(ii) section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) (including regulations promulgated to carry out section 211(o) of that Act); and

(B) that the proposals described in paragraph (1), taken together with expected oil savings described in subparagraph (A), will achieve the oil savings specified in this subsection.

(b) REVIEW AND UPDATE OF ACTION PLAN.—

(1) REVIEW.—Not later than January 1, 2011, and every 3 years thereafter, the Interagency Task Force shall submit to Congress, and publish, a report that—

(A) evaluates the progress achieved in implementing the oil savings targets established under subsection (a);

(B) analyzes the expected oil savings under the action plan established under that subsection; and

(C)(i) analyzes the potential to achieve oil savings that are in addition to the oil savings goals under that subsection; and

(ii) if the President determines that it is in the national interest, requires an analysis under that subsection for a higher oil savings goal for calendar year 2017 or any subsequent calendar year.

(2) INSUFFICIENT OIL SAVINGS.—If the oil savings are less than the targets described in subsection (a), simultaneously with the report required under paragraph (1), the Interagency Task Force shall publish a revised action plan that is sufficient to achieve the targets.

(c) PUBLIC COMMENT AND FINAL PROPOSALS.—

(1) IN GENERAL.—After a 30-day period for public comment on the publications under subsection (a) and (b), the Interagency Task Force shall, not later than 1 year after the date of enactment of this Act, issue a final list of proposals to meet the requirements of this section.

(2) ADDITIONAL LEGISLATIVE AUTHORITY.—The proposals shall include a request to Congress for any additional legislative authority necessary to implement the proposals.

(d) BASELINE AND ANALYSIS REQUIREMENTS.—In performing the analyses required for the action plan to achieve the oil savings described in subsection (a), the Secretary of Energy, the Secretary of Transportation, the Secretary of Defense, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the head of any other agency the President determines to be appropriate shall—

(1) determine oil savings as the projected reduction in oil consumption from the baseline established by the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2008'';

(2) determine the oil savings projections required on an annual basis for each of calendar years 2009 through 2030; and

(3) account for any overlap among implementation actions to ensure that the projected oil savings from all the implementation actions, taken together, are as accurate as practicable.

(e) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects the authority provided or responsibility delegated under any other law.

Subtitle B—Telework

PART I—INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION

SEC. 306. INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.

Part J of title III of the Energy Policy and Conservation Act (42 U.S.C. 6374 et seq.) is amended by adding at the end the following:

''SEC. 400GG. INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.

''(a) FEDERAL EMPLOYEE INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.—

''(1) IN GENERAL.—Each Federal agency shall actively promote incentive programs that encourage Federal employees and contractors to reduce petroleum usage through the use of practices such as—

''(A) telecommuting;

''(B) public transit;

''(C) carpooling; and

''(D) bicycling.

''(2) MONITORING AND SUPPORT FOR INCENTIVE PROGRAMS.—The Administrator of General Services, the Director of the Office of Personnel Management, and the Secretary of Energy shall monitor and provide appropriate support to agency programs described in paragraph (1).

''(3) RECOGNITION.—The Secretary may establish a program under which the Secretary recognizes private sector employers for outstanding programs to reduce petroleum usage through practices described in paragraph (1).

''(b) GRANTS TO STATES AND LOCAL GOVERNMENTS FOR INCENTIVE PROGRAMS FOR REDUCING PETROLEUM CONSUMPTION.—

''(1) IN GENERAL.—The Secretary shall make grants to States and local governments to pay the Federal share of the cost of carrying out incentive programs to reduce petroleum usage through the use of practices such as—

''(A) telecommuting;

''(B) public transit;

''(C) carpooling; and

''(D) bicycling.

''(2) FEDERAL SHARE.—Except as provided in paragraph (3)(B), the Federal share of the cost of carrying out an incentive program described in paragraph (1) shall be 50 percent.

''(3) RURAL AREAS.—In the case of local governments that serve rural areas (as defined by the Secretary)—

''(A) the Secretary shall give priority to those local governments in making grants under this subsection; and

''(B) the Federal share of the cost of carrying out an incentive program described in paragraph (1) shall be 100 percent.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2015.''.

PART II—TELEWORK ENHANCEMENT

SEC. 311. SHORT TITLE.

This part may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 312. DEFINITIONS.

In this part:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this part.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 313. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 314. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 315. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 316. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 317. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 318. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this part if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 313, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 317(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 317, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 319. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

Subtitle C—Public Transportation

SEC. 331. ENERGY EFFICIENT TRANSIT GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a program for making grants to public transportation agencies to assist in reducing energy consumption or greenhouse gas emissions of their public transportation systems.

(b) ELIGIBLE USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

(1) Improvements that reduce energy consumption or greenhouse gas emissions to lighting, heating, cooling, or ventilation systems in public transportation stations and other facilities for which grants authorized by sections 5307, 5309, and 5311 of title 49, United States Code, may be expended.

(2) Adjustments to signal timing or other vehicle controlling systems, including computer controlled systems, that reduce energy consumption or greenhouse gas emissions.

(3) Purchasing or retrofitting rolling stock to improve energy efficiency or reduce greenhouse gas emissions.

(4) Improvements to energy distribution systems.

(c) DISTRIBUTION OF FUNDS.—In determining the recipients of grants under this section, the Secretary of Transportation shall—

(1) consult with other Federal agencies, including the Department of Energy, as appropriate; and

(2) evaluate applications based on—

(A) the total energy savings that are projected to result from the project; and

(B) the projected energy savings as a percentage of the transit agency's total energy usage.

(d) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

(e) TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a

grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code.

(f) ANNUAL REPORTS.—On March 1, 2009, and 2010, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report listing the recipients of grants under this section, the purposes for which grant funds were awarded, and any grant applicants who did not receive funding.

(g) LIMITATION ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than 0.5 percent of the amount made available for a fiscal year under subsection (h) to provide technical assistance and administer the grants authorized under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to make grants under this section $200,000,000 for each of fiscal years 2009 through 2011. Sums appropriated to carry out this section shall remain available until expended.

SEC. 332. TRANSIT-ORIENTED DEVELOPMENT CORRIDORS GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a program for making grants to public transportation agencies, metropolitan planning organizations, and other State or local government authorities to support planning and design of Transit-Oriented Development Corridors.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TRANSIT-ORIENTED DEVELOPMENT CORRIDOR.—The term ''Transit-Oriented Development Corridor'' means a geographic area, including rights-of-way for fixed guideway public transportation facilities, within ½ mile radius of a fixed guideway transit station or stop.

(2) OTHER TERMS.—The terms ''fixed guideway'', ''local governmental authority'', ''public transportation'', ''Secretary'', and ''State'' have the meanings given such terms in section 5302 of title 49, United States Code.

(c) ELIGIBLE USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for planning or designing Transit-Oriented Development Corridors.

(d) DISTRIBUTION OF FUNDS.—In determining the recipients of grants under this section, the Secretary shall evaluate applications based on the following considerations:

(1) The justification for the project, including the extent to which the project would reduce energy consumption or greenhouse gas emissions, including by increasing transit ridership and by increasing non-motorized trips to access the transit station or facility.

(2) The location of the project, to ensure that selected projects are geographically diverse nationwide and include both urban and suburban areas.

(3) The extent to which project development is being coordinated with all relevant participants, including real-estate, retail, housing, commercial and economic development, and non-profit participants.

(4) The extent to which the project includes mixed-use development within the designated geographic area.

(5) The extent to which the project is being coordinated with relevant housing, economic development, land use, and transportation plans.

(e) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity, except for an activity undertaken by a grant recipient who has not previously engaged in the planning or design of a corridor which would meet the definition of a Transit-Oriented Development Corridor under this section.

(f) TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section for planning shall be subject to the terms and conditions applicable to a grant made under section 5303 of title 49, United States Code. Except as otherwise specifically provided in this section, a grant provided under this section for design shall be subject to the terms and conditions applicable to a grant for design made under section 5309 of title 49, United States Code.

(g) ANNUAL REPORTS.—On June 1, 2009, and 2010, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report listing the recipients of grants under this section, the Federal share provided, the purposes for which grant funds were awarded, and any grant applicants who did not receive funding.

(h) LIMITATION ON USE OF AVAILABLE AMOUNTS.—The Secretary may use not more than 0.5 percent of the amount made available for a fiscal year under subsection (i) to provide technical assistance and administer the grants authorized under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to make grants under this section $200,000,000 for each of fiscal years 2009 through 2011. Sums appropriated to carry out this section shall remain available until expended.

SEC. 333. ENHANCED TRANSIT OPTIONS.

(a) AUTHORIZATION.—The Secretary of Transportation is authorized to make transit enhancement grants under this section to public transportation agencies.

(b) ELIGIBLE RECIPIENTS.—Grants authorized under subsection (a) may be awarded—

(1) to public transportation agencies which have a full funding grant agreement in force on the date of enactment of this Act with Federal payments scheduled in any year beginning with fiscal year 2008, for activities authorized under the full funding grant agreement that would expedite construction of the project; and

(2) to designated recipients as defined in section 5307 of title 49, United States Code, for immediate use to—

(A) address an already-identified backlog of maintenance needs;

(B) purchase additional rolling stock or buses, if the contracts for such purchases are in place prior to the grant award; and

(C) continue or expand service to accommodate ridership increases.

(c) APPROPRIATION OF FUNDS.—There are appropriated, out of funds in the Treasury not otherwise appropriated, to the Secretary of Transportation to make grants under this section—

(1) $300,000,000 for grants to recipients described in subsection (b)(1); and

(2) $1,000,000,000 for grants to recipients described in subsection (b)(2).

(d) DISTRIBUTION OF FUNDS.—

(1) EXPEDITED NEW STARTS GRANTS.—Funds authorized under subsection (c)(1) shall be distributed among eligible recipients so that each recipient receives an equal percentage increase based on the Federal funding commitment for fiscal year 2008 specified in Attachment 6 of the recipient's full funding grant agreement.

(2) FORMULA GRANTS.—Of funds authorized under subsection (c)(2)—

(A) 60 percent shall be distributed according to the formula in subsections (a) through (c) of section 5336 of title 49, United States Code; and

(B) 40 percent shall be distributed according to the formula in section 5340 of title 49, United States Code.

(3) DETERMINATION.—The Secretary of Transportation shall determine the allocation of the amounts authorized among recipients described in subsection (b) no later than 20 days after the date of enactment of this Act.

(e) PRE-AWARD SPENDING AUTHORITY.—

(1) IN GENERAL.—A recipient of a grant under this section shall have pre-award spending authority.

(2) REQUIREMENTS.—If pre-award spending authority is used, the expenditures shall conform with applicable Federal requirements in order to remain eligible for future Federal reimbursement.

(f) FEDERAL SHARE.—The Federal share of grants authorized under this section shall be 100 percent.

(g) SELF-CERTIFICATION.—

(1) IN GENERAL.—Prior to obligation of grant funds, the recipient of the grant award shall certify—

(A) for recipients under subsection (b)(1), that it will comply with the terms and conditions that apply to grants under section 5309 of title 49, United States Code;

(B) for recipients under subsection (b)(2), that it will comply with the terms and conditions that apply to grants under section 5307 of title 49, United States Code; and

(C) that the funds will be used in a manner that will stimulate the economy.

(2) INCLUSION.—Required certifications under this subsection may be made as part of the certification required under section 5307(d)(1) of title 49, United States Code.

(3) PENALTY.—If, upon audit, the Secretary of Transportation finds that the recipient has not complied with applicable requirements under this section and has not made a good-faith effort to comply, the Secretary may withhold not more than 25 percent of the amount required to be appropriated for that recipient under section 5307 of title 49, United States Code, for the following fiscal year.

Subtitle D—Fuel Consumption Indicator Devices

SEC. 336. ONBOARD FUEL ECONOMY INDICATORS AND DEVICES.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''§ 32920. Fuel economy indicators and devices

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prescribe a fuel economy standard for passenger automobiles and nonpassenger automobiles manufactured by a manufacturer in model year 2012, and in each model year after 2012, that requires each such automobile to be equipped with—

''(1) an onboard electronic instrument that provides real-time and cumulative fuel economy data;

''(2) an onboard electronic instrument that signals a driver when inadequate tire pressure may be affecting fuel economy; and

''(3) a device that will allow drivers to place the automobile in a mode that will automatically produce greater fuel economy.

''(b) EXCEPTION.—Subsection (a) shall not apply to any vehicle that is not subject to an average fuel economy standard under section 32902(b).

''(c) ENFORCEMENT.—Subchapter IV of chapter 301 of this title shall apply to a fuel economy standard prescribed under subsection (a) to the same extent and in the same manner as if that standard were a motor vehicle safety standard under chapter 301.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32919 the following:

''32920. Fuel economy indicators and devices.''.

Subtitle E—Vehicle-to-Grid Demonstration Program

SEC. 341. VEHICLE-TO-GRID DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:
(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.
(2) V2G PROGRAM.—The term ''V2G program'' means the vehicle-to-grid demonstration program established under subsection (b).

(b) PROGRAM.—The Secretary shall establish and carry out a vehicle-to-grid demonstration program—
(1) to demonstrate ways in which electricity may be transmitted between plug-in hybrid electric vehicles and an electricity distribution system;
(2) to collect real-world data on that transmission;
(3) to develop a better understanding of the benefits of vehicle-to-grid technologies;
(4) to facilitate future adoption of vehicle-to-grid systems; and
(5) to demonstrate optimal integration of advanced vehicle technologies with a renewable energy-based electricity distribution system.

(c) REQUIREMENTS.—The V2G program shall address the challenges to achieving integration of advanced vehicle technologies with the electricity distribution system, including challenges relating to—
(1) charging infrastructure;
(2) accurate and discrete measurement of energy delivered;
(3) communication protocol standards;
(4) power flow control;
(5) smart metering technology; and
(6) the impact on the grid from integration of various renewable energy generation loads ranging from 10 to 25 percent renewable power.

(d) COOPERATION.—The Secretary shall carry out the V2G program through consortia of individuals and entities such as—
(1) energy storage system manufacturers and associated suppliers;
(2) electric drive vehicle manufacturers;
(3) rural electric cooperatives;
(4) investor-owned utilities;
(5) municipal and rural electric utilities;
(6) State and local governments;
(7) metropolitan transportation authorities; and
(8) institutions of higher education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

Subtitle F—Advanced Technology Vehicles Manufacturing Incentive Program

SEC. 346. ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.

Section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) is amended—

(1) in subsection (d)(1), by striking ''and subject to the availability of appropriated funds,''; and

(2) by striking subsection (i) and inserting the following:

''(i) FUNDING.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section (other than subsection (d)) for each of fiscal years 2008 through 2013.

''(2) DIRECT LOAN PROGRAM.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2008, and on each October 1 thereafter through October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary for the cost of loans to carry out subsection (d) $200,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subsection (d) the funds transferred under subparagraph (A), without further appropriation.''.

Subtitle G—Advanced Batteries

SEC. 351. DEFINITION OF ADVANCED BATTERY.

In this subtitle, the term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

SEC. 352. ADVANCED BATTERY RESEARCH AND DEVELOPMENT.

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

(1) expand and accelerate research and development efforts for advanced batteries; and

(2) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641(p) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231(p)) is amended—

(1) in paragraph (1), by striking ''$50,000,000'' and inserting ''$100,000,000'';
(2) in paragraph (2), by striking ''$80,000,000'' and inserting ''$160,000,000'';
(3) in paragraph (3), by striking ''$100,000,000'' and inserting ''$200,000,000'';
(4) in paragraph (4), by striking ''$30,000,000'' and inserting ''$60,000,000''; and
(5) in paragraph (5), by striking ''$30,000,000'' and inserting ''$60,000,000''.

SEC. 353. ADVANCED BATTERY MANUFACTURING AND TECHNOLOGY ROADMAP.

(a) ROADMAP REQUIRED.—The Director of the Office of Science and Technology Policy shall (in coordination with the Secretary of Energy, the Secretary of Defense, the Secretary of Commerce, and heads of other appropriate Federal agencies) develop a multiyear roadmap to develop advanced battery technologies and sustain domestic advanced battery manufacturing capabilities and an assured supply chain necessary to ensure that the United States has assured access to advanced battery technologies to support current and emerging energy security and defense needs.

(b) ELEMENTS.—The roadmap required by subsection (a) shall include—

(1) an identification of current and future capability gaps, performance enhancements, cost savings goals, and assured technology access goals that require advances in battery technology and manufacturing capabilities;

(2) specific research, technology, and manufacturing goals and milestones, and timelines and estimates of funding necessary for achieving the goals and milestones;

(3) specific mechanisms for coordinating the activities of Federal agencies, State and local governments, coalition partners, private industry, and academia covered by the roadmap; and

(4) such other matters as are considered to be appropriate for purposes of the roadmap.

(c) COORDINATION.—

(1) IN GENERAL.—The roadmap required by subsection (a) shall be developed in coordination with—

(A) all appropriate agencies and organizations within the Department of Defense;

(B) other appropriate Federal agencies;

(C) Federal, State, and local governmental organizations; and

(D) representatives of private industry and academia.

(2) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The Director of the Office of Science and Technology Policy shall ensure that appropriate elements and organizations of the Office of Science and Technology Policy provide such information and other support as are required for the development of the roadmap.

(d) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to the appropriate committees of Congress the roadmap required by subsection (a).

SEC. 354. SENSE OF SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.

It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

Subtitle H—National Energy-Efficient Driver Education Program

SEC. 361. NATIONAL ENERGY-EFFICIENT DRIVER EDUCATION PROGRAM.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop and actively promote educational materials providing information that can be incorporated into driver education programs regarding driving and vehicle maintenance practices that optimize vehicle fuel economy.

Subtitle I—Oil and Gas Reserves Reporting Requirements

SEC. 366. OIL AND GAS RESERVES REPORTING REQUIREMENTS.

It is the sense of the Senate that the Securities and Exchange Commission should accelerate the rulemaking process being undertaken to modernize and increase transparency in oil and gas reserves reporting requirements.

Subtitle J—Tire Efficiency Consumer Information

SEC. 371. CONSUMER TIRE INFORMATION.

Section 32304A(a)(1) of title 49, United States Code, is amended by striking ''24 months'' and inserting ''15 months''.

Subtitle K—Petroleum Use Reduction Technology Deployment

SEC. 376. PETROLEUM USE REDUCTION TECHNOLOGY DEPLOYMENT GRANTS.

(a) IN GENERAL.—The Secretary of Energy shall establish a competitive grant program,

to be administered through the Vehicle Technology Deployment Program of the Department of Energy, to provide grants to local Clean Cities coalitions and stakeholders, industry partners, fuel providers, and end users to promote the adoption and use of petroleum use reduction technologies and practices.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2009 through 2013.

Subtitle L—Energy Efficient Building Codes

SEC. 381. ENERGY EFFICIENT BUILDING CODES.

(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES AND STANDARDS.—

(1) UPDATING.—

(A) IN GENERAL.—The Secretary of Energy (referred to in this section as the ''Secretary'') shall facilitate the updating of national model building energy codes and standards at least every 3 years to achieve overall energy savings, compared to the 2006 International Energy Conservation Code (referred to in this section as the ''IECC'') for residential buildings and ASHRAE/IES Standard 90.1 (2004) for commercial buildings, of at least—

(i) 30 percent by 2015; and

(ii) 50 percent by 2022.

(B) MODIFICATION OF GOAL.—If the Secretary determines that the goal referred to in subparagraph (A)(ii) cannot be achieved using existing technology, or would not be lifecycle cost effective, the Secretary shall establish, after providing notice and an opportunity for public comment, a revised goal that ensures the maximum level of energy efficiency that is technologically feasible and lifecycle cost effective.

(2) REVISION OF CODES AND STANDARDS.—

(A) IN GENERAL.—If the IECC or ASHRAE/IES Standard 90.1 regarding building energy use is revised, not later than 1 year after the date of the revision, the Secretary shall determine whether the revision will—

(i) improve energy efficiency in buildings; and

(ii) meets the targets established under paragraph (1).

(B) REVISION BY SECRETARY.—

(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the targets established under paragraph (1), or if a national model code or standard is not updated for more than 3 years, not later than 2 years after the determination or the expiration of the 3-year period, the Secretary shall amend the IECC or ASHRAE/IES Standard 90.1 (as in effect on the date on which the determination is made) to establish a modified code or standard that meets the targets established under paragraph (1).

(ii) BASELINE.—The modified code or standard shall serve as the baseline for the next determination under subparagraph (A)(i).

(C) NOTICE AND COMMENT.—The Secretary shall—

(i) publish in the Federal Register notice of targets, determinations, and modified codes and standards under this subsection; and

(ii) provide the opportunity for public comment on targets, determinations, and modified codes and standards under this subsection.

(b) STATE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

(1) STATE CERTIFICATION.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, each State shall certify to the Secretary that the State has reviewed and updated the residential and commercial building code of the State regarding energy efficiency.

(B) ENERGY SAVINGS.—The certification shall include a demonstration that the code of the State—

(i) meets or exceeds the 2006 IECC for residential buildings and the ASHRAE/IES Standard 90.1–2004 for commercial buildings; or

(ii) achieves equivalent or greater energy savings.

(2) REVISION OF CODES AND STANDARDS.—

(A) IN GENERAL.—If the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or establishes a modified code or standard under subsection (a)(2)(B), not later than 2 years after the determination or proposal, each State shall certify that the State has reviewed and updated the building code of the State regarding energy efficiency.

(B) ENERGY SAVINGS.—The certification shall include a demonstration that the code of the State—

(i) meets or exceeds the revised code or standard; or

(ii) achieves equivalent or greater energy savings.

(C) REVIEW AND UPDATING BY STATES.—If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2) or makes a negative determination under subsection (a)(2)(A), not later 3 years after the specified date or the date of the determination, each State shall certify that the State has—

(i) reviewed the revised code or standard; and

(ii) updated the building code of the State regarding energy efficiency to—

(I) meet or exceed any provisions found to improve energy efficiency in buildings; or

(II) achieve equivalent or greater energy savings in other ways.

(c) STATE CERTIFICATION OF COMPLIANCE WITH BUILDING CODES.—

(1) IN GENERAL.—Not later than 3 years after a certification of a State under subsection (b), the State shall certify that the State has achieved compliance with the certified building energy code.

(2) RATE OF COMPLIANCE.—The certification shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code during the preceding year.

(3) COMPLIANCE.—A State shall be considered to achieve compliance with the certified building energy code under paragraph (1) if—

(A) at least 90 percent of new and renovated buildings covered by the code during the preceding year substantially meet all the requirements of the code; or

(B) the estimated excess energy use of new and renovated buildings that did not meet the code during the preceding year, compared to a baseline of comparable buildings that meet the code, is not more than 10 percent of the estimated energy use of all new and renovated buildings covered by the code during the preceding year.

(d) FAILURE TO MEET DEADLINES.—

(1) REPORTS.—A State that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

(A) the status of the State with respect to completing and submitting the certification; and

(B) a plan of the State for completing and submitting the certification.

(2) EXTENSIONS.—The Secretary shall permit an extension of an applicable deadline for a certification requirement under subsection (b) or (c) for not more than 1 year if a State demonstrates in the report of the State under paragraph (1) that the State has made—

(A) a good faith effort to comply with the requirements; and

(B) significant progress in complying with the requirements, including by developing and implementing a plan to achieve that compliance.

(3) NONCOMPLIANCE BY STATE.—Any State for which the Secretary has not accepted a certification by a deadline established under subsection (b) or (c), with any extension granted under paragraph (2), shall be considered not in compliance with this section.

(4) COMPLIANCE BY LOCAL GOVERNMENTS.—In any State that is not in compliance with this section, a local government of the State may comply with this section by meeting the certification requirements under subsections (b) and (c).

(5) ANNUAL COMPLIANCE REPORTS.—

(A) IN GENERAL.—The Secretary shall annually submit to Congress a report that contains, and publish in the Federal Register, a list of—

(i) each State (including local governments in a State, as applicable) that is in compliance with the requirements of this section; and

(ii) each State that is not in compliance with those requirements.

(B) INCLUSION.—For each State included on a list described in subparagraph (A)(ii), the Secretary shall include an estimate of—

(i) the increased energy use by buildings in that State due to the failure of the State to comply with this section; and

(ii) the resulting increase in energy costs to individuals and businesses.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide technical assistance (including building energy analysis and design tools, building demonstrations, and design assistance and training) to enable the national model building energy codes and standards to meet the targets established under subsection (a)(1).

(2) ASSISTANCE TO STATES.—The Secretary shall provide technical assistance to States to—

(A) implement this section, including procedures for States to demonstrate that the codes of the States achieve equivalent or greater energy savings than the national model codes and standards;

(B) improve and implement State residential and commercial building energy efficiency codes; and

(C) otherwise promote the design and construction of energy efficient buildings.

(f) AVAILABILITY OF INCENTIVE FUNDING.—

(1) IN GENERAL.—The Secretary shall provide incentive funding to States to—

(A) implement this section; and

(B) improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with the codes.

(2) FACTORS.—In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to—

(A) implement this section;

(B) improve and implement residential and commercial building energy efficiency codes; and

(C) promote building energy efficiency through the use of the codes.

(3) ADDITIONAL FUNDING.—The Secretary shall provide additional funding under this subsection for implementation of a plan to achieve and document at least a 90 percent

rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

(A) to a State that has adopted and is implementing, on a statewide basis—

(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2006 IECC, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); and

(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE/IES Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); or

(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

(4) TRAINING.—Of the amounts made available under this subsection, the Secretary may use to train State and local officials to implement codes described in paragraph (3) at least $500,000 for each fiscal year.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

(i) $25,000,000 for each of fiscal years 2006 through 2010; and

(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

(B) LIMITATION.—Funding provided to States under paragraph (3) for each fiscal year shall not exceed ½ of the excess of funding under this subsection over $5,000,000 for the fiscal year.

(g) TECHNICAL CORRECTION.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following:

''(17) IECC.—The term 'IECC' means the International Energy Conservation Code.''.

Subtitle M—Renewable Energy Pilot Project Offices

SEC. 386. PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.

(a) IN GENERAL.—Section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924) is amended by adding at the end the following:

''(k) PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.—

''(1) DEFINITION OF RENEWABLE ENERGY.—In this subsection, the term 'renewable energy' means energy derived from a wind or solar source.

''(2) FIELD OFFICES.—As part of the Pilot Project, the Secretary shall designate 1 field office of the Bureau of Land Management in each of the following States to serve as Renewable Energy Pilot Project Offices for coordination of Federal permits for renewable energy projects on Federal land:

''(A) Arizona.

''(B) California.

''(C) New Mexico.

''(D) Nevada.

''(E) Montana.

''(3) MEMORANDUM OF UNDERSTANDING.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into an amended memorandum of understanding under subsection (b) to provide for the inclusion of the additional Renewable Energy Pilot Project Offices in the Pilot Project.

''(B) SIGNATURES BY GOVERNORS.—The Secretary may request that the Governors of each of the States described in paragraph (2) be signatories to the amended memorandum of understanding.

''(4) DESIGNATION OF QUALIFIED STAFF.—Not later than 30 days after the date of the signing of the amended memorandum of understanding, all Federal signatory parties shall, if appropriate, assign to each Renewable Energy Pilot Project Offices designated under paragraph (2) an employee described in subsection (c) to carry out duties described in that subsection.

''(5) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Renewable Energy Pilot Project Office additional personnel under subsection (f).''.

(b) PERMIT PROCESSING IMPROVEMENT FUND.—Section 35(c)(3) of the Mineral Leasing Act (30 U.S.C. 191(c)(3)) is amended—

(1) by striking ''use authorizations'' and inserting ''and renewable energy use authorizations''; and

(2) by striking ''section 365(d)'' and inserting ''subsections (d) and (k)(2) of section 365''.

TITLE IV—ROYALTY MANAGEMENT REFORMS

Subtitle A—Repeal of Deep Water Royalty Relief

SEC. 401. REPEAL OF DEEP WATER ROYALTY RELIEF.

Sections 344 and 345 of the Energy Policy Act of 2005 (42 U.S.C. 15904, 15905) are repealed.

Subtitle B—Royalty Reforms

SEC. 411. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

(1) in paragraph (20)—

(A) in subparagraph (A), by striking '': *Provided*, That'' and all that follows through ''subject of the judicial proceeding''; and

(B) in subparagraph (B), by striking ''(with written notice to the lessee who designated the designee)'';

(2) in paragraph (23)(A), by striking ''(with written notice to the lessee who designated the designee)'' ;

(3) by striking paragraph (24) and inserting the following:

''(24) 'designee' means any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee is required to make pursuant to section 102(a);'';

(4) in paragraph (25)(B), by striking ''(subject to the provisions of section 102(a) of this Act)''; and

(5) in paragraph (26), by striking ''(with notice to the lessee who designated the designee)''.

SEC. 412. LIABILITY FOR ROYALTY PAYMENTS.

Section 102 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712) is amended by striking subsection (a) and inserting the following:

''(a) LIABILITY FOR ROYALTY PAYMENTS.—

''(1) IN GENERAL.—To increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make the payments in the time and manner as may be specified by the Secretary or the applicable delegated State.

''(2) STATUS AS DESIGNEE.—Any person who pays, offsets, or credits funds, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee is required to make shall be considered the designee of the lessee under this Act.

''(3) LIABILITY OF DESIGNEE.—Notwithstanding any other provision of this Act, a designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease.

''(4) OWNERS OF OPERATING RIGHTS AND TITLE.—The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for the pro rata share of the person of payment obligations under the lease.''.

SEC. 413. INTEREST.

(a) ESTIMATED PAYMENTS; INTEREST ON AMOUNT OF UNDERPAYMENT.—Section 111(j) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(j)) is amended by striking ''If the estimated payment exceeds the actual royalties due, interest is owed on the overpayment.''.

(b) OVERPAYMENTS.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended—

(1) by striking subsections (h) and (i); and

(2) by redesignating subsections (j), (k), and (l) as subsections (h), (i), and (j), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 414. OBLIGATION PERIOD.

Section 115(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(c)) is amended by adding at the end the following:

''(3) ADJUSTMENTS.—In the case of an adjustment under section 111A(a) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act, the obligation shall become due on the date the lessee or a designee of the lessee makes the adjustment.''.

SEC. 415. TOLLING AGREEMENTS AND SUBPOENAS.

(a) TOLLING AGREEMENTS.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(1)) is amended by striking ''(with notice to the lessee who designated the designee)''.

(b) SUBPOENAS.—Section 115(d)(2)(A) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(2)(A)) is amended by striking ''(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee)''.

SA 5136. Mr. GREGG (for himself and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—WARM ACT

SEC. 21. SHORT TITLE.

This title may be cited as the ''Weatherization, Assistance, and Relief for Middle-Income Households Act of 2008'' or the ''WARM Act of 2008''.

SEC. 22. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

In addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in

the Treasury not otherwise appropriated, for fiscal year 2008—

(1) $1,265,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $1,265,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

SEC. 23. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS.

In addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008 $523,000,000 to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), to remain available until expended.

SEC. 24. CREDIT FOR HOME HEATING OIL EXPENDITURES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. HOME HEATING OIL EXPENDITURES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified home heating oil expenditures made by the taxpayer during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed $1,000 ($2,000 in the case of a joint return).

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The amount which would (but for this paragraph) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by 10 percent (20 percent in the case of a joint return) of so much of the taxpayer's adjusted gross income as exceeds $60,000 ($90,000 in the case of a joint return).

''(c) QUALIFIED HOME HEATING OIL EXPENDITURES.—For purposes of this section, the term 'qualified home heating oil expenditures' means any expenditures for the purchase of heating oil that—

''(1) are made for the purpose of heating a dwelling unit or heating water for use in a dwelling unit located in the United States and used as a residence by the taxpayer, and

''(2) are made on or after June 1, 2008, and before January 1, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 25D(c)(2) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 26(a)(1) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(6) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(7) Section 1400C(d)(2) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 25E''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Home heating oil expenditures.''.

SEC. 25. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 26. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (B) as subparagraph (C), by striking ''or'' at the end of subparagraph (A), and by inserting after subparagraph (A) the following new subparagraph:

''(B) so much of any transportation of such minerals as occurs before the fair market value event, or''.

(b) FAIR MARKET VALUE EVENT.—Subsection (c) of section 907 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) FAIR MARKET VALUE EVENT.—For purposes of this section, the term 'fair market value event' means, with respect to any mineral, the first point in time at which such mineral—

''(A) has a fair market value which can be determined on the basis of a transfer, which is an arm's length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

''(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).''.

(c) SPECIAL RULE FOR CERTAIN PETROLEUM TAXES.—Subsection (c) of section 907 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(7) OIL AND GAS TAXES.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

''(A) the term 'oil and gas extraction taxes' shall include such tax,

''(B) the term 'foreign oil and gas extraction income' shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

''(C) the term 'foreign oil related income' shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 907(c)(1) of the Internal Revenue Code of 1986, as redesignated by this section, is amended by inserting ''or used by the taxpayer in the activity described in subparagraph (B)'' before the period at the end.

(2) Subparagraph (B) of section 907(c)(2) of such Code is amended to read as follows:

''(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),''.

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

SA 5137. Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. DEEP SEA EXPLORATION.

(a) PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.—Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

(b) PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

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

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

(c) CONFORMING AMENDMENTS.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. ___. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals

and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

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

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

SA 5138. Mr. BARRASSO (for himself, Mr. BUNNING, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROCUREMENT OF UNCONVENTIONAL FUEL BY DEPARTMENT OF DEFENSE.

(a) PROCUREMENT AUTHORIZED.—Subchapter II of chapter 173 of title 10, United States Code, is amended by adding at the end the following new section:

"SEC. 2922g. PROCUREMENT OF UNCONVENTIONAL FUEL.

''(a) LONG TERM CONTRACTS FOR UNCONVENTIONAL FUEL.—The Secretary of Defense may enter into contracts for the procurement of unconventional fuel. The term of any contract under this section may be such period as the Secretary considers appropriate, but not more than 25 years.

''(b) WAIVER AUTHORITY.—(1) In procuring unconventional fuel, the Secretary may waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines that—

''(A) the waiver is necessary to procure such unconventional fuel for Government needs; and

''(B) in the case of a contract for a term in excess of five years, it would not be possible to procure such unconventional fuel from the source in an economical manner without the use of a contract for a period in excess of five years.

''(2) Any waiver that is applicable to a contract for the procurement of unconventional fuel under this subsection may also, at the election of the Secretary, apply to a subcontract under that contract.

''(c) PRICING AUTHORITY FOR UNCONVENTIONAL FUEL PURCHASED FROM DOMESTIC SOURCES.—(1) The Secretary shall ensure that any purchase of unconventional fuel under a contract under this section is cost effective for the Department of Defense.

''(2) The Secretary may procure unconventional fuel from domestic sources at a price higher than comparable petroleum products, or include a price guarantee for the procurement of unconventional fuel from such sources, if the Secretary determines that—

''(A) such price is necessary to develop or maintain an assured supply of unconventional fuel produced from domestic sources; and

''(B) supplies of unconventional fuel from domestic sources cannot be effectively increased or obtained at lower prices.

''(d) OBLIGATION OF FUNDS.—At the time of award of any contract for the procurement of unconventional fuel under this section in excess of one year, the Secretary may obligate annually funds sufficient to cover the annual costs of the contract. In the event that funds are not available for the continuation of the contract in any subsequent years, the contract shall be cancelled or terminated. The Secretary may fund any cancellation or termination liability out of funds originally available at the time of award, funds currently available at the time termination liability is incurred, or funds specifically appropriated for those payments.

''(e) DEFINITIONS.—In this section:

''(1) The term 'domestic source' means a facility (including feedstock) located physically in the United States that produces or generates unconventional fuel.

''(2) The term 'unconventional fuel' means transportation fuel that is derived from a feedstock other than conventional petroleum and includes transportation services related to the delivery of such fuel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 173 of such title is amended by adding at the end the following new item:

''2922g. Procurement of unconventional fuel.''.

SEC. ___. REDUCTION OF GASOLINE CONSUMPTION BY FEDERAL AGENCIES.

The President shall take such action as is necessary to ensure, to the maximum extent practicable, that Federal agencies (other than agencies of the Department of Defense), individually and collectively, reduce consumption of gasoline during fiscal year 2009 and each subsequent fiscal year by not less than 2 percent from the level of gasoline consumed by the Federal agencies during fiscal year 2007.

SA 5139. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—ENERGY INFRASTRUCTURE

SEC. 21. TAX-EXEMPT FINANCING OF ENERGY TRANSPORTATION INFRASTRUCTURE NOT SUBJECT TO PRIVATE BUSINESS USE TESTS.

(a) IN GENERAL.—Section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR CERTAIN ENERGY TRANSPORTATION INFRASTRUCTURE.—

''(i) IN GENERAL.—For purposes of the 1st sentence of subparagraph (A), the operation or use of any property described in clause (ii) by any person which is not a governmental unit shall not be considered a private business use.

''(ii) PROPERTY DESCRIBED.—For purposes of clause (i), the following property is described in this clause:

''(I) Any tangible property used to transmit electricity at 230 or more kilovolts if such property is placed in service as part of a State or multi-State effort to improve interstate electricity transmission and is physically located in not less than 2 States.

''(II) Any tangible property used to transmit electricity generated from renewable resources.

''(III) Any tangible property used as a transmission pipeline for crude oil or diesel fuel produced from coal or other synthetic petroleum products produced from coal if such property is placed in service as part of a State or multi-State effort to improve the transportation of crude oil or diesel fuel produced from coal or other synthetic petroleum products produced from coal.

''(IV) Any tangible property used as a carbon dioxide transmission pipeline if such property is placed in service as part of a State or multi-State effort to improve interstate or intrastate efforts to develop transportation infrastructure for purposes of permanently sequestering carbon dioxide.''.

(b) EXCEPTION TO PRIVATE LOAN FINANCING TEST.—Section 141(c)(2) of the Internal Revenue Code of 1986 (relating to exception for tax assessment, etc., loans) is amended—

(1) by striking ''or'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting '', or'', and

(3) by adding at the end the following new subparagraph:

''(D) enables the borrower to finance any property described in subsection (b)(6)(C)(ii).''.

(c) REDUCTION OF STATE VOLUME CAP BY AMOUNT OF ENERGY TRANSPORTATION INFRASTRUCTURE FINANCING.—Section 146 of the Internal Revenue Code of 1986 (relating to volume cap) is amended by adding at the end the following new subsection:

''(o) REDUCTION FOR ENERGY TRANSPORTATION INFRASTRUCTURE FINANCING.—The volume cap of any issuing authority for any calendar year shall be reduced by the amount of bonds issued as part of an issue by such authority to provide for property described in section 141(b)(6)(C)(ii).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before December 31, 2015.

SEC. 22. LIMITATION ON DISCRIMINATORY TAXATION OF CERTAIN PIPELINE PROPERTY.

(a) DEFINITIONS.—For purposes of section:

(1) ASSESSMENT.—The term ''assessment'' means valuation for a property tax levied by a taxing authority.

(2) ASSESSMENT JURISDICTION.—The term ''assessment jurisdiction'' means a geographical area used in determining the assessed value of property for ad valorem taxation.

(3) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term ''commercial and industrial property'' means property (excluding pipeline property, public utility property, and land used primarily for agricultural purposes or timber growth) devoted to commercial or industrial use and subject to a property tax levy.

(4) PIPELINE PROPERTY.—The term ''pipeline property'' means all property, real, personal, and intangible, owned or used by a natural gas pipeline providing transportation or storage of natural gas, subject to the jurisdiction of the Federal Energy Regulatory Commission.

(5) PUBLIC UTILITY PROPERTY.—The term ''public utility property'' means property (excluding pipeline property) that is devoted to public service and is owned or used by any entity that performs a public service and is regulated by any governmental agency.

(b) DISCRIMINATORY ACTS.—The acts specified in this subsection unreasonably burden and discriminate against interstate commerce. A State, subdivision of a State, authority acting for a State or subdivision of a State, or any other taxing authority (including a taxing jurisdiction and a taxing district) may not do any of the following such acts:

(1) Assess pipeline property at a value that has a higher ratio to the true market value of the pipeline property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) Levy or collect an ad valorem property tax on pipeline property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose any other tax that discriminates against a pipeline providing transportation subject to the jurisdiction of the Federal Energy Regulatory Commission.

(c) JURISDICTION OF COURTS; RELIEF.—

(1) GRANT OF JURISDICTION.—Notwithstanding section 1341 of title 28, United States Code, and notions of comity, and without regard to the amount in controversy or citizenship of the parties, the district courts of the United States shall have jurisdiction, concurrent with other jurisdiction of the courts of the United States, of States, and of all other taxing authorities and taxing jurisdictions, to prevent a violation of subsection (b).

(2) RELIEF.—Except as otherwise provided in this paragraph, relief may be granted under this Act only if the ratio of assessed value to true market value of pipeline property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), each of the following shall be a violation of subsection (b) for which relief under this section may be granted:

(A) An assessment of the pipeline property at a value that has a higher ratio of assessed value to the true market value of the pipeline property than the ratio of the assessed value of all other property (excluding public utility property) subject to a property tax levy in the assessment jurisdiction has to the true market value of all other property (excluding public utility property).

(B) The collection of an ad valorem property tax on the pipeline property at a tax rate that exceeds the tax rate applicable to all other taxable property (excluding public utility property) in the taxing jurisdiction.

SEC. 23. NATURAL GAS PIPELINE INTEGRITY REASSESSMENT INTERVALS BASED ON RISK.

(a) IN GENERAL.—Section 60109(c)(3)(B) of title 49, United States Code, is amended by inserting '', until the Secretary issues regulations basing the reassessment intervals on technical data, risk factors, and engineering analysis, consistent with the recommendations of the Comptroller General of the United States in Report 06–945'' after ''subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SA 5140. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—NEW AND REAUTHORIZED PRODUCING AREAS

Subtitle A—Leasing Program for Land Within Coastal Plain

SEC. 201. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 202. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for

which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 203. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

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

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

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 204. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 203 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 205. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 202(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project

labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 206. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 202, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 207. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 208. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 209. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 210. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 212(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 212(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 211. PROHIBITION ON EXPORTS.

An oil lease issued under this subtitle shall prohibit the exportation of oil produced under the lease.

SEC. 212. ALLOCATION OF REVENUES.

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle shall be deposited in accordance with section 222(b).

Subtitle B—Repeal of Moratoria and Disposition of Qualified Revenues

SEC. 221. REPEAL OF MORATORIA.

(a) COMMERCIAL OIL SHALE LEASING.—Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

(b) OUTER CONTINENTAL SHELF LEASING.—Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

SEC. 222. DISPOSITION OF QUALIFIED REVENUES FROM NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Energy Independence Trust Fund established by subsection (c)(1).

(2) NEW PRODUCING AREA.—The term ''new producing area'' means—

(A) an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section) that is located greater than 50 miles from the coastline of the State;

(B) an area available for leasing under section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)); or

(C) the Coastal Plain (as defined in section 201).

(3) QUALIFIED REVENUE.—The term ''qualified revenue'' means the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or section 369(e) of the Energy Policy Act of 2005 (42 U.S.C. 15927(e)).

(b) DISPOSITION OF QUALIFIED REVENUES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) 20 percent of qualified revenues shall be deposited in the Highway Trust Fund; and

(B) 80 percent of qualified revenues shall be deposited in the Fund.

(2) LIMITATION.—Notwithstanding subparagraph (A) of paragraph (1), the total amount to be deposited under that subparagraph for any fiscal year shall not exceed the deficit in the Highway Trust Fund for the preceding fiscal year.

(c) ENERGY INDEPENDENCE TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Energy Independence Trust Fund'', consisting of such amounts as are deposited under subsection (b)(1)(B).

(2) EXPENDITURES FROM FUND.—On request by the Secretary of Energy, the Secretary of the Treasury shall transfer from the Fund to the Secretary of Energy such amounts as the Secretary of Energy determines are necessary to provide competitive grants for—

(A) the conduct of research on, and the development of, alternative fuels, energy conservation products, and products that develop and use energy in manners that are safer, cleaner, and more efficient than similar existing products; and

(B) activities to provide information to the public on the benefits of energy conservation.

(3) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

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

SA 5141. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 4(e)(1)(B)(iii) of the Commodity Exchange Act (as added by section 3), strike ''legitimate and nonlegitimate hedge trading'' and insert ''bona fide and non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

In section 4a(g) of the Commodity Exchange Act (as added by section 5), strike ''nonlegitimate hedge trading'' and insert ''non-bona fide hedge trading (as defined in section 4a(h)(1))''.

In section 4a(h) of the Commodity Exchange Act (as added by section 6)—

(1) in the heading, strike ''NONLEGITIMATE HEDGE'' and insert ''NON-BONA FIDE HEDGE'';

(2) strike paragraph (1) and insert the following:

''(1) DEFINITIONS.—In this subsection:

''(A) BONA FIDE HEDGE TRADE.—

''(i) IN GENERAL.—The term 'bona fide hedge trade' means a transaction that—

''(I) represents a substitute for a transaction to be made or a position to be taken at a later time in a physical marketing channel;

''(II) is economically appropriate for the reduction of risks in the conduct and management of a commercial enterprise; and

''(III) arises from the potential change in the value of—

''(aa) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

''(bb) liabilities that a person incurs or anticipates incurring; or

''(cc) services that a person provides or purchases (or anticipates providing or purchasing).

''(ii) EXCLUSION.—The term 'bona fide hedge trade' does not include a transaction entered into on a designated contract market for the purpose of offsetting a financial risk arising from an over-the-counter commodity derivative.

''(B) NON-BONA FIDE HEDGE TRADE.—The term 'non-bona fide hedge trade' means a transaction that is not a bona fide hedge trade.'';

(3) in paragraph (2)—

(A) in the heading, strike ''LEGITIMATE HEDGE'' and insert ''BONA FIDE HEDGE''; and

(B) in subparagraph (A), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(4) in paragraph (3)(A), strike ''legitimate hedge'' and insert ''bona fide hedge''; and

(5) in paragraph (4)—

(A) in subparagraph (A)(i), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(B) in subparagraph (B)(i), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(C) in subparagraph (C)—

(i) in the heading, strike ''NONLEGITIMATE HEDGE'' and insert ''NON-BONA FIDE HEDGE'';

(ii) in clause (i)(I), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(iii) in clause (ii)(II)(aa), strike ''legitimate hedge'' and insert ''bona fide hedge'';

(iv) in clause (iv)(I)(aa), strike ''nonlegitimate hedge'' and insert ''non-bona fide hedge''; and

(v) in clause (v)(I), in the matter preceding item (aa), strike ''nonlegitimate traders'' and insert ''non-bona fide traders''; and

(D) in subparagraph (D)(i)—

(i) in subclause (I), strike ''legitimate hedging'' and insert ''bona fide hedging'';

(ii) in subclause (III), strike ''legitimate hedge'' and insert ''bona fide hedge''; and

(iii) in subclause (IV), strike ''nonlegitimate hedge'' and insert ''non-bona fide hedge''.

In section 2(j) of the Commodity Exchange Act (as added by section 7)—

(1) in paragraph (1)(C)(iii), strike ''nonlegitimate hedge trading'' and insert ''nonbona fide hedge trading (as defined in section 4a(h)(1))''; and

(2) in paragraph (3)(B)(iii), strike ''legitimate hedge trading from nonlegitimate hedge trading'' and insert ''bona fide hedge trading from non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

In section 4(f)(4) of the Commodity Exchange Act (as added by section 8), strike ''legitimate and nonlegitimate hedge trading'' and insert ''bona fide hedge trading and non-bona fide hedge trading (as those terms are defined in section 4a(h)(1))''.

SA 5142. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 1(a), strike ''Energy Speculation'' and insert ''Commodity Speculation''.

In section 4(e) of the Commodity Exchange Act (as added by section 3)—

(1) in paragraph (1), in the matter preceding subparagraph (A), strike ''an energy commodity'' and insert ''a covered commodity (as defined in section 4a(h)(1))''; and

(2) in paragraph (2), strike ''an energy commodity'' and insert ''a covered commodity (as defined in section 4a(h)(1))''.

In section 4a(e) of the Commodity Exchange Act, in the second sentence (as amended by section 4(a)(2)(A)(ii))—

(1) strike ''an energy commodity'' and insert ''a covered commodity (as defined in subsection (h)(1))''; and

(2) strike ''or energy commodity'' and insert ''or covered commodity (as defined in subsection (h)(1))''.

In section 4a(h) of the Commodity Exchange Act (as added by section 6)—

(1) strike paragraph (1) and insert the following:

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED COMMODITY.—The term 'covered commodity' means—

''(i) an agricultural commodity; and

''(ii) an energy commodity.

''(B) LEGITIMATE HEDGE TRADING.—

''(i) IN GENERAL.—The term 'legitimate hedge trading' means the conduct of trading that involves transactions by commercial producers and purchasers of actual covered commodities for future delivery and the direct counterparties to such trades (regardless of whether the counterparties are commercial producers or purchasers).

''(ii) INCLUSION.—To the extent a commercial producer or purchaser of an actual physical covered commodity for future delivery trades with an intermediary (referred to in this subparagraph as an 'initial trade'), each subsequent trade by the intermediary arising solely due to the initial trade and that directly results from such initial trade (referred to in this subparagraph as a 'follow-on trade') shall be considered to be the conduct of 'legitimate hedge trading' if each follow-on trade executed by the intermediary is—

''(I) done proximate to the initial trade; and

''(II) in the aggregate, economically the same in size and substance as the initial trade.''; and

(2) in paragraph (4)(C)—

(A) in clause (i)(II), strike ''an energy commodity'' each place it appears and insert ''a covered commodity''; and

(B) in clause (iv)(I)(aa), strike ''an energy commodity'' and insert ''a covered commodity''.

In section 2(j) of the Commodity Exchange Act (as added by section 7)—

(1) in paragraph (1)(E), in the matter preceding clause (i), strike ''energy commodity'' and insert ''covered commodity (as defined in section 4a(h)(1))''; and

(2) in paragraph (5), strike ''energy commodity'' and insert ''covered commodity (as defined in section 4a(h)(1))''.

In section 15(a)—

(1) in the heading, strike ''ENERGY COMMODITY'' and insert ''AGRICULTURAL AND ENERGY COMMODITIES'';

(2) in paragraph (1), strike ''energy commodity'' and insert ''agricultural and energy commodities''; and

(3) in paragraph (2)(A), strike ''energy commodity'' and insert ''agricultural and energy commodities''.

SA 5143. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing Transparency and Accountability in Energy Prices Act of 2008''.

SEC. 2. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy

commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

SEC. 3. FOREIGN BOARDS OF TRADE.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

''(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and non-speculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.''.

SEC. 4. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

''(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SEC. 5. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and

(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

SA 5144. Mr. MARTINEZ (for himself, Ms. COLLINS, Mrs. FEINSTEIN, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF TEMPORARY DUTY OF 54 CENTS PER GALLON.

(a) IN GENERAL.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking heading 9901.00.50; and

(2) by striking U.S. Notes 2 and 3 relating to heading 9901.00.50.

(b) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 5145. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—REFINERY STREAMLINING

SEC. __01. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) APPLICANT.—The term ''applicant'' means a person who is seeking a Federal refinery authorization.

(3) BIOMASS.—The term ''biomass'' has the meaning given that term in section 932(a) of the Energy Policy Act of 2005 (42 U.S.C. 16232(a)).

(4) FEDERAL REFINERY AUTHORIZATION.—

(A) IN GENERAL.—The term ''Federal refinery authorization'' means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to expansion or operation of a refinery.

(B) INCLUSION.—The term ''Federal refinery authorization'' includes any permits, licenses, special use authorizations, certifications, opinions, or other approvals required under Federal law with respect to expansion or operation of a refinery.

(5) REFINERY.—The term ''refinery'' means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or distillate;

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline or diesel as the primary output; or

(C) a facility designed and operated to receive, load, unload, store, transport, process

(including biochemical, photochemical, and biotechnology processes), and refine biomass in order to produce biofuel.

(6) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. _02. STATE ASSISTANCE.

(a) IN GENERAL.—At the request of a governor of a State, the Administrator is authorized to provide financial assistance to the State to facilitate the hiring of additional personnel to assist the State with expertise in fields relevant to consideration of Federal refinery authorizations.

(b) OTHER ASSISTANCE.—At the request of a governor of a State, a Federal agency responsible for a Federal refinery authorization shall provide technical, legal, or other nonfinancial assistance to the State to facilitate the consideration of the State of Federal refinery authorizations.

SEC. _03. REFINERY PROCESS COORDINATION AND PROCEDURES.

(a) APPOINTMENT OF FEDERAL COORDINATOR.—

(1) IN GENERAL.—The President shall appoint a Federal coordinator to perform the responsibilities assigned to the Federal coordinator under this Act.

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

(b) FEDERAL REFINERY AUTHORIZATIONS.—

(1) MEETING PARTICIPANTS.—

(A) IN GENERAL.—Not later than 30 days after receiving a notification from an applicant that the applicant is seeking a Federal refinery authorization pursuant to Federal law, the Federal coordinator appointed under subsection (a) shall convene a meeting of representatives from all Federal and State agencies responsible for a Federal refinery authorization with respect to the refinery.

(B) IDENTIFICATION.—The governor of a State shall identify each agency of the State that is responsible for a Federal refinery authorization with respect to that refinery.

(2) MEMORANDUM OF AGREEMENT.—

(A) IN GENERAL.—Not later than 90 days after receipt of a notification described in paragraph (1), the Federal coordinator and the other participants at a meeting convened under that paragraph shall establish a memorandum of agreement that describes the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery, consistent with the full substantive and procedural review required by Federal law.

(B) SCHEDULE ACCOMMODATION.—If a Federal or State agency responsible for a Federal refinery authorization with respect to the refinery is not represented at a meeting convened under paragraph (1), the Federal coordinator shall ensure that the schedule accommodates those Federal refinery authorizations, consistent with Federal law.

(C) PRIORITY.—In the event of a conflict among Federal refinery authorization scheduling requirements, the requirements of the Administrator shall be given priority.

(D) PUBLICATION.—Not later than 15 days after completing the memorandum of agreement, the Federal coordinator shall publish the memorandum of agreement in the Federal Register.

(E) IMPLEMENTATION.—The Federal coordinator shall—

(i) ensure that all parties to the memorandum of agreement are working in good faith to carry out the memorandum of agreement; and

(ii) facilitate the maintenance of the schedule established in the memorandum of agreement.

(c) CONSOLIDATED RECORD.—

SA 5146. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. FEDERAL PERMIT STREAMLINING PILOT PROJECT.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall establish a Federal permit streamlining pilot project (referred to in this section as the ''Pilot Project'').

(b) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with the Secretary of Commerce.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), the Secretary of Commerce shall assign to each of the regional offices identified in subsection (d) an employee who has expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) the consultations and preparation of biological opinions under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(C) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the office of the Minerals Management Service Regional Director to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the Department of Commerce; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) REGIONAL PERMITTING OFFICES.—The following Minerals Management Service Regional Offices shall serve as Pilot Project offices:

(1) The Gulf of Mexico.

(2) Alaska.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project; and

(2) makes a recommendation to the President regarding whether the Pilot Project should become a permanent program.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Pilot Project office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the Regional Offices, including leasing and regulation of energy development on the outer Continental Shelf in accordance with the requirements of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

SA 5147. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. OIL AND NATURAL GAS LEASING IN NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil leasing, natural gas leasing, or both.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil or natural gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under subsection (b).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for oil leasing, gas leasing, or both, as determined by the State, in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified revenues in the general fund of the Treasury; and

(2) 50 percent of qualified revenues in a special account in the Treasury, which the Secretary shall disburse to eligible producing States for new producing areas, to be allocated in accordance with subsection (d).

(d) ALLOCATION TO ELIGIBLE PRODUCING STATES.—The amount made available under

subsection (c)(2) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(e) EFFECT.—Nothing in this section affects any authority that permits energy production under any other provision of law.

SA 5148. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES

SEC. 201. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COAL-TO-LIQUID.—The term ''coal-to-liquid'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is derived from the coal resources of the United States, using the class of reactions known as Fischer-Tropsch, to produce synthetic fuel suitable for transportation; and

(B) with respect to a facility, the portion of a facility related to producing the inputs for the Fischer-Tropsch process, or the finished fuel from the Fischer-Tropsch process, using a feedstock that is primarily domestic coal at the Fischer-Tropsch facility.

(3) DOMESTIC FUELS FACILITY.—

(A) IN GENERAL.—The term ''domestic fuels facility'' means—

(i) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other transportation fuel;

(ii) a facility that produces a renewable fuel (as defined in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1))); and

(iii) a facility at which crude oil is refined into transportation fuel or other petroleum products.

(B) INCLUSION.—The term ''domestic fuels facility'' includes a domestic fuels facility expansion.

(4) DOMESTIC FUELS FACILITY EXPANSION.—The term ''domestic fuels facility expansion'' means a physical change in a domestic fuels facility that results in an increase in the capacity of the domestic fuels facility.

(5) DOMESTIC FUELS FACILITY PERMITTING AGREEMENT.—The term ''domestic fuels facility permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under section 202.

(6) DOMESTIC FUELS PRODUCER.—The term ''domestic fuels producer'' means an individual or entity that—

(A) owns or operates a domestic fuels facility; or

(B) seeks to become an owner or operator of a domestic fuels facility.

(7) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated with authority by the Federal Government, or authorized under Federal law to issue permits.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. 202. COLLABORATIVE PERMITTING PROCESS FOR DOMESTIC FUELS FACILITIES.

(a) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a domestic fuels facility permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a domestic fuels facility shall be improved using a systematic interdisciplinary multimedia approach as provided in this section.

(b) AUTHORITY OF ADMINISTRATOR.—Under a domestic fuels facility permitting agreement—

(1) the Administrator shall have authority, as applicable and necessary, to—

(A) accept from a refiner a consolidated application for all permits that the domestic fuels producer is required to obtain to construct and operate a domestic fuels facility;

(B) establish a schedule under which each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit shall—

(i) concurrently consider, to the maximum extent practicable, each determination to be made; and

(ii) complete each step in the permitting process; and

(C) issue a consolidated permit that combines all permits that the domestic fuels producer is required to obtain; and

(2) the Administrator shall provide to State and Indian tribal government agencies—

(A) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under paragraph (1)(B); and

(B) technical, legal, and other assistance in complying with the domestic fuels facility permitting agreement.

(c) AGREEMENT BY THE STATE.—Under a domestic fuels facility permitting agreement, a State or governing body of an Indian tribe shall agree that—

(1) the Administrator shall have each of the authorities described in subsection (b); and

(2) each State or Indian tribal government agency shall—

(A) make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(B) comply, to the maximum extent practicable, with the applicable schedule established under subsection (b)(1)(B).

(d) INTERDISCIPLINARY APPROACH.—

(1) IN GENERAL.—The Administrator and a State or governing body of an Indian tribe shall incorporate an interdisciplinary approach, to the maximum extent practicable, in the development, review, and approval of domestic fuels facility permits subject to this section.

(2) OPTIONS.—Among other options, the interdisciplinary approach may include use of—

(A) environmental management practices; and

(B) third party contractors.

(e) DEADLINES.—

(1) NEW DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the construction of a new domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under subparagraph (A).

(2) EXPANSION OF EXISTING DOMESTIC FUELS FACILITIES.—In the case of a consolidated permit for the expansion of an existing domestic fuels facility, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(A) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(B) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under subparagraph (A).

(f) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under subsection (b)(1)(B).

(g) JUDICIAL REVIEW.—Any civil action for review of any determination of any Federal, State, or Indian tribal government agency in a permitting process conducted under a domestic fuels facility permitting agreement brought by any individual or entity shall be brought exclusively in the United States district court for the district in which the domestic fuels facility is located or proposed to be located.

(h) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this section.

(i) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a domestic fuels facility are not approved on or before any deadline established under subsection (e), the Administrator may issue a consolidated permit that combines all other permits that the domestic fuels producer is required to obtain other than any permits that are not approved.

(j) SAVINGS.—Nothing in this section affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a domestic fuels facility.

(k) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this section.

(l) EFFECT ON LOCAL AUTHORITY.—Nothing in this section affects—

(1) the authority of a local government with respect to the issuance of permits; or

(2) any requirement or ordinance of a local government (such as zoning regulations).

SA 5149. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 4.

SA 5150. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

SA 5151. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATIONS ON LEGISLATION THAT WOULD INCREASE NATIONAL AVERAGE FUEL PRICES FOR AUTOMOBILES.

(a) DEFINITION OF LEGISLATION.—In this section, the term ''legislation'' means a bill, joint resolution, amendment, motion, or conference report.

(b) POINT OF ORDER.—

(1) IN GENERAL.—Subject to subsection (c), if the Senate is considering legislation, on a point of order being made by any Senator against legislation, or any part of the legislation, that it has been determined in accordance with paragraph (2) that the legislation, if enacted, would result in an increase in the national average fuel price for automobiles, and the point of order is sustained by the Presiding Officer, the Senate shall cease consideration of the legislation.

(2) DETERMINATION.—For the purpose of paragraph (1), the determination described in this paragraph means a determination by the Director of the Congressional Budget Office, in consultation with the Energy Information Administration and the heads of other appropriate Federal Government agencies, that is made on the request of a Senator for review of legislation, that the legislation, or part of the legislation, would, if enacted, result in an increase in the national average fuel price for automobiles.

(c) WAIVERS AND APPEALS.—

(1) WAIVERS.—

(A) IN GENERAL.—Before the Presiding Officer rules on a point of order described in subsection (b)(1), any Senator may move to waive the point of order.

(B) AMENDMENTS.—The motion to waive under this paragraph shall not be subject to amendment.

(C) VOTING REQUIREMENT.—A point of order described in subsection (b)(1) shall be waived only by the affirmative vote of at least 60 Members of the Senate, duly chosen and sworn.

(2) APPEALS.—

(A) IN GENERAL.—After the Presiding Officer rules on a point of order described in subsection (b)(1), any Senator may appeal the ruling of the Presiding Officer on the point of order as the ruling applies to some or all of the provisions on which the Presiding Officer ruled.

(B) VOTING REQUIREMENT.—A ruling of the Presiding Officer on a point of order described in subsection (b)(1) shall be sustained unless at least 60 Members of the Senate, duly chosen and sworn, vote not to sustain the ruling.

(3) DEBATE.—

(A) IN GENERAL.—Debate on the motion to waive under paragraph (1) or on an appeal of the ruling of the Presiding Officer under paragraph (2) shall be limited to 1 hour.

(B) DIVISION OF TIME.—The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate, or designees.

SA 5152. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Section 4a(h)(1)(B) of the Commodity Exchange Act (as added by section 6) is amended in the matter preceding clause (i) by inserting '', or a commercial consumer of a product derived from,'' after ''producer or purchaser of''.

SA 5153. Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MORATORIUM OF OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.

(a) IN GENERAL.—Section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking ''125 miles'' and inserting ''50 miles'';

(3) in paragraph (3), by striking ''100 miles'' each place it appears and inserting ''50 miles''; and

(4) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall promulgate regulations that establish appropriate environmental safeguards for the exploration and production of oil and natural gas on the outer Continental Shelf.

(2) MINIMUM REQUIREMENTS.—At a minimum, the regulations shall include—

(A) provisions requiring surety bonds of sufficient value to ensure the mitigation of any foreseeable incident;

(B) provisions assigning liability to the leaseholder in the event of an incident causing damage or loss, regardless of the negligence of the leaseholder or lack of negligence;

(C) provisions no less stringent than those contained in the Spill Prevention, Control, and Countermeasure regulations promulgated under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(D) provisions ensuring that—

(i) no facility for the exploration or production of resources is visible to the unassisted eye from any shore of any coastal State; and

(ii) the impact of offshore production facilities on coastal vistas is otherwise mitigated;

(E) provisions to ensure, to the maximum extent practicable, that exploration and production activities will result in no significant adverse effect on fish or wildlife (including habitat), subsistence resources, or the environment; and

(F) provisions that will impose seasonal limitations on activity to protect breeding, spawning, and wildlife migration patterns.

(c) CONFORMING AMENDMENT.—Section 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as amended by section 103(d) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)) is amended by inserting ''and any other area that the Secretary of the Interior may offer for leasing, preleasing, or any related activity under section 104 of that Act'' after ''2006)''.

SEC. ___. DISPOSITION OF REVENUES FROM NEW PRODUCING AREAS OF THE EASTERN GULF OF MEXICO.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. DISPOSITION OF REVENUES FROM NEW PRODUCING AREAS OF THE EASTERN GULF OF MEXICO.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of an Eastern Gulf producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Eastern Gulf producing State as of the date of enactment of this section; and

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

''(2) EASTERN GULF PRODUCING STATE.—The term 'Eastern Gulf producing State' means each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

''(3) MORATORIUM AREA.—The term 'moratorium area' means an area covered by section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) (as in effect on the day before the date of enactment of this section).

''(4) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State of Florida.

''(5) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(b) LEASING NEW PRODUCING AREAS.—The Secretary shall make new producing areas available for leasing in accordance with this Act.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to Eastern Gulf producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO EASTERN GULF PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO EASTERN GULF PRODUCING STATES.—Effective for fiscal year 2009 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each Eastern Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Eastern Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Eastern Gulf producing State, as determined under subparagraph (A), to the coastal political subdivisions of the Eastern Gulf producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to an Eastern Gulf producing State each fiscal year under paragraph (2)(A) shall be at least 10 percent of the amounts available under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each Eastern Gulf producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by an Eastern Gulf producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.''.

SA 5154. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION B—AMERICAN ENERGY ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''American Energy Act''.

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

TITLE I—AMERICAN ENERGY

Subtitle A—OCS

SEC. 101. SHORT TITLE.

This subtitle may be cited as the ''Deep Ocean Energy Resources Act of 2008''.

SEC. 102. POLICY.

It is the policy of the United States that—

(1) the United States is blessed with abundant energy resources on the outer Continental Shelf and has developed a comprehensive framework of environmental laws and regulations and fostered the development of state-of-the-art technology that allows for the responsible development of these resources for the benefit of its citizenry;

(2) Adjacent States are required by the circumstances to commit significant resources in support of exploration, development, and production activities for mineral resources on the outer Continental Shelf, and it is fair and proper for a portion of the receipts from such activities to be shared with Adjacent States and their local coastal governments;

(3) the existing laws governing the leasing and production of the mineral resources of the outer Continental Shelf have reduced the production of mineral resources, have preempted Adjacent States from being sufficiently involved in the decisions regarding the allowance of mineral resource development, and have been harmful to the national interest;

(4) the national interest is served by granting the Adjacent States more options related to whether or not mineral leasing should occur in the outer Continental Shelf within their Adjacent Zones;

(5) it is not reasonably foreseeable that exploration of a leased tract located more than 25 miles seaward of the coastline, development and production of a natural gas discovery located more than 25 miles seaward of the coastline, or development and production of an oil discovery located more than 50 miles seaward of the coastline will adversely affect resources near the coastline;

(6) transportation of oil from a leased tract might reasonably be foreseen, under limited circumstances, to have the potential to adversely affect resources near the coastline if the oil is within 50 miles of the coastline, but such potential to adversely affect such resources is likely no greater, and probably less, than the potential impacts from tanker transportation because tanker spills usually involve large releases of oil over a brief period of time; and

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

SEC. 103. DEFINITIONS UNDER THE SUBMERGED LANDS ACT.

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

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

(2) by striking out paragraph (b) and redesignating the subsequent paragraphs in order as paragraphs (b) through (g);

(3) by striking the period at the end of paragraph (g) (as so redesignated) and inserting ''; and'';

(4) by adding the following: ''(i) The term 'Secretary' means the Secretary of the Interior.''; and

(5) by defining ''State'' as it is defined in section 2(r) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(r)).

SEC. 104. SEAWARD BOUNDARIES OF STATES.

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

(1) in the first sentence by striking ''original'', and in the same sentence by striking ''three geographical'' and inserting ''twelve nautical''; and

(2) by striking all after the first sentence and inserting the following: ''Extension and delineation of lateral offshore State boundaries under the provisions of this Act shall follow the lines used to determine the Adjacent Zones of coastal States under the Outer Continental Shelf Lands Act to the extent such lines extend twelve nautical miles for the nearest coastline.''

SEC. 105. EXCEPTIONS FROM CONFIRMATION AND ESTABLISHMENT OF STATES' TITLE, POWER, AND RIGHTS.

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

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

(2) by inserting ''(a)'' before ''There is excepted''; and

(3) by inserting at the end the following:

''(b) EXCEPTION OF OIL AND GAS MINERAL RIGHTS.—There is excepted from the operation of sections 3 and 4 all of the oil and gas mineral rights for lands beneath the navigable waters that are located within the expanded offshore State seaward boundaries established under this Act. These oil and gas mineral rights shall remain Federal property and shall be considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf. All existing Federal oil and gas leases within the expanded offshore State seaward boundaries shall continue unchanged by the provisions of this Act, except as otherwise provided herein. However, a State may exercise all of its sovereign powers of taxation within the entire extent of its expanded offshore State boundaries.''.

SEC. 106. DEFINITIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

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

(1) by amending paragraph (f) to read as follows:

''(f) The term 'affected State' means the 'Adjacent State'.'';

(2) by striking the semicolon at the end of each of paragraphs (a) through (o) and inserting a period;

(3) by striking ''; and'' at the end of paragraph (p) and inserting a period;

(4) by adding at the end the following:

''(r) The term 'Adjacent State' means, with respect to any program, plan, lease sale, leased tract or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State the laws of which are declared, pursuant to section 4(a)(2), to be the law of the United States for the portion of the outer Continental Shelf on which such program, plan, lease sale, leased tract or activity appertains or is, or is proposed to be, conducted. For purposes of this paragraph, the term 'State' includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and the other Territories of the United States.

''(s) The term 'Adjacent Zone' means, with respect to any program, plan, lease sale, leased tract, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, the portion of the outer Continental Shelf for which the laws of a particular Adjacent State are declared, pursuant to section 4(a)(2), to be the law of the United States.

''(t) The term 'miles' means statute miles.

''(u) The term 'coastline' has the same meaning as the term 'coast line' as defined in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(v) The term 'Neighboring State' means a coastal State having a common boundary at the coastline with the Adjacent State.''; and

(5) in paragraph (a), by inserting after ''control'' the following: ''or lying within the United States exclusive economic zone adjacent to the Territories of the United States''.

SEC. 107. DETERMINATION OF ADJACENT ZONES AND PLANNING AREAS.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the first sentence by striking '', and the President'' and all that follows through the end of the sentence and inserting the following: ''. The lines extending seaward and defining each State's Adjacent Zone, and each OCS Planning Area, are as indicated on the maps for each outer Continental Shelf region entitled 'Alaska OCS Region State Adjacent Zone and OCS Planning Areas', 'Pacific OCS Region State Adjacent Zones and OCS Planning Areas', 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas', and 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', all of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.''.

SEC. 108. ADMINISTRATION OF LEASING.

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

''(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A LEASE.—Any lessee of a producing lease may relinquish to the Secretary any portion of a lease that the lessee has no interest in producing and that the Secretary finds is geologically prospective. In return for any such relinquishment, the Secretary shall provide to the lessee a royalty incentive for the portion of the lease retained by the lessee, in accordance with regulations promulgated by the Secretary to carry out this subsection. The Secretary shall publish final regulations implementing this subsection within 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

''(l) NATURAL GAS LEASE REGULATIONS.—Not later than July 1, 2010, the Secretary shall publish a final regulation that shall—

''(1) establish procedures for entering into natural gas leases;

''(2) ensure that natural gas leases are only available for tracts on the outer Continental Shelf that are wholly within 100 miles of the

coastline within an area withdrawn from disposition by leasing on the day after the date of enactment of the Deep Ocean Energy Resources Act of 2008;

''(3) provide that natural gas leases shall contain the same rights and obligations established for oil and gas leases, except as otherwise provided in the Deep Ocean Energy Resources Act of 2008;

''(4) provide that, in reviewing the adequacy of bids for natural gas leases, the value of any crude oil estimated to be contained within any tract shall be excluded;

''(5) provide that any crude oil produced from a well and reinjected into the leased tract shall not be subject to payment of royalty, and that the Secretary shall consider, in setting the royalty rates for a natural gas lease, the additional cost to the lessee of not producing any crude oil; and

''(6) provide that any Federal law that applies to an oil and gas lease on the outer Continental Shelf shall apply to a natural gas lease unless otherwise clearly inapplicable.''.

SEC. 109. GRANT OF LEASES BY SECRETARY.

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

(1) in subsection (a)(1) by inserting after the first sentence the following: ''Further, the Secretary may grant natural gas leases in a manner similar to the granting of oil and gas leases and under the various bidding systems available for oil and gas leases.'';

(2) by adding at the end of subsection (b) the following:

''The Secretary may issue more than one lease for a given tract if each lease applies to a separate and distinct range of vertical depths, horizontal surface area, or a combination of the two. The Secretary may issue regulations that the Secretary determines are necessary to manage such leases consistent with the purposes of this Act.'';

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

''(B) The Secretary shall provide for the payment to coastal States, and their local coastal governments, of 75 percent of Federal receipts from projects authorized under this section located partially or completely within the area extending seaward of State submerged lands out to 4 marine leagues from the coastline, and the payment to coastal States of 50 percent of the receipts from projects completely located in the area more than 4 marine leagues from the coastline. Payments shall be based on a formula established by the Secretary by rulemaking no later than 180 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 that provides for equitable distribution, based on proximity to the project, among coastal States that have coastline that is located within 200 miles of the geographic center of the project.''.

(4) by adding at the end the following:

''(q) NATURAL GAS LEASES.—

''(1) RIGHT TO PRODUCE NATURAL GAS.—A lessee of a natural gas lease shall have the right to produce the natural gas from a field on a natural gas leased tract if the Secretary estimates that the discovered field has at least 40 percent of the economically recoverable Btu content of the field contained within natural gas and such natural gas is economical to produce.

''(2) CRUDE OIL.—A lessee of a natural gas lease may not produce crude oil from the lease unless the Governor of the Adjacent State agrees to such production.

''(3) ESTIMATES OF BTU CONTENT.—The Secretary shall make estimates of the natural gas Btu content of discovered fields on a natural gas lease only after the completion of at least one exploration well, the data from which has been tied to the results of a three-dimensional seismic survey of the field. The Secretary may not require the lessee to further delineate any discovered field prior to making such estimates.

''(4) DEFINITION OF NATURAL GAS.—For purposes of a natural gas lease, natural gas means natural gas and all substances produced in association with gas, including, but not limited to, hydrocarbon liquids (other than crude oil) that are obtained by the condensation of hydrocarbon vapors and separate out in liquid form from the produced gas stream.

''(r) REMOVAL OF RESTRICTIONS ON JOINT BIDDING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—Restrictions on joint bidders shall no longer apply to tracts located in the Alaska OCS Region. Such restrictions shall not apply to tracts in other OCS regions determined to be 'frontier tracts' or otherwise 'high cost tracts' under final regulations that shall be published by the Secretary by not later than 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

''(s) ROYALTY SUSPENSION PROVISIONS.—After the date of the enactment of the Deep Ocean Energy Resources Act of 2008, price thresholds shall apply to any royalty suspension volumes granted by the Secretary. Unless otherwise set by Secretary by regulation or for a particular lease sale, the price thresholds shall be $40.50 for oil (January 1, 2006 dollars) and $6.75 for natural gas (January 1, 2006 dollars).

''(t) CONSERVATION OF RESOURCES FEES.—Not later than one year after the date of the enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary by regulation shall establish a conservation of resources fee for nonproducing leases that will apply to new and existing leases which shall be set at $3.75 per acre per year. This fee shall apply from and after October 1, 2008, and shall be treated as offsetting receipts.'';

(5) by striking subsection (a)(3)(A) and redesignating the subsequent subparagraphs as subparagraphs (A) and (B), respectively;

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

(7) effective October 1, 2008, in subsection (g)—

(A) by striking all after ''(g)'', except paragraph (3);

(B) by striking the last sentence of paragraph (3); and

(C) by striking ''(3)''.

SEC. 110. DISPOSITION OF RECEIPTS.

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

(1) by designating the existing text as subsection (a);

(2) in subsection (a) (as so designated) by inserting '', if not paid as otherwise provided in this title'' after ''receipts''; and

(3) by adding the following:

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

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

''(2) PHASED-IN RECEIPTS SHARING.—

''(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

''(i) Lease tracts located on portions of the Gulf of Mexico OCS Region completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline that were available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(ii) Lease tracts in production prior to October 1, 2008, completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region completely beyond 4 marine leagues from any coastline and completely within 100 miles of the coastline.

''(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

''(i) For fiscal year 2009, 5 percent.

''(ii) For fiscal year 2010, 8 percent.

''(iii) For fiscal year 2011, 11 percent.

''(iv) For fiscal year 2012, 14 percent.

''(v) For fiscal year 2013, 17 percent.

''(vi) For fiscal year 2014, 20 percent.

''(vii) For fiscal year 2015, 23 percent.

''(viii) For fiscal year 2016, 26 percent.

''(ix) For fiscal year 2017, 29 percent.

''(x) For fiscal year 2018, 32 percent.

''(xi) For fiscal year 2019, 35 percent.

''(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

''(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 6(2) of the Deep Ocean Energy Resources Act of 2008.

''(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall share 37.50 percent of OCS Receipts derived from all leases located completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline not included within the provisions of paragraph (2), and 90 percent of the balance of such OCS Receipts shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331 of the American Energy Act.

''(4) RECEIPTS SHARING FROM TRACTS WITHIN 4 MARINE LEAGUES OF ANY COASTLINE.—

''(A) AREAS DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, and continuing through September 30, 2010, the Secretary shall share 25 percent of OCS Receipts derived from all leases located within 4 marine leagues from any coastline within areas described in paragraph (2). For each fiscal year after September 30, 2010, the Secretary shall increase the percent shared in 5 percent increments each fiscal year until the sharing rate for all leases located within 4 marine leagues from any coastline within areas described in paragraph (2) becomes 75 percent.

''(B) AREAS NOT DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, the Secretary shall share 75 percent of OCS receipts derived from all leases located completely or partially within 4 marine leagues from any coastline within areas not described paragraph (2).

''(5) ALLOCATIONS.—The Secretary shall allocate the OCS Receipts deposited into the separate account established by paragraph (1) that are shared under paragraphs (2), (3), and (4) as follows:

''(A) BONUS BIDS.—Deposits derived from bonus bids from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State.

''(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone within 100 miles of its coastline that generated royalties during the fiscal year, if the other producing or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

''(i) one-third to the Adjacent State; and

''(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

''(c) TREATMENT OF OCS RECEIPTS FROM TRACTS PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE COASTLINE.—

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

''(2) PHASED-IN RECEIPTS SHARING.—

''(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

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

''(ii) Lease tracts in production prior to October 1, 2008, partially or completely beyond 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

''(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region partially or completely beyond 100 miles of the coastline.

''(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

''(i) For fiscal year 2009, 5 percent.

''(ii) For fiscal year 2010, 8 percent.

''(iii) For fiscal year 2011, 11 percent.

''(iv) For fiscal year 2012, 14 percent.

''(v) For fiscal year 2013, 17 percent.

''(vi) For fiscal year 2014, 20 percent.

''(vii) For fiscal year 2015, 23 percent.

''(viii) For fiscal year 2016, 26 percent.

''(ix) For fiscal year 2017, 29 percent.

''(x) For fiscal year 2018, 32 percent.

''(xi) For fiscal year 2019, 35 percent.

''(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

''(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 106(2) of the Deep Ocean Energy Resources Act of 2008.

''(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall share 37.5 percent of OCS Receipts derived on and after October 1, 2008, from all leases located partially or completely beyond 100 miles of any coastline not included within the provisions of paragraph (2), except that the Secretary shall only share 25 percent of such OCS Receipts derived from all such leases within a State's Adjacent Zone if no leasing is allowed within any portion of that State's Adjacent Zone located completely within 100 miles of any coastline.

''(4) ALLOCATIONS.—The Secretary shall allocate the OCS Receipts deposited into the separate account established by paragraph (1) that are shared under paragraphs (2) and (3) as follows:

''(A) BONUS BIDS.—Deposits derived from bonus bids from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State.

''(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone partially or completely beyond 100 miles of its coastline that generated royalties during the fiscal year, if the other producing State or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

''(i) one-third to the Adjacent State; and

''(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

''(d) TRANSMISSION OF ALLOCATIONS.—

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

''(A) to each State 60 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the immediate prior fiscal year;

''(B) to each coastal county-equivalent and municipal political subdivisions of such State a total of 40 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B), together with all accrued interest thereon; and

''(C) the remaining allocations under subsections (b)(5) and (c)(4), together with all accrued interest thereon.

''(2) ALLOCATIONS TO COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall make an initial allocation of the OCS Receipts to be shared under paragraph (1)(B) as follows:

''(A) 25 percent shall be allocated to coastal county-equivalent political subdivisions that are completely more than 25 miles landward of the coastline and at least a part of which lies not more than 75 miles landward from the coastline, with the allocation among such coastal county-equivalent political subdivisions based on population.

''(B) 75 percent shall be allocated to coastal county-equivalent political subdivisions that are completely or partially less than 25 miles landward of the coastline, with the allocation among such coastal county-equivalent political subdivisions to be further allocated as follows:

''(i) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's population to the coastal population of all coastal county-equivalent political subdivisions in the State.

''(ii) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's coastline miles to the coastline miles of all coastal county-equivalent political subdivisions in the State as calculated by the Secretary. In such calculations, coastal county-equivalent political subdivisions without a coastline shall be considered to have 50 percent of the average coastline miles of the coastal county-equivalent political subdivisions that do have coastlines.

''(iii) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on a formula that allocates the funds based on such coastal county-equivalent political subdivision's relative distance from the leased tract.

''(iv) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision compared to the level of outer Continental Shelf activities in all coastal political subdivisions in the State. The Secretary shall define the term 'outer Continental Shelf oil and gas activities' for purposes of this subparagraph to include, but not be limited to, construction of vessels, drillships, and platforms involved in exploration, production, and development on the outer Continental Shelf; support and supply bases, ports, and related activities; offices of geologists, geophysicists, engineers, and other professionals involved in support of exploration, production, and development of oil and gas on the outer Continental Shelf; pipelines and other means of transporting oil and gas production from the outer Continental Shelf; and processing and refining of oil and gas production from the outer Continental Shelf. For purposes of this subparagraph, if a coastal county-equivalent political subdivision does not have a coastline, its coastal point shall be the point on the coastline closest to it.

''(3) ALLOCATIONS TO COASTAL MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each coastal county-equivalent political subdivision under paragraph (2) shall be further allocated to the coastal county-equivalent political subdivision and any coastal municipal political subdivisions located partially or wholly within the boundaries of the coastal county-equivalent political subdivision as follows:

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

''(B) Two-thirds shall be allocated on a per capita basis to the municipal political subdivisions and the county-equivalent political subdivision, with the allocation to the latter based upon its population not included within the boundaries of a municipal political subdivision.

''(e) INVESTMENT OF DEPOSITS.—Amounts deposited under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account in which they are deposited and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

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

''(1) To reduce in-State college tuition at public institutions of higher learning and otherwise support public education, including career technical education.

''(2) To make transportation infrastructure improvements.

''(3) To reduce taxes.

''(4) To promote, fund, and provide for—

''(A) coastal or environmental restoration;

''(B) fish, wildlife, and marine life habitat enhancement;

''(C) waterways construction and maintenance;

''(D) levee construction and maintenance and shore protection; and

''(E) marine and oceanographic education and research.

''(5) To promote, fund, and provide for—

''(A) infrastructure associated with energy production activities conducted on the outer Continental Shelf;

''(B) energy demonstration projects;

''(C) supporting infrastructure for shore-based energy projects;

''(D) State geologic programs, including geologic mapping and data storage programs, and State geophysical data acquisition;

''(E) State seismic monitoring programs, including operation of monitoring stations;

''(F) development of oil and gas resources through enhanced recovery techniques;

''(G) alternative energy development, including bio fuels, coal-to-liquids, oil shale, tar sands, geothermal, geopressure, wind, waves, currents, hydro, and other renewable energy;

''(H) energy efficiency and conservation programs; and

''(I) front-end engineering and design for facilities that produce liquid fuels from hydrocarbons and other biological matter.

''(6) To promote, fund, and provide for—

''(A) historic preservation programs and projects;

''(B) natural disaster planning and response; and

''(C) hurricane and natural disaster insurance programs.

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

''(g) NO ACCOUNTING REQUIRED.—No recipient of funds under this section shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law. However, States may enact legislation providing for accounting for and auditing of such expenditures. Further, funds allocated under this section to States and political subdivisions may be used as matching funds for other Federal programs.

''(h) EFFECT OF FUTURE LAWS.—Enactment of any future Federal statute that has the effect, as determined by the Secretary, of restricting any Federal agency from spending appropriated funds, or otherwise preventing it from fulfilling its pre-existing responsibilities as of the date of enactment of the statute, unless such responsibilities have been reassigned to another Federal agency by the statute with no prevention of performance, to issue any permit or other approval impacting on the OCS oil and gas leasing program, or any lease issued thereunder, or to implement any provision of this Act shall automatically prohibit any sharing of OCS Receipts under this section directly with the States, and their coastal political subdivisions, for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting effects within 30 days of a petition by any outer Continental Shelf lessee or producing State.

''(i) DEFINITIONS.—In this section:

''(1) COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term 'coastal county-equivalent political subdivision' means a political jurisdiction immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a coastal State, that lies within the coastal zone.

''(2) COASTAL MUNICIPAL POLITICAL SUBDIVISION.—The term 'coastal municipal political subdivision' means a municipality located within and part of a county, parish, borough in Alaska, or other equivalent subdivision of a State, all or part of which coastal municipal political subdivision lies within the coastal zone.

''(3) COASTAL POPULATION.—The term 'coastal population' means the population of all coastal county-equivalent political subdivisions, as determined by the most recent official data of the Census Bureau.

''(4) COASTAL ZONE.—The term 'coastal zone' means that portion of a coastal State, including the entire territory of any coastal county-equivalent political subdivision at least a part of which lies, within 75 miles landward from the coastline, or a greater distance as determined by State law enacted to implement this section.

''(5) BONUS BIDS.—The term 'bonus bids' means all funds received by the Secretary to issue an outer Continental Shelf minerals lease.

''(6) ROYALTIES.—The term 'royalties' means all funds received by the Secretary from production of oil or natural gas, or the sale of production taken in-kind, from an outer Continental Shelf minerals lease.

''(7) PRODUCING STATE.—The term 'producing State' means an Adjacent State having an Adjacent Zone containing leased tracts from which OCS Receipts were derived.

''(8) OCS RECEIPTS.—The term 'OCS Receipts' means bonus bids, royalties, and conservation of resources fees.''.

SEC. 111. RESERVATION OF LANDS AND RIGHTS.

Section 12 of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended—

(1) in subsection (a) by adding at the end the following: ''The President may partially or completely revise or revoke any prior withdrawal made by the President under the authority of this section. The President may not revise or revoke a withdrawal that is extended by a State under subsection (h), nor may the President withdraw from leasing any area for which a State failed to prohibit, or petition to prohibit, leasing under subsection (g). Further, in the area of the outer Continental Shelf more than 100 miles from any coastline, not more than 25 percent of the acreage of any OCS Planning Area may be withdrawn from leasing under this section at any point in time. A withdrawal by the President may be for a term not to exceed 10 years. When considering potential uses of the outer Continental Shelf, to the maximum extent possible, the President shall accommodate competing interests and potential uses.'';

(2) by adding at the end the following:

''(g) AVAILABILITY FOR LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—

''(1) PROHIBITION AGAINST LEASING.—

''(A) UNAVAILABLE FOR LEASING WITHOUT STATE REQUEST.—Except as otherwise provided in this subsection, from and after enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary shall not offer for leasing for oil and gas, or natural gas, any area within 50 miles of the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region or the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area within 50 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas' or the Florida Straits Planning Area as indicated on the map entitled 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(B) AREAS BETWEEN 50 AND 100 MILES FROM THE COASTLINE.—Unless an Adjacent State petitions under subsection (h) within one year after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 for natural gas leasing or by June 30, 2010, for oil and gas leasing, the Secretary shall offer for leasing any area more than 50 miles but less than 100 miles from the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region, the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area more than 50 miles but less than 100 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas' or within the Florida Straits Planning Area as indicated on the map entitled 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas', both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(2) PETITION FOR LEASING.—

''(A) IN GENERAL.—The Governor of the State, upon concurrence of its legislature, may submit to the Secretary a petition requesting that the Secretary make available any area that is within the State's Adjacent Zone, included within the provisions of paragraph (1), and that (i) is greater than 25 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to natural gas leasing; or (ii) is greater than 50 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to oil and gas leasing. The Adjacent State may also petition for leasing any other area within its Adjacent Zone if leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State, or if not allowed, if the Neighboring State, acting through its Governor, expresses its concurrence with the petition. The Secretary shall only consider such a petition upon making a finding that leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State or upon receipt of the concurrence of the Neighboring State. The date of receipt by the Secretary of such concurrence by the Neighboring State shall constitute the date of receipt of the petition for that area for which the concurrence applies.

''(B) LIMITATIONS ON LEASING.—In its petition, a State with an Adjacent Zone that contains leased tracts may condition new leasing for oil and gas, or natural gas for tracts within 25 miles of the coastline by—

''(i) requiring a net reduction in the number of production platforms;

''(ii) requiring a net increase in the average distance of production platforms from the coastline;

''(iii) limiting permanent surface occupancy on new leases to areas that are more than 10 miles from the coastline;

''(iv) limiting some tracts to being produced from shore or from platforms located on other tracts; or

''(v) other conditions that the Adjacent State may deem appropriate as long as the Secretary does not determine that production is made economically or technically impracticable or otherwise impossible.

''(C) ACTION BY SECRETARY.—Not later than 90 days after receipt of a petition under subparagraph (A), the Secretary shall approve the petition, unless the Secretary determines that leasing the area would probably cause serious harm or damage to the marine resources of the State's Adjacent Zone. Prior to approving the petition, the Secretary shall complete an environmental assessment that documents the anticipated environmental effects of leasing in the area included within the scope of the petition.

''(D) FAILURE TO ACT.—If the Secretary fails to approve or deny a petition in accordance with subparagraph (C) the petition shall be considered to be approved 90 days after receipt of the petition.

''(E) AMENDMENT OF THE 5-YEAR LEASING PROGRAM.—Notwithstanding section 18, within 180 days of the approval of a petition under subparagraph (C) or (D), after the expiration of the time limits in paragraph (1)(B), the Secretary shall amend the current 5-Year Outer Continental Shelf Oil and Gas Leasing Program to include a lease sale or sales for at least 75 percent of the associated areas, unless there are, from the date of approval, expiration of such time limits, as applicable, fewer than 12 months remaining in the current 5-Year Leasing Program in which case the Secretary shall include the associated areas within lease sales under the next 5-Year Leasing Program. For purposes of amending the 5-Year Program in accordance with this section, further consultations with States shall not be required. For purposes of this section, an environmental assessment performed under the provisions of the National Environmental Policy Act of 1969 to assess the effects of approving the petition shall be sufficient to amend the 5-Year Leasing Program.

''(h) OPTION TO EXTEND WITHDRAWAL FROM LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—A State, through its Governor and upon the concurrence of its legislature, may extend for a period of time of up to 5 years for each extension the withdrawal from leasing for all or part of any area within the State's Adjacent Zone located more than 50 miles, but less than 100 miles, from the coastline that is subject to subsection (g)(1)(B). A State may extend multiple times for any particular area but not more than once per calendar year for any particular area. A State must prepare separate extensions, with separate votes by its legislature, for oil and gas leasing and for natural gas leasing. An extension by a State may affect some areas to be withdrawn from all leasing and some areas to be withdrawn only from one type of leasing.

''(i) EFFECT OF OTHER LAWS.—Adoption by any Adjacent State of any constitutional provision, or enactment of any State statute, that has the effect, as determined by the Secretary, of restricting either the Governor or the Legislature, or both, from exercising full discretion related to subsection (g) or (h), or both, shall automatically (1) prohibit any sharing of OCS Receipts under this Act with the Adjacent State, and its coastal political subdivisions, and (2) prohibit the Adjacent State from exercising any authority under subsection (h), for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting constitutional provision or State statute within 30 days of a petition by any outer Continental Shelf lessee or coastal State.

''(j) PROHIBITION ON LEASING EAST OF THE MILITARY MISSION LINE.—

''(1) Notwithstanding any other provision of law, from and after the enactment of the Deep Ocean Energy Resources Act of 2008, prior to January 1, 2022, no area of the outer Continental Shelf located in the Gulf of Mexico east of the military mission line may be offered for leasing for oil and gas or natural gas unless a waiver is issued by the Secretary of Defense. If such a waiver is granted, 62.5 percent of the OCS Receipts from a lease within such area issued because of such waiver shall be paid annually to the National Guards of all States having a point within 1000 miles of such a lease, allocated among the States on a per capita basis using the entire population of such States.

''(2) In this subsection, the term 'military mission line' means a line located at 86 degrees, 41 minutes West Longitude, and extending south from the coast of Florida to the outer boundary of United States territorial waters in the Gulf of Mexico.''.

SEC. 112. OUTER CONTINENTAL SHELF LEASING PROGRAM.

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

(1) in subsection (a), by adding at the end of paragraph (3) the following: ''The Secretary shall, in each 5-Year Program, include lease sales that when viewed as a whole propose to offer for oil and gas or natural gas leasing at least 75 percent of the available unleased acreage within each OCS Planning Area. Available unleased acreage is that portion of the outer Continental Shelf that is not under lease at the time of the proposed lease sale, and has not otherwise been made unavailable for leasing by law.'';

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

''(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall consider and analyze leasing throughout the entire outer Continental Shelf without regard to any other law affecting such leasing. During this preparation the Secretary shall invite and consider suggestions from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any coastal State. The Secretary may also invite or consider any suggestions from the executive of any local government in a coastal State that have been previously submitted to the Governor of such State, and from any other person. Further, the Secretary shall consult with the Secretary of Defense regarding military operational needs in the outer Continental Shelf. The Secretary shall work with the Secretary of Defense to resolve any conflicts that might arise regarding offering any area of the outer Continental Shelf for oil and gas or natural gas leasing. If the Secretaries are not able to resolve all such conflicts, any unresolved issues shall be elevated to the President for resolution.

''(2) After the consideration and analysis required by paragraph (1), including the consideration of the suggestions received from any interested Federal agency, the Federal Trade Commission, the Governor of any coastal State, any local government of a coastal State, and any other person, the Secretary shall publish in the Federal Register a proposed leasing program accompanied by a draft environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. After the publishing of the proposed leasing program and during the comment period provided for on the draft environmental impact statement, the Secretary shall submit a copy of the proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in the Governor's State that the Governor, in the discretion of the Governor, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least 15 days prior to submission to the Congress pursuant to paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating the Secretary's reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.''; and

(3) by adding at the end the following:

''(i) PROJECTION OF STATE ADJACENT ZONE RESOURCES AND STATE AND LOCAL GOVERNMENT SHARES OF OCS RECEIPTS.—Concurrent with the publication of the scoping notice at the beginning of the development of each 5-Year Outer Continental Shelf Oil and Gas Leasing Program, or as soon thereafter as possible, the Secretary shall—

''(1) provide to each Adjacent State a current estimate of proven and potential oil and gas resources located within the State's Adjacent Zone; and

''(2) provide to each Adjacent State, and coastal political subdivisions thereof, a best-efforts projection of the OCS Receipts that the Secretary expects will be shared with each Adjacent State, and its coastal political subdivisions, using the assumption that the unleased tracts within the State's Adjacent Zone are fully made available for leasing, including long-term projected OCS Receipts. In addition, the Secretary shall include a macroeconomic estimate of the impact of such leasing on the national economy and each State's economy, including investment, jobs, revenues, personal income, and other categories.''.

SEC. 113. COORDINATION WITH ADJACENT STATES.

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

(1) in subsection (a) in the first sentence by inserting '', for any tract located within the Adjacent State's Adjacent Zone,'' after ''government''; and

(2) by adding the following:

''(f)(1) No Federal agency may permit or otherwise approve, without the concurrence of the Adjacent State, the construction of a crude oil or petroleum products (or both) pipeline within the part of the Adjacent State's Adjacent Zone that is withdrawn from oil and gas or natural gas leasing, except that such a pipeline may be approved, without such Adjacent State's concurrence, to pass through such Adjacent Zone if at least 50 percent of the production projected to be carried by the pipeline within its first 10 years of operation is from areas of the Adjacent State's Adjacent Zone.

''(2) No State may prohibit the construction within its Adjacent Zone or its State waters of a natural gas pipeline that will transport natural gas produced from the

outer Continental Shelf. However, an Adjacent State may prevent a proposed natural gas pipeline landing location if it proposes two alternate landing locations in the Adjacent State, acceptable to the Adjacent State, located within 50 miles on either side of the proposed landing location.''.

SEC. 114. ENVIRONMENTAL STUDIES.

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

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) For all programs, lease sales, leases, and actions under this Act, the following shall apply regarding the application of the National Environmental Policy Act of 1969:

''(A) Granting or directing lease suspensions and the conduct of all preliminary activities on outer Continental Shelf tracts, including seismic activities, are categorically excluded from the need to prepare either an environmental assessment or an environmental impact statement, and the Secretary shall not be required to analyze whether any exceptions to a categorical exclusion apply for activities conducted under the authority of this Act.

''(B) The environmental impact statement developed in support of each 5-Year Oil and Gas Leasing Program provides the environmental analysis for all lease sales to be conducted under the program and such sales shall not be subject to further environmental analysis.

''(C) Exploration plans shall not be subject to any requirement to prepare an environmental impact statement, and the Secretary may find that exploration plans are eligible for categorical exclusion due to the impacts already being considered within an environmental impact statement or due to mitigation measures included within the plan.

''(D) Within each OCS Planning Area, after the preparation of the first development and production plan environmental impact statement for a leased tract within the Area, future development and production plans for leased tracts within the Area shall only require the preparation of an environmental assessment unless the most recent development and production plan environmental impact statement within the Area was finalized more than 10 years prior to the date of the approval of the plan, in which case an environmental impact statement shall be required.''.

SEC. 115. TERMINATION OF EFFECT OF LAWS PROHIBITING THE SPENDING OF APPROPRIATED FUNDS FOR CERTAIN PURPOSES.

All provisions of existing Federal law prohibiting the spending of appropriated funds to conduct oil and natural gas leasing and preleasing activities, or to issue a lease to any person, for any area of the outer Continental Shelf shall have no force or effect.

SEC. 116. OUTER CONTINENTAL SHELF INCOMPATIBLE USE.

(a) IN GENERAL.—No Federal agency may permit construction or operation (or both) of any facility, or designate or maintain a restricted transportation corridor or operating area on the Federal outer Continental Shelf or in State waters, that will be incompatible with, as determined by the Secretary of the Interior, oil and gas or natural gas leasing and substantially full exploration and production of tracts that are geologically prospective for oil or natural gas (or both).

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

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

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

(3) required in the national interest, as determined by the President.

SEC. 117. REPURCHASE OF CERTAIN LEASES.

(a) AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.—The Secretary of the Interior shall repurchase and cancel any Federal oil and gas, geothermal, coal, oil shale, tar sands, or other mineral lease, whether onshore or offshore, but not including any outer Continental Shelf oil and gas leases that were subject to litigation in the Court of Federal Claims on January 1, 2006, if the Secretary finds that such lease qualifies for repurchase and cancellation under the regulations authorized by this section.

(b) REGULATIONS.—Not later than 365 days after the date of the enactment of this Act, the Secretary shall publish a final regulation stating the conditions under which a lease referred to in subsection (a) would qualify for repurchase and cancellation, and the process to be followed regarding repurchase and cancellation. Such regulation shall include, but not be limited to, the following:

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

(A) a request by the lessee for a required permit or other approval complied with applicable law, except the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and terms of the lease and such permit or other approval was denied;

(B) a Federal agency failed to act on a request by the lessee for a required permit, other approval, or administrative appeal within a regulatory or statutory time-frame associated with the requested action, whether advisory or mandatory, or if none, within 180 days; or

(C) a Federal agency attached a condition of approval, without agreement by the lessee, to a required permit or other approval if such condition of approval was not mandated by Federal statute or regulation in effect on the date of lease issuance, or was not specifically allowed under the terms of the lease.

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

(3) The Secretary shall make a final agency decision on a request by a lessee under this section within 180 days of request.

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

(5) Compensation shall be in the form of a check or electronic transfer from the Department of the Treasury from funds deposited into miscellaneous receipts under the authority of the same Act that authorized the issuance of the lease being repurchased.

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

(c) NO PREJUDICE.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

SEC. 118. OFFSITE ENVIRONMENTAL MITIGATION.

Notwithstanding any other provision of law, any person conducting activities under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30 U.S.C. 1001 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16 U.S.C. 552 et seq.), the General Mining Act of 1872 (30 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C. 601 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), may in satisfying any mitigation requirements associated with such activities propose mitigation measures on a site away from the area impacted and the Secretary of the Interior shall accept these proposed measures if the Secretary finds that they generally achieve the purposes for which mitigation measures appertained.

SEC. 119. OCS REGIONAL HEADQUARTERS.

Not later than July 1, 2010, the Secretary of the Interior shall establish the headquarters for the Atlantic OCS Region, the headquarters for the Gulf of Mexico OCS Region, and the headquarters for the Pacific OCS Region within a State bordering the Atlantic OCS Region, a State bordering the Gulf of Mexico OCS Region, and a State bordering the Pacific OCS Region, respectively, from among the States bordering those Regions, that petitions by no later than January 1, 2010, for leasing, for oil and gas or natural gas, covering at least 40 percent of the area of its Adjacent Zone within 100 miles of the coastline. Such Atlantic and Pacific OCS Regions headquarters shall be located within 25 miles of the coastline and each MMS OCS regional headquarters shall be the permanent duty station for all Minerals Management Service personnel that on a daily basis spend on average 60 percent or more of their time in performance of duties in support of the activities of the respective Region, except that the Minerals Management Service may house regional inspection staff in other locations. Each OCS Region shall each be led by a Regional Director who shall be an employee within the Senior Executive Service.

SEC. 120. LEASES FOR AREAS LOCATED WITHIN 100 MILES OF CALIFORNIA OR FLORIDA.

(a) AUTHORIZATION TO CANCEL AND EXCHANGE CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN LEASES PRIOR TO JUNE 30, 2012.—

(1) AUTHORITY.—Within 2 years after the date of enactment of this Act, the lessee of an existing oil and gas lease for an area located completely within 100 miles of the coastline within the California or Florida Adjacent Zones shall have the option, without compensation, of exchanging such lease for a new oil and gas lease having a primary term of 5 years. For the area subject to the new lease, the lessee may select any unleased tract on the outer Continental Shelf that is in an area available for leasing. Further, with the permission of the relevant Governor, such a lessee may convert its existing oil and gas lease into a natural gas lease having a primary term of 5 years and covering the same area as the existing lease or another area within the same State's Adjacent Zone within 100 miles of the coastline.

(2) ADMINISTRATIVE PROCESS.—The Secretary of the Interior shall establish a reasonable administrative process to implement paragraph (1). Exchanges and conversions under subsection (a), including the issuance of new leases, shall not be considered to be major Federal actions for purposes of the National Environmental Policy Act of 1969 (42

U.S.C. 4321 et seq.). Further, such actions conducted in accordance with this section are deemed to be in compliance all provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

(4) PRIORITY.—The Secretary shall give priority in the lease exchange process based on the amount of the original bonus bid paid for the issuance of each lease to be exchanged. The Secretary shall allow leases covering partial tracts to be exchanged for leases covering full tracts conditioned upon payment of additional bonus bids on a per-acre basis as determined by the average per acre of the original bonus bid per acre for the partial tract being exchanged.

(5) EXPLORATION PLANS.—Any exploration plan submitted to the Secretary of the Interior after the date of the enactment of this Act and before July 1, 2012, for an oil and gas lease for an area wholly within 100 miles of the coastline within the California Adjacent Zone or Florida Adjacent Zone shall not be treated as received by the Secretary until the earlier of July 1, 2012, or the date on which a petition by the Adjacent State for oil and gas leasing covering the area within which is located the area subject to the oil and gas lease was approved.

(b) FURTHER LEASE CANCELLATION AND EXCHANGE PROVISIONS.—

(1) CANCELLATION OF LEASE.—As part of the lease exchange process under this section, the Secretary shall cancel a lease that is exchanged under this section.

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

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

(4) PLUGGING AND ABANDONMENT.—The plugging and abandonment requirements for any wells located on any lease to be cancelled and exchanged under this section must be complied with by the lessees prior to the cancellation and exchange.

(c) AREA PARTIALLY WITHIN 100 MILES OF FLORIDA.—An existing oil and gas lease for an area located partially within 100 miles of the coastline within the Florida Adjacent Zone may only be developed and produced using wells drilled from well-head locations at least 100 miles from the coastline to any bottom-hole location on the area of the lease. This subsection shall not apply if Florida has petitioned for leasing closer to the coastline than 100 miles.

(d) EXISTING OIL AND GAS LEASE DEFINED.—In this section the term ''existing oil and gas lease'' means an oil and gas lease in effect on the date of the enactment of this Act.

SEC. 121. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is repealed.

SEC. 122. REPEAL OF THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

The Gulf of Mexico Energy Security Act of 2006 is repealed effective October 1, 2008.

Subtitle B—ANWR

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''American Energy Independence and Price Reduction Act''.

SEC. 142. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

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

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this subtitle that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this subtitle shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

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

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the Special Area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 144. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

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

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

(1) conduct the first lease sale under this subtitle within 22 months after the date of the enactment of this Act;

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

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

SEC. 145. GRANT OF LEASES BY THE SECRETARY.

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

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

SEC. 146. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

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

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 143(a)(2);

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

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

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this subtitle and the regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

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

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

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

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

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

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this subtitle, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

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

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

(9) Consolidation of facility siting.

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

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

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

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

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

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

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

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

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

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

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

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

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 148. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

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

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this subtitle, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this subtitle and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this subtitle shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

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

SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle—

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

(2) except as provided in section 152(d), 90 percent of the balance shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331.

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

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

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

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

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

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

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

SEC. 151. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 152. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this subtitle.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, as determined by the Secretary, shall be eligible for financial assistance under this section.

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

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including fire-fighting, police, water, waste treatment, medivac, and medical services; and

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

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

(B) provide to the Committee on Resources of the House of Representatives and the

Committee on Energy and Natural Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

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

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

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

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

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

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

Subtitle C—Oil Shale

SEC. 161. REPEAL.

Section 433 of the Consolidated Appropriations Act, 2008 is repealed.

TITLE II—CONSERVATION AND EFFICIENCY

Subtitle A—Tax Incentives for Fuel Efficiency

SEC. 201. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

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

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (31) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(32) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2) of such Code is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) of such Code is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) of such Code is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) of such Code is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) of such Code is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) of such Code is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 202. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLES.

Paragraph (4) of section 30B(j) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2010'' and inserting ''December 31, 2014''.

SEC. 203. EXTENSION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

Paragraph (1) of section 30C(g) of the Internal Revenue Code of 1986 is amended by striking ''hydrogen,'' inserting ''hydrogen or alternative fuels (as defined in section 30B(e)(4)(B)),''.

Subtitle B—Tapping America's Ingenuity and Creativity

SEC. 211. DEFINITIONS.

In this subtitle:

(1) ADMINISTERING ENTITY.—The term ''administering entity'' means the entity with which the Secretary enters into an agreement under section 214(c).

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 212. STATEMENT OF POLICY.

It is the policy of the United States to provide incentives to encourage the development and implementation of innovative energy technologies and new energy sources that will reduce our reliance on foreign energy.

SEC. 213. PRIZE AUTHORITY.

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

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation in the program carried out under subsection (a), including individuals, universities, communities, and large and small businesses.

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(c) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to the provisions of this subtitle. The administering entity shall perform the following functions:

(1) Advertise the competition and its results.

(2) Raise funds from private entities and individuals to pay for administrative costs and cash prizes.

(3) Develop, in consultation with and subject to the final approval of the Secretary, criteria to select winners based upon the goal of safely and adequately storing nuclear used fuel.

(4) Determine, in consultation with and subject to the final approval of the Secretary, the appropriate amount of the awards.

(5) Protect against the administering entity's unauthorized use or disclosure of a registered participant's intellectual property, trade secrets, and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subtitle may be withheld from public disclosure.

(6) Develop and promulgate sufficient rules to define the parameters of designing and proposing innovative energy technologies and new energy sources with input from industry, citizens, and corporations familiar with such activities.

(d) FUNDING SOURCES.—Prizes under this subtitle may consist of Federal appropriated funds, funds provided by the administering entity, or funds raised through grants or donations. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

(e) ANNOUNCEMENT OF PRIZES.—The Secretary may not publish a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated to the Department or the Department has received from the administering entity a written commitment to provide all necessary funds.

SEC. 214. ELIGIBILITY.

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

(1) shall notify the administering entity of intent to submit ideas and intent to collect the prize upon selection;

(2) shall comply with all the requirements stated in the Federal Register notice required under section 213(b)(2);

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of the United States;

(4) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or an employee of a national laboratory acting within the scope of employment;

(5) shall not use Federal funding or other Federal resources to compete for the prize; and

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

SEC. 215. INTELLECTUAL PROPERTY.

The Federal Government shall not, by virtue of offering or awarding a prize under this subtitle, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a registered participant in a competition authorized by this subtitle. This section shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subtitle. The Federal Government may seek assurances that technologies for which prizes are awarded under this subtitle are offered for commercialization in the event an award recipient does not take, or is not expected to take within a reasonable time, effective steps to achieve practical application of the technology.

SEC. 216. WAIVER OF LIABILITY.

The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this subtitle. The Secretary shall give notice of any waiver required under this section in the notice required by section 213(b)(2). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's intellectual property, trade secrets, or confidential business information.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

(a) AWARDS.—40 percent of amounts in the American Energy Trust Fund shall be available without further appropriation to carry out specified provisions of this section.

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

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

(d) CARRYOVER OF FUNDS.—Funds appropriated for prize awards under this subtitle shall remain available until expended and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 11 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subtitle permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PROGRAM.

The Secretary of Energy shall establish a program to award a prize in the amount of $500,000,000 to the first automobile manufacturer incorporated in the United States to manufacture and sell in the United States 50,000 midsized sedan automobiles which operate on gasoline and can travel 100 miles per gallon.

SEC. 219. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

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

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

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

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $100,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

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

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

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

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

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

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

(ii) 25 years;

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

(D) shall be made by the Federal Financing Bank.

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

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the American Energy Trust Fund such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

Subtitle C—Home and Business Tax Incentives

SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subsection (b) of section 45M of the Internal Revenue Code of 1986 (relating to applicable amount) is amended by striking ''calendar year 2006 or 2007'' each place it appears in paragraphs (1)(A)(i), (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting ''calendar year 2006, 2007, 2008, 2009, 2010, 2011, 2012, or 2013''.

(b) RESTART OF CREDIT LIMITATION.—Paragraph (1) of section 45M(e) of such Code (relating to aggregate credit amount allowed) is amended by inserting ''beginning after December 31, 2007'' after ''for all prior taxable years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2013''.

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

SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

Section 25D(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 224. EXTENSION OF NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 225. EXTENSION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Section 179D(h) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Paragraph (3) of section 451(i) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2008'' and inserting ''January 1, 2014''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) of such Code is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

SEC. 227. HOME ENERGY AUDITS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

''SEC. 25E. HOME ENERGY AUDITS.

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

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) with respect to a residence of the taxpayer for a taxable year shall not exceed $400.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of any taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

''(c) QUALIFIED ENERGY AUDIT.—For purposes of this section, the term 'qualified energy audit' means an energy audit of the principal residence of the taxpayer performed by a qualified energy auditor through a comprehensive site visit. Such audit may include a blower door test, an infra-red camera test, and a furnace combustion efficiency test. In addition, such audit shall include such substitute tests for the tests specified in the preceding sentence, and such additional tests, as the Secretary may by regulation require. A principal residence shall not be taken into consideration under this subparagraph unless such residence is located in the United States.

''(d) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(e) QUALIFIED ENERGY AUDITOR.—

''(1) IN GENERAL.—The Secretary shall specify by regulations the qualifications required to be a qualified energy auditor for purposes of this section. Such regulations shall include rules prohibiting conflicts-of-interest, including the disallowance of commissions or other payments based on goods or non-audit services purchased by the taxpayer from the auditor.

''(2) CERTIFICATION.—The Secretary shall prescribe the procedures and methods for certifying that an auditor is a qualified energy auditor. To the maximum extent practicable, such procedures and methods shall provide for a variety of sources to obtain certifications.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) of the Internal Revenue Code of 1986 is amended by inserting ''and section 25E'' after ''this section''.

(2) Section 23(c)(1) of such Code is amended by inserting '', 25E,'' after ''25D''.

(3) Section 24(b)(3)(B) of such Code is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

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

(5) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(6) Section 25D(c)(1) of such Code is amended by inserting ''and section 25E'' after ''this section''.

(7) Section 25D(c)(2) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(8) The table of sections for subpart A of part IV of subchapter A chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Home energy audits.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by paragraphs (1) and (3) of subsection (b) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS.

(a) IN GENERAL.—Section 168(e)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any qualified smart electric meter.''.

(b) DEFINITION.—Section 168(i) of such Code is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) of such Code is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter, or''.

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

Subtitle D—Refinery Permit Process Schedule

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Refinery Permit Process Schedule Act''.

SEC. 232. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''applicant'' means a person who (with the approval of the governor of the State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, where the proposed refinery would be located) is seeking a Federal refinery authorization;

(3) the term ''biomass'' has the meaning given that term in section 932(a)(1) of the Energy Policy Act of 2005;

(4) the term ''Federal refinery authorization''—

(A) means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to siting, construction, expansion, or operation of a refinery; and

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

(5) the term ''refinery'' means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or distillate;

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline or diesel as its primary output; or

(C) a facility designed and operated to receive, load, unload, store, transport, process (including biochemical, photochemical, and biotechnology processes), and refine biomass in order to produce biofuel; and

(6) the term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 233. STATE ASSISTANCE.

(a) STATE ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, the Administrator is authorized to provide financial assistance to that State or tribe or tribal community to facilitate the hiring of additional personnel to assist the State or tribe or tribal community with expertise in fields relevant to consideration of Federal refinery authorizations.

(b) OTHER ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, a Federal agency responsible for a Federal refinery authorization shall provide technical, legal, or other nonfinancial assistance to that State or tribe or tribal community to facilitate its consideration of Federal refinery authorizations.

SEC. 234. REFINERY PROCESS COORDINATION AND PROCEDURES.

(a) APPOINTMENT OF FEDERAL COORDINATOR.—

(1) IN GENERAL.—The President shall appoint a Federal coordinator to perform the responsibilities assigned to the Federal coordinator under this subtitle.

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

(b) FEDERAL REFINERY AUTHORIZATIONS.—

(1) MEETING PARTICIPANTS.—Not later than 30 days after receiving a notification from an applicant that the applicant is seeking a Federal refinery authorization pursuant to Federal law, the Federal coordinator appointed under subsection (a) shall convene a meeting of representatives from all Federal and State agencies responsible for a Federal refinery authorization with respect to the refinery. The governor of a State shall identify each agency of that State that is responsible for a Federal refinery authorization with respect to that refinery.

(2) MEMORANDUM OF AGREEMENT.—(A) Not later than 90 days after receipt of a notification described in paragraph (1), the Federal coordinator and the other participants at a meeting convened under paragraph (1) shall establish a memorandum of agreement setting forth the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery, consistent with the full substantive and procedural review required by Federal law. If a Federal or State agency responsible for a Federal refinery authorization with respect to the refinery is not represented at such meeting, the Federal coordinator shall ensure that the schedule accommodates those Federal refinery authorizations, consistent with Federal law. In the event of conflict among Federal refinery authorization scheduling requirements, the requirements of the Environmental Protection Agency shall be given priority.

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

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

(c) CONSOLIDATED RECORD.—The Federal coordinator shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions

taken by the Federal coordinator or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal refinery authorization. Such record shall be the record for judicial review under subsection (d) of decisions made or actions taken by Federal and State administrative agencies and officials, except that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Federal coordinator for further development of the consolidated record.

(d) REMEDIES.—

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

(2) STANDING.—If an applicant or a party to a memorandum of agreement alleges that a failure to act described in paragraph (1) has occurred and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, such applicant or other party may bring a cause of action under this subsection.

(3) COURT ACTION.—If an action is brought under paragraph (2), the Court shall review whether the parties to the memorandum of agreement have been acting in good faith, whether the applicant has been cooperating fully with the agencies that are responsible for issuing a Federal refinery authorization, and any other relevant materials in the consolidated record. Taking into consideration those factors, if the Court finds that a failure to act described in paragraph (1) has occurred, and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, the Court shall establish a new schedule that is the most expeditious coordinated schedule possible for completion of proceedings, consistent with the full substantive and procedural review required by Federal law. The court may issue orders to enforce any schedule it establishes under this paragraph.

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

(5) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

SEC. 235. DESIGNATION OF CLOSED MILITARY BASES.

(a) DESIGNATION REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall designate no less than 3 closed military installations, or portions thereof, as potentially suitable for the construction of a refinery. At least 1 such site shall be designated as potentially suitable for construction of a refinery to refine biomass in order to produce biofuel.

(b) REDEVELOPMENT AUTHORITY.—The redevelopment authority for each installation designated under subsection (a), in preparing or revising the redevelopment plan for the installation, shall consider the feasibility and practicability of siting a refinery on the installation.

(c) MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—The Secretary of Defense, in managing and disposing of real property at an installation designated under subsection (a) pursuant to the base closure law applicable to the installation, shall give substantial deference to the recommendations of the redevelopment authority, as contained in the redevelopment plan for the installation, regarding the siting of a refinery on the installation. The management and disposal of real property at a closed military installation or portion thereof found to be suitable for the siting of a refinery under subsection (a) shall be carried out in the manner provided by the base closure law applicable to the installation.

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

(1) the term ''base closure law'' means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); and

(2) the term ''closed military installation'' means a military installation closed or approved for closure pursuant to a base closure law.

SEC. 236. SAVINGS CLAUSE.

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

SEC. 237. REFINERY REVITALIZATION REPEAL.

Subtitle H of title III of the Energy Policy Act of 2005 and the items relating thereto in the table of contents of such Act are repealed.

TITLE III—NEW AND EXPANDING TECHNOLOGIES

Subtitle A—Alternative Fuels

SEC. 301. REPEAL.

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

SEC. 302. GOVERNMENT AUCTION OF LONG TERM PUT OPTION CONTRACTS ON COAL-TO-LIQUID FUEL PRODUCED BY QUALIFIED COAL-TO-LIQUID FACILITIES.

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

(b) CONSULTATION WITH SECRETARY OF ENERGY.—The Secretary shall consult with the Secretary of Energy regarding—

(1) the frequency of the auctions;

(2) the strike prices specified in the contracts;

(3) the number of contracts to be auctioned with a given strike price and expiration date; and

(4) the capacity of existing or planned facilities to produce coal-to-liquid fuel.

(c) DEFINITIONS.—In this section:

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

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

(A) gives the holder the right (but not the obligation) to sell to the Government of the United States a certain quantity of a specific type of coal-to-liquid fuel produced by a qualified coal-to-liquid facility specified in the contract, at a strike price specified in the contract, on or before an expiration date specified in the contract; and

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

(3) QUALIFIED COAL-TO-LIQUID FACILITY.—The term ''qualified coal-to-liquid facility'' means a manufacturing facility that has the capacity to produce at least 10,000 barrels per day of transportation grade liquid fuels from a feedstock that is primarily domestic coal (including peat and any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(5) STRIKE PRICE.—The term ''strike price'' means, with respect to a put option contract, the price at which the holder of the contract has the right to sell the fuel which is the subject of the contract.

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

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

SEC. 303. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQUIDS PROJECTS.

Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

''(k) STANDBY LOANS FOR QUALIFYING CTL PROJECTS.—

''(1) DEFINITIONS.—For purposes of this subsection:

''(A) CAP PRICE.—The term 'cap price' means a market price specified in the standby loan agreement above which the project is required to make payments to the United States.

''(B) FULL TERM.—The term 'full term' means the full term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 30 years or 90 percent of the projected useful life of the project (as determined by the Secretary).

''(C) MARKET PRICE.—The term 'market price' means the average quarterly price of a petroleum price index specified in the standby loan agreement.

''(D) MINIMUM PRICE.—The term 'minimum price' means a market price specified in the standby loan agreement below which the United States is obligated to make disbursements to the project.

''(E) OUTPUT.—The term 'output' means some or all of the liquid or gaseous transportation fuels produced from the project, as specified in the loan agreement.

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

''(G) QUALIFYING CTL PROJECT.—The term 'qualifying CTL project' means—

''(i) a commercial-scale project that converts coal to one or more liquid or gaseous transportation fuels; or

''(ii) not more than one project at a facility that converts petroleum refinery waste products, including petroleum coke, into one or more liquids or gaseous transportation fuels,

that demonstrates the capture, and sequestration or disposal or use of, the carbon dioxide produced in the conversion process, and that, on the basis of a carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, as producing fuel

with life cycle carbon dioxide emissions at or below the average life cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities.

''(H) STANDBY LOAN AGREEMENT.—The term 'standby loan agreement' means a loan agreement entered into under paragraph (2).

''(2) STANDBY LOANS.—

''(A) LOAN AUTHORITY.—The Secretary may enter into standby loan agreements with not more than six qualifying CTL projects, at least one of which shall be a project jointly or in part owned by two or more small coal producers. Such an agreement—

''(i) shall provide that the Secretary will make a direct loan (within the meaning of section 502(1) of the Federal Credit Reform Act of 1990) to the qualifying CTL project; and

''(ii) shall set a cap price and a minimum price for the primary term of the agreement.

''(B) LOAN DISBURSEMENTS.—Such a loan shall be disbursed during the primary term of such agreement whenever the market price falls below the minimum price. The amount of such disbursements in any calendar quarter shall be equal to the excess of the minimum price over the market price, times the output of the project (but not more than a total level of disbursements specified in the agreement).

''(C) LOAN REPAYMENTS.—The Secretary shall establish terms and conditions, including interest rates and amortization schedules, for the repayment of such loan within the full term of the agreement, subject to the following limitations:

''(i) If in any calendar quarter during the primary term of the agreement the market price is less than the cap price, the project may elect to defer some or all of its repayment obligations due in that quarter. Any unpaid obligations will continue to accrue interest.

''(ii) If in any calendar quarter during the primary term of the agreement the market price is greater than the cap price, the project shall meet its scheduled repayment obligation plus deferred repayment obligations, but shall not be required to pay in that quarter an amount that is more than the excess of the market price over the cap price, times the output of the project.

''(iii) At the end of the primary term of the agreement, the cumulative amount of any deferred repayment obligations, together with accrued interest, shall be amortized (with interest) over the remainder of the full term of the agreement.

''(3) PROFIT-SHARING.—The Secretary is authorized to enter into a profit-sharing agreement with the project at the time the standby loan agreement is executed. Under such an agreement, if the market price exceeds the cap price in a calendar quarter, a profit-sharing payment shall be made for that quarter, in an amount equal to—

''(A) the excess of the market price over the cap price, times the output of the project; less

''(B) any loan repayments made for the calendar quarter.

''(4) COMPLIANCE WITH FEDERAL CREDIT REFORM ACT.—

''(A) UPFRONT PAYMENT OF COST OF LOAN.—No standby loan agreement may be entered into under this subsection unless the project makes a payment to the United States that the Office of Management and Budget determines is equal to the cost of such loan (determined under 502(5)(B) of the Federal Credit Reform Act of 1990). Such payment shall be made at the time the standby loan agreement is executed.

''(B) MINIMIZATION OF RISK TO THE GOVERNMENT.—In making the determination of the cost of the loan for purposes of setting the payment for a standby loan under subparagraph (A), the Secretary and the Office of Management and Budget shall take into consideration the extent to which the minimum price and the cap price reflect historical patterns of volatility in actual oil prices relative to projections of future oil prices, based upon publicly available data from the Energy Information Administration, and employing statistical methods and analyses that are appropriate for the analysis of volatility in energy prices.

''(C) TREATMENT OF PAYMENTS.—The value to the United States of a payment under subparagraph (A) and any profit-sharing payments under paragraph (3) shall be taken into account for purposes of section 502(5)(B)(iii) of the Federal Credit Reform Act of 1990 in determining the cost to the Federal Government of a standby loan made under this subsection. If a standby loan has no cost to the Federal Government, the requirements of section 504(b) of such Act shall be deemed to be satisfied.

''(5) OTHER PROVISIONS.—

''(A) NO DOUBLE BENEFIT.—A project receiving a loan under this subsection may not, during the primary term of the loan agreement, receive a Federal loan guarantee under subsection (a) of this section, or under other laws.

''(B) SUBROGATION, ETC.—Subsections (g)(2) (relating to subrogation), (h) (relating to fees), and (j) (relating to full faith and credit) shall apply to standby loans under this subsection to the same extent they apply to loan guarantees.''.

Subtitle B—Tax Provisions

SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, REFINED COAL, AND INDIAN COAL PRODUCTION CREDIT.

(a) CREDIT MADE PERMANENT.—

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

(A) by striking ''and before January 1, 2009'' each place it occurs,

(B) by striking '', and before January 1, 2009'' in paragraphs (1) and (2)(A)(i), and

(C) by striking ''before January 1, 2009'' in paragraph (10).

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

''(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after October 22, 2004.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity produced and sold after December 31, 2008, in taxable years ending after such date.

(b) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) of such Code is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.

(c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Clause (ii) of section 38(c)(4)(B) of such Code (relating to specified credits) is amended by striking ''produced—'' and all that follows and inserting ''produced at a facility which is originally placed in service after the date of the enactment of this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 312. EXTENSION OF ENERGY CREDIT.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal Revenue Code of 1986 (relating to energy credit) are each amended by striking ''but only with respect to periods ending before January 1, 2009''.

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

(c) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) of the Internal Revenue Code of 1986 (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

(d) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4) of such Code (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 48, and''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

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

(a) EXTENSION.—Section 54(m) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

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

(1) by striking ''$1,200,000,000'' in paragraph (1) and inserting ''$1,600,000,000'', and

(2) by striking ''$750,000,000'' in paragraph (2) and inserting ''$1,000,000,000''.

(c) MODIFICATION OF RATABLE PRINCIPAL AMORTIZATION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (5) of section 54(l) of such Code is amended to read as follows:

''(5) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each 12-month period that the issue is outstanding (other than the first 12-month period).''.

(2) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) of such Code is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

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

SEC. 314. EXTENSION OF CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

Subtitle C—Nuclear

SEC. 321. USE OF FUNDS FOR RECYCLING.

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

(1) in subsection (d), by striking ''The Secretary may'' and inserting ''Except as provided in subsection (f), the Secretary may''; and

(2) by adding at the end the following new subsection:

''(f) RECYCLING.—

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

''(2) COMPETITIVE SELECTION.—Grants and contracts authorized under paragraph (1) shall be awarded on the basis of a competitive bidding process that—

''(A) maximizes the competitive efficiency of the projects funded;

''(B) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

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

SEC. 322. RULEMAKING FOR LICENSING OF SPENT NUCLEAR FUEL RECYCLING FACILITIES.

(a) REQUIREMENT.—The Nuclear Regulatory Commission shall, as expeditiously as possible, but in no event later than 2 years after the date of enactment of this Act, complete a rulemaking establishing a process for the licensing by the Nuclear Regulatory Commission, under the Atomic Energy Act of 1954, of facilities for the recycling of spent nuclear fuel.

(b) FUNDING.—Amounts in the Nuclear Waste Fund established under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be made available to the Nuclear Regulatory Commission to cover the costs of carrying out subsection (a) of this section.

SEC. 323. NUCLEAR WASTE FUND BUDGET STATUS.

Section 302(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)) is amended by adding at the end the following new paragraph:

''(7) The receipts and disbursements of the Waste Fund shall not be counted as new budget authority, outlays, receipts, or deficits or surplus for purposes of—

''(A) the budget of the United States Government as submitted by the President;

''(B) the congressional budget; or

''(C) the Balanced Budget and Emergency Deficit Control Act of 1985.''.

SEC. 324. WASTE CONFIDENCE.

The Nuclear Regulatory Commission may not deny an application for a license, permit, or other authorization under the Atomic Energy Act of 1954 on the grounds that sufficient capacity does not exist, or will not become available on a timely basis, for disposal of spent nuclear fuel or high-level radioactive waste from the facility for which the license, permit, or other authorization is sought.

SEC. 325. ASME NUCLEAR CERTIFICATION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45O. ASME NUCLEAR CERTIFICATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the ASME Nuclear Certification credit determined under this section for any taxable year is an amount equal to 15 percent of the qualified nuclear expenditures paid or incurred by the taxpayer.

''(b) QUALIFIED NUCLEAR EXPENDITURES.—For purposes of this section, the term 'qualified nuclear expenditures' means any expenditure related to—

''(1) obtaining a certification under the American Society of Mechanical Engineers Nuclear Component Certification program, or

''(2) increasing the taxpayer's capacity to construct, fabricate, assemble, or install components—

''(A) for any facility which uses nuclear energy to produce electricity, and

''(B) with respect to the construction, fabrication, assembly, or installation of which the taxpayer is certified under such program.

''(c) TIMING OF CREDIT.—The credit allowed under subsection (a) for any expenditures shall be allowed—

''(1) in the case of a qualified nuclear expenditure described in subsection (b)(1), for the taxable year of such certification, and

''(2) in the case of any other qualified nuclear expenditure, for the taxable year in which such expenditure is paid or incurred.

''(d) SPECIAL RULES.—

''(1) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for an expenditure, the increase in basis which would result (but for this subsection) for such expenditure shall be reduced by the amount of the credit allowed under this section.

''(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

''(e) TERMINATION.—This section shall not apply to any expenditures paid or incurred in taxable years beginning after December 31, 2019.''.

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) the ASME Nuclear Certification credit determined under section 45O(a).''.

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 45O(e)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2007.

Subtitle D—American Renewable and Alternative Energy Trust Fund

SEC. 331. AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''American Renewable and Alternative Energy Trust Fund'', consisting of such amounts as may be transferred to the American Renewable and Alternative Energy Trust Fund as provided in section 149 and the amendments made by section 110 of this division.

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

(1) IN GENERAL.—Amounts in the American Renewable and Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109–58; in this section referred to as ''EPAct2005'') and the Energy Independence and Security Act of 2007 (Public Law 110–140; in this section referred to as ''EISAct2007''), as follows:

(A) Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes, section 210 of EPAct2005, 3 percent

(B) Hydroelectric production incentives, section 242 of EPAct2005, 2 percent.

(C) Oil shale, tar sands, and other strategic unconventional fuels, section 369 of EPAct2005, 3 percent.

(D) Clean Coal Power Initiative, section 401 of EPAct2005, 7 percent.

(E) Solar and wind technologies, section 812 of EPAct2005, 7 percent.

(F) Renewable Energy, section 931 of EPAct2005, 20 percent.

(G) Production incentives for cellulosic biofuels, section 942 of EPAct2005, 2.5 percent.

(H) Coal and related technologies program, section 962 of EPAct2005, 4 percent.

(I) Methane hydrate research, section 968 of EPAct2005, 2.5 percent.

(J) Incentives for Innovative Technologies, section 1704 of EPAct2005, 7 percent.

(K) Grants for production of advanced biofuels, section 207 of EISAct2007, 16 percent.

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

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

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

(O) Energy storage competitiveness, section 641 of EISAct2007, 10 percent.

(P) Smart grid technology research, development, and demonstration, section 1304 of EISAct2007, 7 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out such sections and subtitles, in proportion to the amounts authorized by law to be appropriated for such other sections and subtitles.

SA 5155. Mr. CRAPO submitted an amendment intended to be proposed by bim to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing Transparency and Accountability in Energy Prices Act of 2008''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term ''excessive speculation'' has the meaning described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)).

SEC. 3. SENSE OF SENATE ON THE NEED FOR GREATER TRANSPARENCY IN AND REGULATORY RESOURCES OVERSEEING THE ENERGY FUTURES MARKETS.

(a) SENSE OF SENATE.—It is the sense of the Senate that—

(1) excessive speculation may be adding to the price of oil and other energy commodities;

(2) the public and Congress are concerned that because the regulator of the energy futures markets, the Commodity Futures Trading Commission, does not have access to all of the national and international data required to fully assess the role of excessive speculation, it cannot definitively determine whether energy futures prices are being driven solely by supply and demand;

(3) the staffing levels of the Commission have dropped to the lowest levels in the 33-year history of the Commission, thereby making it difficult for the Commission to analyze the growing volumes of futures transactions adequately;

(4) the acting Chairman of the Commission has said publicly that an additional 100 employees are needed in light of the inflow of trading data; and

(5) a more robust regulator over the energy futures markets can help restore public confidence in the proper functioning of energy futures markets with respect to the price discovery mechanism they are meant to provide, at least in part by more aggressively applying and enforcing section 9 of the Act, including provisions relating to manipulation or attempted manipulation, the making of false statements, and willful violations of this Act; and

(6) the Commodity Futures Trading Commission should be provided with additional resources sufficient to—

(A) help restore public confidence in energy commodities markets;

(B) significantly improve the information technology capabilities of the Commission to help the Commission effectively regulate energy futures markets; and

(C) fund at least 100 new full-time positions at the Commission to oversee energy commodity market speculation and to enforce the Commodity Exchange Act (7 U.S.C. 1 et seq.).

SEC. 4. ADDITIONAL COMMISSION EMPLOYEES FOR IMPROVED OVERSIGHT AND ENFORCEMENT.

Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

''(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of enactment of this subparagraph)—

''(i) to increase the public transparency of operations in energy futures markets;

''(ii) to improve the enforcement of this Act in those markets; and

''(iii) to carry out such other duties as are prescribed by the Commission.''.

SEC. 5. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including market oversight and enforcement standards and activities;

(2) variations among countries in the use of position limits, accountability limits, or other thresholds to detect and prevent price manipulation, excessive speculation, or other unfair trading practices;

(3) variations in practices regarding the differentiation of commercial and non-commercial trading;

(4) agreements and practices for sharing market and trading data between regulatory bodies and between individual regulators and the entities they oversee; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that—

(1) describes the results of the study;

(2) addresses the effects of excessive speculation and energy price volatility on energy futures; and

(3) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States.

SEC. 6. SPECULATIVE LIMITS AND TRANSPARENCY FOR OFF-SHORE OIL TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or foreign futures authority adopts position limits (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles;

''(C) the foreign board of trade or foreign futures authority has the authority to require or direct market participants to limit, reduce, or liquidate any position it deems necessary to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process;

''(D) the foreign board of trade or foreign futures authority provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its Commitment of Traders report for the contract or contracts against which it settles; and

''(E) the foreign board of trade or foreign futures authority regularly notifies the Commission before implementing any regulatory changes regarding the information it will make public, the position and accountability limits it will adopt and enforce, the position reductions it will require to prevent manipulation, or any other area of interest expressed by the Commission.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 6 months after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission had granted relief prior to the date of enactment of this subsection.''.

SEC. 7. COMMISSION AUTHORITY OVER TRADERS.

(a) IN GENERAL.—

(1) VIOLATIONS.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by inserting '', including any person trading on a foreign board of trade,'' after ''Any person''.

(2) EXCESSIVE SPECULATION AS A BURDEN ON INTERSTATE COMMERCE.—Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended by adding after ''fixed by the Commission.'' the following: ''It shall be a violation of this Act for any person located within the United States, its territories, or possessions, or who enters trades into a foreign board of trade's trade matching system from the United States, its territories, or possessions, to violate any bylaw, rule, regulation, or resolution of any foreign board of trade or foreign futures authority fixing limits on the amount of trading which may be done or positions which may be held under contacts of a sale of an energy commodity (as defined by the Commission) for future delivery or under options on such contracts or commodities, that settle against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity.''

(3) RESTRICTION OF FUTURES TRADING TO CONTRACT MARKETS OR DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended by adding after the first sentence the following: ''The Commission may adopt rules and regulations requiring the keeping of books and records by any person located within the United States, its territories, or possessions, or who enters trades into a foreign board of trade's trade matching system from the United States, its territories, or possessions.''

(b) CONSULTATION.—Prior to the issuance of any order to reduce a position on a foreign board of trade located outside located outside the United States, its territories, or possessions, the Commission shall consult with the foreign board of trade and the appropriate regulatory authority.

(c) ADMINISTRATION.—Nothing in this subsection limits any of the otherwise applicable authorities of the Commission.

SEC. 8. DETAILED REPORTING FROM INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 6) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined in the rulemaking by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for such

entities in energy and agricultural transactions within the jurisdiction of the Commission not later than 60 days after the enactment of this subsection, and issue a final rule within 120 days after the enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive positions in the energy and agricultural futures markets, comparing these positions and values to the speculative positions of bona fide physical hedgers in those markets.

''(2) REPORT.—The Commission shall submit a report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Agriculture Committee, not later than September 15, 2008, regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether and how the classification of index traders and swap dealers in the futures markets can be improved for regulatory reporting purposes;

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SA 5156. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

SEC. 2. FOREIGN BOARDS OF TRADE.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

''(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.''.

SEC. 3. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 2) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

''(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SEC. 4. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and

(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

SA 5157. Mr. ENZI (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

SEC. ___. TERMINATION OF AUTHORITY TO DEDUCT AMOUNTS FROM SHARE OF OIL AND GAS LEASING REVENUES PROVIDED TO STATES.

(a) IN GENERAL.—Effective December 26, 2007, the matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Subdivision F of Public Law 110–

161; 121 Stat. 2109) is amended by striking the second undesignated paragraph.

(b) ADMINISTRATION.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of the Interior shall not deduct any amount from or reduce the amount of payments otherwise payable to States under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

SA 5158. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

Strike section 3.

SA 5159. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows;

Strike section 6.

SA 5160. Mr. STEVENS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Supporting Alternative and Viable Energy for America Act of 2008''.

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

TITLE I—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

SEC. 101. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 102. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this title, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this title that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this title; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of an environmental analysis.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this title.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 103. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

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

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this title;

(2) not later than 90 days after the date of the completion of the sale, evaluate the bids in the sale and issue leases resulting from the sale; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 104. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 103 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

SEC. 105. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this title shall be, as nearly as practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 102(a)(2);

(7) provide that the lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this title and regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this title negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 106. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 102, the Secretary shall administer this title through regulations, lease terms, conditions, restrictions, prohibitions, or stipulations that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and

gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, or stipulations designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations, the duration of which shall not exceed 120 days, on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this title for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards; and

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping may be limited.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations; and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 107. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed during the 90-day period beginning on the date on which the action being challenged was carried out.

(2) VENUE.—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this title (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this title; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this title shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding.

SEC. 108. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the

management of the Coastal Plain under this section.

SEC. 109. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 110. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title for each fiscal year—

(1) 50 percent shall be paid to the State of Alaska each fiscal year, of which not less than 37.5 percent shall be used each fiscal year to provide local government impact aid and community service assistance under section 111; and

(2) the balance shall be transferred to the ANWR Alternative Energy Trust Fund established by section 112.

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

SEC. 111. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 110(a)(1), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the amount made available under section 110(a)(1) to provide local government impact aid and community service assistance shall be deposited into the Fund.

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this title, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 112. ANWR ALTERNATIVE ENERGY TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''ANWR Alternative Energy Trust Fund'', consisting of such amounts as may be transferred to the ANWR Alternative Energy Trust Fund as provided in section 110(a)(2).

(b) EXPENDITURES FROM ANWR ALTERNATIVE ENERGY TRUST FUND.—

(1) IN GENERAL.—Amounts in the ANWR Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109–58; referred to in this section as ''EPAct2005''), the Energy Independence and Security Act of 2007 (Public Law 110–140; referred to in this section as ''EISAct2007''), and subtitle A of title V of this Act, as follows:

To carry out the provisions of:	The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:
EPAct2005:	
Section 210	1.5 percent
Section 242	1.0 percent
Section 369	2.0 percent
Section 401	6.0 percent
Section 812	6.0 percent
Section 931	16.0 percent
Section 942	1.5 percent
Section 962	3.0 percent
Section 968	1.5 percent
Section 1704	5.5 percent
EISAct2007:	
Section 207	15.0 percent
Section 607	1.0 percent
Title VI, Subtitle B	3.0 percent
Title VI, Subtitle C	1.5 percent
Section 641	9.0 percent
Title VII, Subtitle A	10.0 percent
Section 1112	1.5 percent
Section 1304	5.0 percent
Title V of this Act, Subtitle A:	10.0 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out those sections and subtitles, in proportion to the amounts authorized by law to be appropriated for those other sections and subtitles.

SEC. 113. PROHIBITION ON EXPORTS.

An oil or gas lease issued under this title shall prohibit the exportation of oil or gas produced under the lease.

SEC. 114. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of such provisions to any person or circumstance shall not be affected thereby.

TITLE II—OCS IMPACT READINESS ACT OF 2008

SEC. 201. SHORT TITLE.

This title may be cited as the ''OCS Impact Readiness Act of 2008''.

SEC. 202. DEFINITIONS.

In this title:

(1) COASTAL POLITICAL SUBDIVISION.—The term ''coastal political subdivision'', with respect to a Fairness State, means a county-equivalent subdivision of a Fairness State—

(A) all or a portion of which lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453); and

(B) the closest point of which is not more than 300 statute miles from the geographical center of any leased tract.

(2) DISTANCE.—The term ''distance'' means minimum great circle distance.

(3) FAIRNESS STATE.—The term ''Fairness State'' means a coastal State with a coastal seaward boundary within a distance of 300 statute miles of the geographical center of a

leased tract in an outer Continental Shelf planning area that, as of January 1, 2000—

(A) had no oil or natural gas production; and

(B) is not a ''Gulf producing State'' (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)).

(4) LEASED TRACT.—The term ''leased tract'' means a tract leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for the purpose of drilling for, developing, and producing oil or natural gas resources.

(5) QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS.—

(A) IN GENERAL.—The term ''qualified outer Continental Shelf receipts'' means all amounts received by the United States, in the fiscal year immediately following the fiscal year in which this Act is enacted and each fiscal year thereafter—

(i) from each leased tract or portion of a leased tract, the geographical center of which lies within a distance of 300 statute miles from any part of the coastline of a Fairness State, including—

(I) bonus bids;

(II) rents;

(III) royalties (including the value of royalties taken in kind);

(IV) net profit share payments;

(V) fees; and

(VI) related late payment interest; and

(ii) from leases entered into on or after January 1, 2000.

(B) EXCLUSIONS.—The term ''qualified outer Continental Shelf receipts'' does not include—

(i) receipts from the forfeiture of a bond or other surety securing obligations other than royalties, or civil penalties; or

(ii) receipts generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 203. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS FROM OUTER CONTINENTAL SHELF OIL AND GAS LEASING PLANNING AREAS.

(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 62.5 percent of qualified outer Continental Shelf receipts in the miscellaneous receipts of the Treasury; and

(2) 37.5 percent of qualified outer Continental Shelf receipts in a special account in the Treasury that the Secretary shall disburse to Fairness States and certain coastal political subdivisions of those Fairness States.

(b) ALLOCATION AMONG FAIRNESS STATES AND THEIR COASTAL POLITICAL SUBDIVISIONS.—

(1) ALLOCATION AMONG FAIRNESS STATES.—

(A) IN GENERAL.—Effective for the fiscal year immediately following the fiscal year in which this Act is enacted and each fiscal year thereafter, the amount made available under subsection (a)(2) shall be allocated by the Secretary to each Fairness State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Fairness State that is closest to the geographical center of the applicable leased tract and the geographical center of the leased tract.

(B) SINGLE FAIRNESS STATE.—If only 1 Fairness State is within a distance of 300 miles of the geographical center of a lease described in subparagraph (A), the entire amount made available under subsection (a)(2) from the lease shall be allocated to that Fairness State.

(2) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS OF FAIRNESS STATES.—

(A) IN GENERAL.—The Secretary shall pay 40 percent of the allocable share of each Fairness State, as determined under paragraph (1), to certain coastal political subdivisions of the Fairness State.

(B) ALLOCATION.—

(i) IN GENERAL.—For each leased tract used to calculate the allocation for a Fairness State, the Secretary shall pay each coastal political subdivision located within a distance of 300 miles of the geographical center of the leased tract based on the relative distance of the coastal political subdivision from the leased tract in accordance with clauses (ii) and (iii).

(ii) DETERMINATION OF DISTANCES.—For each coastal political subdivision described in clause (i), the Secretary shall determine the distance between the point on the coastal political subdivision coastline closest to the geographical center of the leased tract and the geographical center of the tract.

(iii) INVERSELY PROPORTIONAL ALLOCATION.—The Secretary shall divide and allocate the qualified Outer Continental Shelf receipts derived from the leased tract among coastal political subdivisions described in clause (i) in amounts that are inversely proportional to the distances determined under clause (ii).

(c) TIMING.—The amounts required to be deposited under subsection (a)(2) for the applicable fiscal year shall be made available in accordance with subsection (a)(2) during the first 90 days of the fiscal year immediately following the applicable fiscal year.

(d) AUTHORIZED USES.—Each Fairness State and coastal political subdivision shall use all amounts received under subsection (b), in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(1) Projects and activities for the purposes of coastal protection (including conservation), coastal restoration, storm protection, and infrastructure directly affected by coastal wetland and tundra losses.

(2) Mitigation of damage to fish, wildlife, or natural resources.

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(4) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(5) Any other purpose authorized for the use of those amounts under State law.

(e) REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), revenues from production that occurs beginning on the date that is 5 years after the date of enactment of this Act in an area in the Alaska Adjacent Zone shall be distributed in the same proportion as provided in subsection (b).

(2) ESTABLISHMENT OF ALASKA OFFSHORE CONTINENTAL SHELF COORDINATION OFFICE.—Before disbursing funds otherwise allocable to coastal political subdivisions in the State of Alaska under subsection (b)(2), the Secretary shall annually set aside $10,000,000 for an Alaska Offshore Continental Shelf Coordination Office to be established and maintained by the Mayor of the North Slope Borough.

(3) DEPOSITS.—

(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall pay to the North Slope Borough $10,000,000 from the amount otherwise allocable to coastal political subdivisions in the State of Alaska under subsection (b)(2) for the purpose of establishing and maintaining a local coordination office.

(B) INSUFFICIENT AMOUNTS.—If, for any fiscal year, less than $10,000,000 is available under subsection (b)(2), the Secretary shall set aside and pay to the North Slope Borough all funds available under subsection (b)(2) for the purpose of establishing and maintaining the Alaska Offshore Continental Shelf Coordination Office.

(4) USE OF FUNDS FOR LOCAL COORDINATION OFFICE.—The North Slope Borough shall use amounts received under paragraph (3), in accordance with all applicable Federal and State laws, to establish a local coordination office—

(A) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(B) to provide to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(C) to collect from residents of the North Slope information regarding the impacts of development on marine wildlife, coastal habitats, marine and coastal subsistence resources, and the marine and coastal environment of the North Slope region of the State of Alaska; and

(D) to ensure that the information collected under subparagraph (C) is submitted to—

(i) developers of the Alaska outer Continental Shelf; and

(ii) any appropriate Federal agency.

(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF RECEIPTS.—The total amount of qualified outer Continental Shelf receipts made available under subsection (a)(2) to an individual Fairness State and coastal political subdivisions of the Fairness State shall not exceed $500,000,000 for each fiscal year, as indexed for United States dollar inflation from fiscal year 2008 (as measured by the Consumer Price Index).

TITLE III—ALASKA NATURAL GAS PIPELINE

SEC. 301. DISCHARGES INTO NAVIGABLE WATERS.

Section 104 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720b) is amended by adding at the end the following:

''(e) DISCHARGES INTO NAVIGABLE WATERS.—The discharge of dredged or fill material into the navigable waters at any site necessary for the construction of the pipeline under this Act or to otherwise carry out this Act shall not be subject to section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251) (including any consultation or mitigation requirements of that section) unless the discharge directly enters into navigable waters that exhibit a continuous, visible surface flow for a substantial part of the year during which the discharge takes place.''.

SEC. 302. FEDERAL COORDINATOR.

(a) PROHIBITION OF CERTAIN ACTIONS.—Section 106(d)(3) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(d)(3)) is amended by striking ''Unless required by law'' and inserting ''Unless explicitly required by statute''.

(b) STATE COORDINATION.—Section 106(e) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(e)) is amended by adding at the end the following:

''(3) ADMINISTRATIVE COMPLIANCE.—The Federal Coordinator may establish a schedule and deadline for administrative compliance of Federal agencies with this Act using authority that is commensurate with and parallel to the authority provided to the Commission under section 104(c)(1).''.

(c) AGENCY AUTHORIZED OFFICERS.—Section 106(h) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d(h)) is amended by adding at the end the following:

''(5) AGENCY AUTHORIZED OFFICERS.—The Federal Coordinator may require a Federal agency to designate and provide mutually-agreed on agency authorized officers to the Office of the Federal Coordinator for purposes of expediting and coordinating the duties of the agency in furtherance of the objectives of the Federal Coordinator.''.

TITLE IV—INVENTORY OF ALASKA WATER POWER RESOURCES

SEC. 401. INVENTORY OF ALASKA WATER POWER RESOURCES.

(a) IN GENERAL.—The Secretary of Energy, in consultation with representatives of the State of Alaska, shall conduct an inventory of water power resources of the State of Alaska, including hydropower, stream, and ocean (including current, wave, tidal, kinetic, and thermal) resources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, the President, and the Governor of the State of Alaska a report describing the results of the inventory.

TITLE V—NUCLEAR POWER GENERATION

Subtitle A—Nuclear Power Technology and Manufacturing

SEC. 501. DEFINITIONS.

In this subtitle:

(1) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the costs of engineering tasks relating to—

(A) the redesign of manufacturing processes to produce qualifying components and nuclear power generation technologies;

(B) the design of new tooling and equipment for production facilities that produce qualifying components and nuclear power generation technologies; and

(C) the establishment or expansion of manufacturing or processing operations for qualifying components and nuclear power generation technologies.

(2) NUCLEAR POWER GENERATION.—The term ''nuclear power generation'' means generation of electricity by an electric generation unit that—

(A) emits no carbon dioxide into the atmosphere;

(B) uses uranium as its fuel source; and

(C) was placed into commercial service after the date of enactment of this Act.

(3) NUCLEAR POWER GENERATION TECHNOLOGY.—The term ''nuclear power generation technology'' means a technology used to produce nuclear power generation.

(4) QUALIFYING COMPONENT.—The term ''qualifying component'' means a component that the Secretary determines to be specially designed for nuclear power generation technology.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 502. SPENT FUEL RECYCLING PROGRAM.

(a) PURPOSE.—It is the policy of the United States to recycle spent nuclear fuel to advance energy independence by maximizing the energy potential of nuclear fuel in a proliferation-resistant manner that reduces the quantity of waste dedicated to a permanent Federal repository.

(b) SPENT FUEL RECYCLING RESEARCH AND DEVELOPMENT FACILITY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin construction of a spent fuel recycling research and development facility.

(2) PURPOSE.—The facility described in paragraph (1) shall serve as the lead site for continuing research and development of advanced nuclear fuel cycles and separation technologies.

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

(A) the most technically sound bid;

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

(C) proximity to existing and proposed nuclear reactors.

(c) CONTRACTS.—The Secretary shall use amounts made available under section 112(b), and such other amounts as are appropriated to carry out this section, to enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

(d) COMPETITIVE SELECTION.—Contracts awarded under subsection (c) shall be awarded on the basis of a competitive bidding process that—

(1) maximizes the competitive efficiency of the projects funded;

(2) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

(3) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.

(e) REGULATORY AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, in collaboration with the Secretary, shall promulgate regulations for the licensing of facilities for recovery and use of spent nuclear fuel that provide reasonable assurance that licenses issued for that purpose will not be counter to the defense, security, and national interests of the United States.

SEC. 503. FINANCIAL INCENTIVES PROGRAM.

(a) IN GENERAL.—For each fiscal year beginning on or after October 1, 2010, the Secretary shall use amounts made available under section 112(b) (but not to exceed a total amount of $1,000,000,000 for any fiscal year) to competitively award financial incentives under this subtitle in the following technology categories:

(1) The production of electricity from new nuclear power generation.

(2) Facility establishment or conversion by manufacturers and suppliers of nuclear power generation technology and qualifying components.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall make awards under this section to—

(A) domestic producers of new nuclear power generation;

(B) manufacturers and suppliers of nuclear power generation technology and qualifying components; and

(C) owners or operators of existing nuclear power generation facilities.

(2) BASIS FOR AWARDS.—The Secretary shall make awards under this section—

(A) in the case of producers of new nuclear power generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated;

(B) in the case of manufacturers and suppliers of nuclear power generation technology and qualifying components, based on the criteria described in section 505; and

(C) in the case of owners or operators of existing nuclear power generating facilities, based upon criteria described in section 505.

(3) ACCEPTANCE OF BIDS.—In making awards under this subsection, the Secretary shall—

(A) solicit bids for reverse auction from appropriate producers, manufacturers, and suppliers, as determined by the Secretary; and

(B) award financial incentives to the producers, manufacturers, and suppliers that submit the lowest bids that meet the requirements established by the Secretary.

SEC. 504. FORMS OF AWARDS.

(a) NUCLEAR POWER GENERATORS.—

(1) IN GENERAL.—An award for nuclear power generation under this subtitle shall be in the form of a contract to provide a production payment for commercial service of the generation unit in an amount equal to the product obtained by multiplying—

(A) the amount bid by the producer of the nuclear power generation; and

(B) except as provided in paragraph (2), the net megawatt-hours generated by the nuclear power generation unit each year during the first 10 years following the end of the calendar year of the award.

(2) FIRST YEAR.—For purposes of paragraph (1)(B), the first year of commercial service of the generating unit shall be within 5 years of the end of the calendar year of the award.

(b) MANUFACTURING OF NUCLEAR POWER GENERATION TECHNOLOGY.—

(1) IN GENERAL.—An award for facility establishment or conversion costs for nuclear power generation technology under this subtitle shall be in an amount equal to not more than 30 percent of the cost of—

(A) establishing, reequipping, or expanding a manufacturing facility to produce—

(i) qualifying nuclear power generation technology; or

(ii) qualifying components;

(B) engineering integration costs of nuclear power generation technology and qualifying components; and

(C) property, machine tools, and other equipment acquired or constructed primarily to enable the recipient to test equipment necessary for the construction or operation of a nuclear power generation facility.

(2) AMOUNT.—The Secretary shall use the amounts made available to carry out this section to make awards to entities for the manufacturing of nuclear power generation technology.

SEC. 505. SELECTION CRITERIA.

In making awards under this subtitle to producers, manufacturers, and suppliers of nuclear power generation technology and qualifying components, the Secretary shall select producers, manufacturers, and suppliers that—

(1) document the greatest use of domestically-sourced parts and components;

(2) return to productive service existing idle manufacturing capacity;

(3) are located in States or political subdivisions with the greatest dependence on fossil fuel-based energy;

(4) demonstrate a high probability of commercial success; and

(5) meet other appropriate criteria, as determined by the Secretary.

Subtitle B—Accelerated Depreciation

SEC. 511. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of

1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

TITLE VI—JUDICIAL REVIEW

SEC. 601. JUDICIAL REVIEW.

(a) EXCLUSIVE JURISDICTION.—Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including any failure to act) of any Federal agency or officer under or in furtherance of titles II and V;

(2) the constitutionality of any provision of this Act, or any decision made or action taken under or in furtherance of titles II and V; and

(3) the adequacy of any environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under or in furtherance of titles II and V, including—

(A) the final environmental impact statement for Chukchi Sea Planning Area Oil and Gas Lease Sale 193 as the statement relates to activities proposed and undertaken in affected areas, including activities to lease blocks—

(i) NR 03–01;
(ii) NR 03–02;
(iii) NR 03–03;
(iv) NR 03–04;
(v) NR 03–08; and
(vi) NR 04–01; and

(B) the environmental assessment for Proposed Beaufort Sea Planning Area Oil and Gas Lease Sale 202 as the assessment relates to activities proposed and undertaken in affected areas, including activities to lease blocks—

(i) NR 05–01;
(ii) NR 05–02;
(iii) NR 05–04;
(iv) NR 06–03;
(v) NR 06–04;
(vi) NR 07–03; and
(vii) NR 07–05.

(b) DEADLINE FOR FILING CLAIM.—A claim arising under title II or V may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant resources needed to meet the continuing and anticipated domestic demand for energy.

(d) ADMINISTRATIVE APPEAL.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy may not extend the time period for administrative review of, or action against, any project, proposal, or activity taken under title II or V.

(2) CONSTRUCTIVE APPROVAL.—If no decision on administrative review of an action under title II or V is made within the time period required under that title, the decision shall be considered affirmed.

TITLE VII—OIL SPECULATION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Oil Speculation Control Act of 2008''.

SEC. 702. DEFINITION OF INSTITUTIONAL INVESTOR.

(a) DEFINITION.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (22) through (34) as paragraphs (23) through (35), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) INSTITUTIONAL INVESTOR.—The term 'institutional investor' means a long-term investor in financial markets (including pension funds, endowments, and foundations) that—

''(A) invests in energy commodities as an asset class in a portfolio of financial investments; and

''(B) does not take or make physical delivery of energy commodities on a frequent basis, as determined by the Commission.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking ''section 1a(32)'' and inserting ''section 1a''.

(2) Section 402(d)(1)(B) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(d)(1)(B)) is amended by striking ''section 1a(33)'' and inserting ''section 1a''.

SEC. 703. INSPECTOR GENERAL.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(13) INSPECTOR GENERAL.—

''(A) OFFICE.—There shall be in the Commission, as an independent office, an Office of the Inspector General.

''(B) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

''(C) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ADMINISTRATION.—The Inspector General shall exert independent control of the budget allocations, expenditures, and staffing levels, personnel decisions and processes, procurement, and other administrative and management functions of the Office.''.

SEC. 704. TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) REVIEW.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall carry out a review of the trading practices of index traders, swap dealers, and institutional investors in markets under the jurisdiction of the Commission—

''(i) to ensure that index trading is not adversely impacting the price discovery process;

''(ii) to determine whether different practices or regulations should be implemented; and

''(iii) to gather data for use in proposing regulations to limit the size and influence of institutional investor positions in commodity markets.

''(B) EMERGENCY AUTHORITY.—For the 60-day period described in subparagraph (A), in accordance with each applicable rule adopted under section 5(d)(6), the Commission shall exercise the emergency authority of the Commission to prevent institutional investors from increasing the positions of the institutional investors in—

''(i) energy commodity futures; and

''(ii) commodity future index funds.

''(2) REPORT.—Not later than 30 days after the date described in paragraph (1)(A), the Commission shall submit to the appropriate committees of Congress a report that contains recommendations for such legislation as the Commission determines to be necessary to limit the size and influence of institutional investor positions in commodity markets.''.

SEC. 705. BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.

Section 4a(c) of the Commodity Exchange Act (7 U.S.C. 6a(c)) is amended by striking ''(c) No rule'' and inserting the following:

''(c) BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—

''(1) DEFINITION OF BONA FIDE HEDGING TRANSACTION OR POSITION.—The term 'bona fide hedging transaction or position' means a transaction or position that represents a hedge against price risk exposure relating to physical transactions involving an energy commodity.

''(2) APPLICATION WITH RESPECT TO BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—No rule''.

SEC. 706. SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by adding at the end the following:

''(f) SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.—

''(1) DEFINITION OF SPECULATOR.—In this subsection, the term 'speculator' includes any institutional investor or investor of an investment fund that holds a position through an intermediary broker or dealer.

''(2) ENFORCEMENT OF SPECULATION LIMITS.—The Commission shall enforce speculation limits with respect to speculators in energy markets.''.

SEC. 707. LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by adding at the end the following:

''(g) LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) IN GENERAL.—Each recordkeeping and reporting requirement under this section relating to large trader transactions and positions shall apply to index traders, swaps dealers, and institutional investors in markets under the jurisdiction of the Commission.

''(2) PROMULGATION OF REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Commission shall promulgate regulations to establish separate classifications for index traders, swaps dealers, and institutional investors—

''(A) to enforce the recordkeeping and reporting requirements described in paragraph (1); and

''(B) to enforce position limits and position accountability levels with respect to energy commodities under section 4a(f).''.

SEC. 708. INSTITUTIONAL INVESTOR SPECULATION LIMITS.

(a) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7)(C)(ii)(IV) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

(b) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C. 7(d)(5)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

TITLE VIII—OIL SPILL DAMAGES CONSISTENCY

SEC. 801. SHORT TITLE.

This title may be cited as the ''Oil Spill Damages Consistency Act''.

SEC. 802. PUNITIVE DAMAGES FOR DISCHARGES OF OIL OR HAZARDOUS SUBSTANCES.

Title III of the Federal Water Pollution Control Act is amended by inserting after section 311 (33 U.S.C. 1321) the following:

''SEC. 311A. DISCHARGES OF CARGO.

''(a) DEFINITIONS.—In this section:

''(1) IN GENERAL.—The terms 'contiguous zone', 'discharge', 'hazardous substance', 'inland waters of the United States', 'oil', 'owner or operator', and 'vessel' have the meanings given the terms in section 311.

''(2) CARGO.—The term 'cargo' means any lading or freight of a vessel, including—

''(A) oil; and

''(B) a hazardous substance.

''(3) DETRIMENTAL DISCHARGE.—The term 'detrimental discharge' means a discharge of the cargo of a vessel—

''(A)(i) into or on—

''(I) navigable waters or inland waters of the United States;

''(II) an adjoining shoreline; or

''(III) the waters of the contiguous zone; or

''(ii) in connection with an activity carried out under—

''(I) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

''(II) the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); and

''(B) in a quantity that, as determined by the Secretary, may adversely affect a natural resource belonging to, or under the exclusive management authority of, the United States (including any resource under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

''(b) PROHIBITION ON DETRIMENTAL DISCHARGES.—

''(1) PROHIBITION.—Except as provided in paragraph (2) or any other provision of this Act, a detrimental discharge is prohibited.

''(2) EXCEPTIONS.—The prohibition under paragraph (1) shall not apply to a detrimental discharge that is—

''(A) permitted under the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL); or

''(B) in such quantities and at such times and locations or under such circumstances or conditions as the Secretary determines, by regulation, not to be harmful.

''(c) ENFORCEMENT ACTIONS.—

''(1) IN GENERAL.—A person who has been harmed by a detrimental discharge may bring a civil action for relief against any owner or operator or person in charge of a vessel from which the detrimental discharge was made, in accordance with this subsection.

''(2) RELIEF.—In a civil action under paragraph (1), a court of competent jurisdiction may award appropriate relief, including—

''(A) compensatory damages; and

''(B) punitive damages in an amount not to exceed an amount equal to the product obtained by multiplying—

''(i) the amount of compensatory damages awarded under subparagraph (A); and

''(ii) 5.

''(3) CORPORATE LIABILITY.—A corporation shall be liable under this section for punitive damages awarded under paragraph (2)(B) for harm resulting from any act of recklessness by a managerial employee of the corporation, including the captain of any applicable vessel.

''(4) JURISDICTION.—A civil action under paragraph (1) may be brought in—

''(A) the United States District Court for the District of Columbia; or

''(B) the United States district court for the district in which the applicable detrimental discharge is alleged to have occurred.

''(d) RELATIONSHIP TO OTHER PROVISIONS.—Nothing in this section limits or otherwise affects the application of any administrative or civil penalty under—

''(1) section 311; or

''(2) any other provision of law.''.

TITLE IX—TELEWORK ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Telework Enhancement Act of 2008''.

SEC. 902. DEFINITIONS.

In this title:

(1) EMPLOYEE.—The term ''employee'' has the meaning given that term by section 2105 of title 5, United States Code.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term by section 105 of title 5, United States Code.

(3) NONCOMPLIANT.—The term ''noncompliant'' means not conforming to the requirements under this title.

(4) TELEWORK.—The term ''telework'' means a work arrangement in which an employee regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

SEC. 903. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) TELEWORK ELIGIBILITY.—Not later than 180 days after the date of enactment of this Act, the head of each executive agency shall—

(1) establish a policy under which eligible employees of the agency may be authorized to telework;

(2) determine the eligibility for all employees of the agency to participate in telework; and

(3) notify all employees of the agency of their eligibility to telework.

(b) PARTICIPATION.—The policy described under subsection (a) shall—

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement between an agency manager and an employee authorized to telework in order for that employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the terms of the written agreement between the agency manager and that employee;

(4) except in emergency situations as determined by an agency head, not apply to any employee of the agency whose official duties require daily physical presence for activity with equipment or handling of secure materials; and

(5) determine the use of telework as part of the continuity of operations plans the agency in the event of an emergency.

SEC. 904. TRAINING AND MONITORING.

The head of each executive agency shall ensure that—

(1) an interactive telework training program is provided to—

(A) employees eligible to participate in the telework program of the agency; and

(B) all managers of teleworkers;

(2) no distinction is made between teleworkers and nonteleworkers for the purposes of performance appraisals; and

(3) when determining what constitutes diminished employee performance, the agency shall consult the established performance management guidelines of the Office of Personnel Management.

SEC. 905. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

(b) GUIDANCE AND CONSULTATION.—The Office of Personnel Management shall—

(1) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities; and

(2) consult with—

(A) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies; and

(B) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, and equipment.

(c) CONTINUITY OF OPERATIONS PLANS.—During any period that an agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

(d) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) telework links;

(B) announcements;

(C) guidance developed by the Office of Personnel Management; and

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration to the Office of Personnel Management not later than 10 business days after the date of submission.

SEC. 906. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) APPOINTMENT.—The head of each executive agency shall appoint an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief

Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 99) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(B) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2919) is amended by striking ''designate a 'Telework Coordinator' to be'' and inserting ''appoint a Telework Managing Officer to be''.

(b) DUTIES.—The Telework Managing Officer shall—

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees; and

(C) a primary agency point of contact for the Office of Personnel Management on telework matters; and

(3) perform other duties as the applicable appointing authority may assign.

SEC. 907. ANNUAL REPORT TO CONGRESS.

(a) SUBMISSION OF REPORTS.—Not later than 18 months after the date of enactment of this Act and on an annual basis thereafter, the Director of the Office of Personnel Management shall—

(1) submit a report addressing the telework programs of each executive agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(2) transmit a copy of the report to the Comptroller General and the Office of Management and Budget.

(b) CONTENTS.—Each report submitted under this section shall include—

(1) the telework policy, the measures in place to carry out the policy, and an analysis of employee telework participation during the preceding 12-month period provided by each executive agency;

(2) an assessment of the progress of each agency in maximizing telework opportunities for employees of that agency without diminishing employee performance or agency operations;

(3) the definition of telework and telework policies and any modifications to such definitions;

(4) the degree of participation by employees of each agency in teleworking during the period covered by the evaluation, including—

(A) the number and percent of the employees in the agency who are eligible to telework;

(B) the number and percent of employees who engage in telework;

(C) the number and percent of eligible employees in each agency who have declined the opportunity to telework; and

(D) the number of employees who were not authorized, willing, or able to telework and the reason;

(5) the extent to which barriers to maximize telework opportunities have been identified and eliminated; and

(6) best practices in agency telework programs.

SEC. 908. COMPLIANCE OF EXECUTIVE AGENCIES.

(a) EXECUTIVE AGENCIES.—An executive agency shall be in compliance with this title if each employee of that agency participating in telework regularly performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee during at least 20 percent of each pay period that the employee is performing officially assigned duties.

(b) AGENCY MANAGER REPORTS.—Not later than 180 days after the establishment of a policy described under section 903, and annually thereafter, each agency manager shall submit a report to the Chief Human Capital Officer and Telework Managing Officer of that agency that contains a summary of—

(1) efforts to promote telework opportunities for employees supervised by that manager; and

(2) any obstacles which hinder the ability of that manager to promote telework opportunities.

(c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

(1) IN GENERAL.—Each year the Chief Human Capital Officer of each agency, in consultation with the Telework Managing Officer of that agency, shall submit a report to the Chair and Vice Chair of the Chief Human Capital Offices Council on agency management efforts to promote telework.

(2) REVIEW AND INCLUSION OF RELEVANT INFORMATION.—The Chair and Vice Chair of the Chief Human Capital Offices Council shall—

(A) review the reports submitted under paragraph (1);

(B) include relevant information from the submitted reports in the annual report to Congress required under section 907(b)(2); and

(C) use that relevant information for other purposes related to the strategic management of human capital.

(d) COMPLIANCE REPORTS.—Not later than 90 days after the date of submission of each report under section 907, the Office of Management and Budget shall submit a report to Congress that—

(1) identifies and recommends corrective actions and time frames for each executive agency that the Office of Management and Budget determines is noncompliant; and

(2) describes progress of noncompliant executive agencies, justifications of any continuing noncompliance, and any recommendations for corrective actions planned by the Office of Management and Budget or the executive agency to eliminate noncompliance.

SEC. 909. EXTENSION OF TRAVEL EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5710 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ''for a period not to exceed 24 months''; and

(2) in subsection (e), by striking ''7 years'' and inserting ''16 years''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

SA 5161. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRESIDENTIAL APPROVAL OF EXPLORATION, DEVELOPMENT, AND PRODUCTION PROJECTS UNDER FEDERAL OIL AND GAS LEASES.

(a) FINDINGS.—Congress finds that—

(1) the responsible development of the domestic oil and gas resources of the United States is vital to the economy and national security of the United States;

(2) the immediate and long-term interests of the people of United States are served by encouraging domestic oil and gas exploration, development, and production;

(3) to achieve those objectives, domestic energy development projects should proceed without persistent litigation, subject to the regulatory oversight of responsible Federal agencies; and

(4) the long-term planning and heavy investments of human and financial resources necessary to develop and produce domestic oil and gas resources are frustrated, and future investments discouraged, when projects that have been reviewed and approved by the responsible executive branch agencies are enjoined or otherwise halted in the courts.

(b) PURPOSE.—The purpose of this section is to authorize the President to review and approve oil and gas exploration, development, and production projects under Federal oil and gas leases, both onshore and offshore, on a finding that the project complies with all applicable Federal law.

(c) REVIEW BY PRESIDENT.—Notwithstanding any other provision of law, the President may review any project for the exploration, development, or production of oil or gas resources under a Federal lease, located onshore or offshore, to determine whether the project complies with all applicable Federal law.

(d) APPROVAL.—A project described in subsection (c) (including all authorizations, permits, studies, or other forms of executive branch approvals otherwise required to conduct the project) shall be conclusively approved and authorized to proceed on a written finding submitted by the President to Congress that the project—

(1) serves the public interest in responsible domestic oil or gas development; and

(2) complies with all applicable Federal law.

(e) ADMINISTRATIVE OR JUDICIAL REVIEW.—The decision of the President under this section and the project approved under subsection (d) shall not be subject to further administrative or judicial review, stay, or injunction or, if pending, continued administrative or judicial review, stay, or injunction, except with respect to an appeal filed by an applicant for a permit to carry out the project or a claim based on the Constitution of the United States.

(f) REGULATORY OVERSIGHT.—A project approved by the President under this section shall—

(1) continue to be subject to the regulatory oversight of the Federal agencies with jurisdiction over activities conducted under the project, as otherwise provided by law; and

(2) be regulated under the terms, conditions, and requirements of any authorization, permit, or other approval necessary to conduct the activities.

SA 5162. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AVAILABILITY OF CERTAIN AREAS FOR LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(q) AVAILABILITY OF CERTAIN AREAS FOR LEASING.—

''(1) DEFINITIONS.—In this subsection:

''(A) ATLANTIC COASTAL STATE.—The term 'Atlantic Coastal State' means each of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, Delaware, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.

''(B) GOVERNOR.—The term 'Governor' means the Governor of the State.

''(C) QUALIFIED REVENUES.—The term 'qualified revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for natural gas exploration and extraction activities authorized by the Secretary under this subsection.

''(D) STATE.—The term 'State' means the State of Virginia.

''(2) PETITION.—

''(A) IN GENERAL.—The Governor may submit to the Secretary—

''(i) a petition requesting that the Secretary issue leases authorizing the conduct of natural gas exploration activities only to ascertain the presence or absence of a natural gas reserve in any area that is at least 50 miles beyond the coastal zone of the State; and

''(ii) if a petition for exploration by the State described in clause (i) has been approved in accordance with paragraph (3) and the geological finding of the exploration justifies extraction, a second petition requesting that the Secretary issue leases authorizing the conduct of natural gas extraction activities in any area that is at least 50 miles beyond the coastal zone of the State.

''(B) CONTENTS.—In any petition under subparagraph (A), the Governor shall include a detailed plan of the proposed exploration and subsequent extraction activities, as applicable.

''(3) ACTION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraph (F), as soon as practicable after the date of receipt of a petition under paragraph (2), the Secretary shall approve or deny the petition.

''(B) REQUIREMENTS FOR EXPLORATION.—The Secretary shall not approve a petition submitted under paragraph (2)(A)(i) unless the State legislature has enacted legislation supporting exploration for natural gas in the coastal zone of the State.

''(C) REQUIREMENTS FOR EXTRACTION.—The Secretary shall not approve a petition submitted under paragraph (2)(A)(ii) unless the State legislature has enacted legislation supporting extraction for natural gas in the coastal zone of the State.

''(D) CONSISTENCY WITH LEGISLATION.—The plan provided in the petition under paragraph (2)(B) shall be consistent with the legislation described in subparagraph (B) or (C), as applicable.

''(E) COMMENTS FROM ATLANTIC COASTAL STATES.—On receipt of a petition under paragraph (2), the Secretary shall—

''(i) provide Atlantic Coastal States with an opportunity to provide to the Secretary comments on the petition; and

''(ii) take into consideration, but not be bound by, any comments received under clause (i).

''(F) CONFLICTS WITH MILITARY OPERATIONS.—The Secretary shall not approve a petition for a drilling activity under this paragraph if the drilling activity would conflict with any military operation, as determined by the Secretary of Defense.

''(4) DISPOSITION OF REVENUES.—Notwithstanding section 9, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified revenues in a Clean Energy Fund in the Treasury, which shall be established by the Secretary; and

''(B) 50 percent of qualified revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to the State;

''(ii) 12.5 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 4601–5); and

''(iii) 12.5 percent to a reserve fund to be used to mitigate for any environmental damage that occurs as a result of extraction activities authorized under this subsection, regardless of whether the damage is—

''(I) reasonably foreseeable; or

''(II) caused by negligence, natural disasters, or other acts.''.

SA 5163. Mr. WARNER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commmodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMEDIATE STEPS TO CONSERVE GASOLINE ACT.

(a) SHORT TITLE.—This section may be cited as the ''Immediate Steps to Conserve Gasoline Act''.

(b) FEDERAL CONSERVATION OF GASOLINE.—

(1) FINDINGS.—Congress finds that—

(A) each day, as Americans contend with rising gasoline prices, personal stories reflect the ways in which Americans are altering their family budgets, including food budgets, to cope with record high gasoline costs;

(B) as a consequence of economic pressures, Americans are taking initiatives to reduce consumption of gasoline, such as—

(i) driving less frequently;

(ii) altering daily routines; and

(iii) changing, or even cancelling, family vacation plans;

(C) the conservation efforts being taken by Americans, on their own initiative, bring hardships but save funds that can be redirected—

(i) to meet essential family needs; and

(ii) to relieve, to some extent, the demand for gasoline;

(D) just as individuals are taking initiatives to reduce gasoline consumption, the Federal Government, including Congress, should take initiatives to conserve gasoline;

(E) such Government-wide initiatives to conserve gasoline would send a signal to Americans that the Federal Government—

(i) recognizes the burdens imposed by unprecedented gasoline costs; and

(ii) will participate in activities to reduce gasoline consumption;

(F) an overall reduction of gasoline consumption by the Federal Government by even 3 percentage points would send a strong signal that, as a nation, the United States is working to conserve energy;

(G) in 2005, policies directed at reducing the usage of energy in Federal agency and department buildings by 20 percent by 2015, at a rate of a 2-percent reduction per calendar year, were enacted by the President and Congress;

(H) in 2007, policies increasing the energy reduction goal to 30 percent by 2015, at a rate of a 3-percent reduction per calendar year, were enacted by the President and Congress; and

(I) Congress and the President should extend the precedent of those mandatory conservation initiatives taken in 2005 and 2007 to usage by the Federal Government of gasoline.

(2) REDUCTION OF GASOLINE USAGE BY FEDERAL DEPARTMENTS AND AGENCIES.—For fiscal year 2009, each Federal department and agency shall develop and carry out initiatives to reduce by not less than 3 percent the annual consumption of gasoline by the department or agency.

(3) CONGRESSIONAL CONSERVATION OF GASOLINE.—For fiscal year 2009, Congress shall develop and carry out initiatives to reduce by not less than 3 percent the annual consumption of gasoline by Congress.

(c) STUDIES AND REPORTS ON NATIONAL SPEED LIMIT AND FUTURE GASOLINE CONSERVATION.—

(1) NATIONAL SPEED LIMIT.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Energy Information Administration shall conduct, and submit to Congress a report describing the results of, a study of the potential transportation fuel savings of imposing a national speed limit on highways on the Interstate System of 60 miles per hour.

(B) INCLUSIONS.—The study under subparagraph (B) shall include—

(i) an examination of the fuel efficiency of automobiles in use as of the date on which the study is conducted;

(ii) a description of the range at which those automobiles are most fuel-efficient on highways on the Interstate System;

(iii) an analysis of actions carried out by the Federal Government, with the full support of Congress, during the 1973–1974 energy crisis, resulting in a national speed limit on highways on the Interstate System of 55 miles per hour, which remained in effect until 1995;

(iv) a recognition that in 1974, when fewer than 137,000,000 cars traveled in the United States (as compared to 250,000,000 cars in 2006) and only 30 percent of United States oil was imported from foreign sources (as compared to 60 percent of oil so imported on the date of enactment of this Act), 167,000 barrels of oil per day were saved by the imposition of a national speed limit, such that greater savings are possible on the date of enactment of this Act than the savings realized in 1974; and

(v) a determination of whether a limitation on the national speed limit on highways on the Interstate System similar to the limitation described in clause (iii) could serve as a model to generate gasoline savings, through a national speed limit on highways on the Interstate System of 60 miles per hour, given the improved fuel efficiency of automobile engines in use on the date of enactment of this Act.

(2) FUTURE GASOLINE CONSERVATION.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the

Comptroller General of the United States shall conduct, and submit to the Committees on Homeland Security and Governmental Affairs, Environment and Public Works, and Energy and Natural Resources of the Senate and the Committees on House Administration, Transportation and Infrastructure, and Energy and Commerce of the House of Representatives a report describing the results of, a study to determine whether additional gasoline reduction measures by Federal departments and agencies and Congress are technically feasible.

(B) INCLUSION.—The report under subparagraph (A) shall include a proposed schedule of future gasoline reduction measures, if the measures are determined to be technically feasible.

SA 5164. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commmodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MORATORIUM ON ALL OUTER CONTINENTAL SHELF LEASING.

Notwithstanding the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432), or any other provision of law, the Secretary of the Interior shall not offer for leasing, preleasing, or any related activity any area on the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

SA 5165. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. USE OF INFORMATION ABOUT OIL AND GAS PUBLIC CHALLENGES.

(a) FINDINGS.—Congress finds that the Government Accountability Office, in report GAO–05–124, found that—

(1) the Bureau of Land Management does not systematically gather and use nationwide information on public challenges to manage the oil and gas program of the Bureau; and

(2) that failure—

(A) prevents the Director of the Bureau from assessing the impact of public challenges on the workload of the Bureau of Land Management State offices; and

(B) eliminates the ability of the Director to make appropriate staffing and funding resource allocation decisions.

(b) REQUIREMENTS.—The Secretary of the Interior and the Secretary of Agriculture shall systematically—

(1) collect and use nationwide information on public challenges to manage the oil and gas programs of the Department of the Interior and the Department of Agriculture, respectively;

(2) gather the information at the planning, leasing, exploration, and development stages; and

(3) maintain the information electronically with current data.

SA 5166. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—DEEP SEA EXPLORATION

SEC. 201. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 202. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be

allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

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

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

SEC. 203. CONFORMING AMENDMENTS.

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SEC. 204. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), in addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008—

(1) $1,265,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $1,265,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

(b) NEW PRODUCING STATES.—In the case of a new producing State (as defined in section 32(a) of the Outer Continental Shelf Lands Act), amounts made available under subsection (a) shall not be allocated for a new producing State until the legislature of the new producing State considers and approves or disapproves legislation that would make new producing areas (as so defined) in the new producing State available for oil and gas leasing.

(c) EMERGENCY REQUIREMENT.—The amount provided under this section is designated as an emergency requirement and necessary to meet emergency needs, pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SA 5167. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMPROVING MOTOR FUEL SUPPLY AND DISTRIBUTION.

(a) LIMITING NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by striking the second clause (v) (as added by section 1541(b) of Public Law 109–58) and inserting the following:

''(vi)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval would be to increase the total number of fuels approved under this paragraph as of January 1, 2009 in all State implementation plans.

''(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of January 1, 2009, in all State implementation plans and shall publish a list of such fuels, including the states and Petroleum Administration for Defense District in which they are used, in the Federal Register no later than 90 days after enactment.

''(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

''(IV) Subclause (I) shall not apply to approval by the Administrator of a control or prohibition respecting any new fuel under this paragraph in a State's implementation plan or a revision to that State's implementation plan after the date of enactment of this Act if the fuel, as of the date of consideration by the Administrator—

''(aa) would replace completely a fuel on the list published under subclause (II);

''(bb) has been approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District; or

''(cc) is a fuel that differs from the Federal conventional gasoline specifications under subsection (k)(8) only with respect to the requirement of a summertime Reid Vapor Pressure of 7.0 or 7.8 pounds per square inch.

''(V) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.

''(VI) In this clause:

''(aa) The term 'control or prohibition respecting a new fuel' means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

''(bb) The term 'fuel' means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and non-road motor vehicles.''.

(b) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4) of the Clean Air Act (42 U.S.C. 7545(c)(4)) is amended by adding at the end the following:

''(D) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—The Administrator may temporarily waive a control or prohibition with respect to the use of a fuel or fuel additive required or regulated by the Administrator under subsection (c), (h), (i), (k), or (m), or prescribed in an applicable implementation plan under section 110 that is approved by the Administrator under subparagraph (c)(4)(C)(i), if, after consultation with and concurrence by the Secretary of Energy, the Administrator determines that—

''(i) an extreme and unusual fuel or fuel additive supply circumstance exists in a State or region that prevents the distribution of an adequate supply of the fuel or fuel additive to consumers;

''(ii) the extreme and unusual fuel or fuel additive supply circumstance is the result of a natural disaster, an act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not a lack of prudent planning on the part of the suppliers of the fuel or fuel additive to the State or region; and

''(iii) it is in the public interest to grant the waiver.

''(E) REQUIREMENTS FOR WAIVER.—

''(i) DEFINITION OF MOTOR FUEL DISTRIBUTION SYSTEM.—In this subparagraph, the term 'motor fuel distribution system' has the meaning given the term by the Administrator, by regulation.

''(ii) REQUIREMENTS.—A waiver under subparagraph (D) shall be permitted only if—

''(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel or fuel additive supply circumstance;

''(II) the waiver is effective for a period of 15 calendar days or, if the Administrator determines that a shorter or longer waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel or fuel additive supply circumstances and to mitigate impact on air quality;

''(III) the waiver permits a transitional period, the duration of which shall be determined by the Administrator, after the termination of the temporary waiver to permit wholesalers and retailers to blend down wholesale and retail inventory;

''(IV) the waiver applies to all persons in the motor fuel distribution system; and

''(V) the Administrator has given public notice regarding consideration by the Administrator of, and, if applicable, the granting of, a waiver to all parties in the motor fuel distribution system, State and local regulators, public interest groups, and consumers in the State or region to be covered by the waiver.

''(F) AFFECT ON WAIVER AUTHORITY.—Nothing in subparagraph (D)—

''(i) limits or otherwise affects the application of any other waiver authority of the Administrator under this section or a regulation promulgated pursuant to this section; or

''(ii) subjects any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under subparagraph (D).''.

SA 5168. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—NEW RESOURCES FOR DOMESTIC CONSUMPTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''New Resources for Domestic Consumption Act of 2008''.

SEC. 202. DEFINITION OF 1002 AREA OF ALASKA.

In this title, the term ''1002 Area of Alaska'' means the area described in appendix I to part 37 of title 50, Code of Federal Regulations, as in effect on July 14, 2008, popularly known as the ''Coastal Plain of the Arctic National Wildlife Refuge''.

SEC. 203. PURPOSE.

The purpose of this title is to provide for the expeditious development of oil, natural gas, and other resources of the 1002 Area of Alaska by transferring to the State of Alaska all right, title, and interest of the United States in and to the 1002 Area of Alaska.

SEC. 204. TRANSFER OF 1002 AREA TO STATE OF ALASKA.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the State of Alaska all right, title, and interest of the United States in and to the 1002 Area of Alaska.

(b) CONDITION.—As a condition of any transfer under this section, the Secretary shall require the State of Alaska to pay to the United States 50 percent of all amounts received by the State of Alaska as a result of development of oil, natural gas, and other natural resources of the 1002 Area of Alaska.

SEC. 205. PROHIBITION ON EXPORT OF OIL.

No oil produced in the 1002 Area of Alaska after the date of any transfer under section 204 may be exported from the United States.

SA 5169. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPROCESSING OF COMMERCIAL NUCLEAR WASTE.

Not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall take such actions as are necessary to ensure, to the maximum extent practicable, that all commercial nuclear waste in existence on the date of enactment of this Act be designated for reprocessing only.

SA 5170. Mr. SMITH (for himself, Mr. CRAIG, Mr. STEVENS, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of

August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $526,079,656 for fiscal year 2008;

''(B) $520,000,000 for fiscal year 2009; and

''(C) for fiscal year 2010 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'forest service' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

''SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

''SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008, and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land;

''(B) for fiscal year 2008, any funds appropriated to carry out this Act; and

''(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30 of each fiscal year.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

''SEC. 103. TRANSITION PAYMENTS TO CERTAIN STATES.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009;

''(C) for fiscal year 2010, 81 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010; and

''(D) for fiscal year 2011, 73 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2011; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2011.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2011, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT IN OREGON AND WASHINGTON.—It is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in a covered State (other than California) for each of fiscal years 2008 through 2011 be in the same proportion that the payments were distributed to the eligible counties in that State in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

''TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

''SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974l (16 U.S.C. 1604).

''SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

''SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008, and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

''SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 25 percent.

''(ii) For fiscal year 2009, 35 percent.

''(iii) For fiscal year 2010, 45 percent.

''(iv) For each of fiscal years 2011 and 2012, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2009, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30 of each fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

''SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

''SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

''(b) EMERGENCY DESIGNATION.—Of the amounts authorized to be appropriated under subsection (a) for fiscal year 2008, $425,000,000 is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

''SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''forest service'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

''§ 6906. Funding

''For each of fiscal years 2008 through 2011—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the amendment made by paragraph (1)—

(i) shall be treated under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect before September 30, 2002), by the Chairpersons of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, as appropriate, for purposes of budget enforcement in the House of Representatives and the Senate, and under the Congressional Budget Act of 1974 (2 U.S.C. 601 et seq.) as changing direct spending or receipts, as appropriate (as if such language were included in an Act other than an appropriations Act); and

(ii) shall be treated in the baseline after fiscal year 2008 for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907) (as in effect before September 30, 2002), by the Chairpersons of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, as appropriate, for purposes of budget enforcement in the House of Representatives and the Senate, and under the Congressional Budget Act of 1974 (2 U.S.C. 601 et seq.) as if Payment in Lieu of Taxes (14-1114-0-1-806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217.

(B) EFFECTIVE DATE.—This paragraph shall—

(i) be effective beginning on the date of enactment of this Act; and

(ii) remain in effect for any fiscal year for which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

(d) MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2006, with respect to leases entered into on or before March 12, 2004.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

(e) APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

(1) IN GENERAL.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

''(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting '80 percent' for '60 percent'.

''(2) SPECIAL RULE FOR CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

''(A) IN GENERAL.—If—

''(i) paragraph (1) does not apply to a foreign corporation, but

''(ii) paragraph (1) would apply to such corporation if, in addition to the substitution under paragraph (1), subsection (a)(2) were applied by substituting 'March 20, 2002' for 'March 4, 2003' each place it appears,

then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after December 31, 2006.

''(B) SPECIAL RULES.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

''(i) the corporation shall be treated, as of the close of its last taxable year beginning before January 1, 2008, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

''(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

''(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

''(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2006.

SA 5171. Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE II—DEEP SEA EXPLORATION

SEC. 201. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 202. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(7) QUALIFIED REVENUE.—The term 'qualified revenue' means the amount estimated by the Secretary of the Federal share of all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of the enactment of the Stop Excessive Energy Speculation Act of 2008 for new producing areas under this section.

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal

political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

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

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

''(e) ENERGY TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Energy Trust Fund', consisting of such amounts as may be transferred to the Trust Fund under paragraph (2).

''(2) TRANSFERS TO TRUST FUND.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall transfer to the Energy Trust Fund amounts equivalent to 20 percent of the qualified revenue received for each fiscal year under this section.

''(B) LIMITATION ON TRANSFERS TO ENERGY TRUST FUND.—The amounts transferred to the Energy Trust Fund for any fiscal year under this paragraph shall not exceed $1,000,000,000.

''(3) EXPENDITURES.—On request by the Secretary of Energy, the Secretary of the Treasury shall transfer from the Energy Trust Fund to the Secretary of Energy such amounts as the Secretary of Energy determines are necessary to carry out activities—

''(A) to accelerate the use of clean domestic renewable energy resources (including solar, wind, clean coal, and nuclear energy resources) and alternative fuels (including ethanol, and including cellulosic ethanol, biodiesel, and fuel cell technology);

''(B) to promote the use of energy-efficient products and practices and conservation; and

''(C) to increase research, development, and deployment of clean renewable energy and efficiency technologies.

''(4) TRANSFERS OF AMOUNTS.—

''(A) IN GENERAL.—The amounts required to be transferred to the Energy Trust Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Energy Trust Fund on the basis of estimates made by the Secretary of the Treasury.

''(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.''.

SEC. 203. CONFORMING AMENDMENTS.

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

SA 5172. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GULF OF MEXICO ENERGY SECURITY.

(a) DEFINITIONS.—Section 102(9)(A)(i) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) in subclause (I), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(III) any area in the 181 Area that was not available for leasing on July 1, 2008; and''.

(b) OFFSHORE OIL AND GAS LEASING.—Section 103(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking ''Except'' and inserting the following:

''(1) IN GENERAL.—Except''; and

(2) by adding at the end the following:

''(2) LEASING AFTER CERTAIN DATE.—The Secretary shall offer any part of the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) that was not available for leasing on July 1, 2008, as soon as practicable, but not later than 2 years, after that date and at any time thereafter, as the Secretary determines to be appropriate.''.

(c) MORATORIUM ON LEASING.—Section 104(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended by striking paragraph (3) and inserting the following:

''(3) any area in the Central Planning Area that is—

''(A) outside the 181 Area;

''(B) east of the western edge of the Pensacola Official Protection Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

''(C) within 100 miles of the coastline of the State of Florida.''.

SA 5173. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—BETTER ENERGY STRATEGY FOR TOMORROW

SEC. __01. SHORT TITLE.

This title may be cited as the ''Better Energy Strategy for Tomorrow Act of 2008'' or the ''BEST Act of 2008''.

SEC. __02. DEFINITIONS.

In this title:

(1) AIR POLLUTANT.—The term ''air pollutant'' has the meaning given the term in section 302 of the Clean Air Act (42 U.S.C. 7602).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. __03. FEDERAL ENERGY POLICIES.

Not later than 90 days after the date of enactment of this Act and annually thereafter, the Secretary shall—

(1) conduct an analysis of all policies of the Federal Government (including mandates, subsidies, tariffs, and tax policy) that encourage, or have the potential to encourage, energy production in the United States; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that contains recommendations for the adjustment of the policies described in paragraph (1) to reduce—

(A) the dependence of the United States on foreign sources of energy;

(B) the quantity of air pollutants in the environment;

(C) greenhouse gas emissions; and

(D) the cost of energy.

SEC. __04. ENERGY SECURITY STRATEGY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and every 4 years thereafter, the President shall develop an energy security strategy that proposes comprehensive and long-range energy policies for the United States to reduce—

(1) the dependence of the United States on foreign sources of energy;

(2) the quantity of air pollutants in the environment;

(3) greenhouse gas emissions; and

(4) the cost of energy.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act and every 4 years year thereafter, the President shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the latest energy security strategy developed under subsection (a), including—

(1) an estimate of the domestic and foreign energy supplies needed to meet the projected energy demand of the United States consistent with the strategy developed under subsection (a); and

(2) a summary of research and development efforts funded by the Federal Government to achieve the strategy developed under subsection (a).

SEC. __05. ADMINISTRATION.

(a) COMMENTS.—In preparing each report required under sections __03(2) and __04(b) (referred to in this section as ''each report''), the Secretary and the President, respectively, shall seek the comments of State and local agencies and the private sector to ensure, to the maximum extent practicable, that the views and proposals of all segments of the economy are taken into account in preparing each report.

(b) DATA AND ANALYSIS.—The Secretary and the President shall include in each report such data and analyses as are necessary

to support the objectives, resource needs, and policy recommendations of each report.

(c) REVIEW.—The Secretary and the President shall enter into an arrangement with the National Academy of Sciences under which the Academy shall—

(1) conduct a review of each report; and

(2) submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary a report that describes the results of each review.

SA 5174. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDY OF DIESEL VEHICLE ATTRIBUTES.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as compared to comparable vehicles fueled by gasoline or E-85 fuel and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

SA 5175. Mr. INHOFE (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL.

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

SA 5176. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 24, add the following:

SEC. 17. ESTABLISHMENT OF CHIEF ENERGY AND ENERGY SERVICES NEGOTIATOR.

(a) IN GENERAL.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended to read as follows:

''(2)(A) There shall be in the Office 3 Deputy United States Trade Representatives, 1 Chief Agricultural Negotiator, and 1 Chief Energy and Energy Services Negotiator.

''(B) The 3 Deputy United States Trade Representatives, the Chief Agricultural Negotiator, and the Chief Energy and Energy Services Negotiator shall be appointed by the President, by and with the advice and consent of the Senate.

''(C) As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative, the Chief Agricultural Negotiator, or the Chief Energy and Energy Services Negotiator submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance.

''(D) Each Deputy United States Trade Representative, the Chief Agricultural Negotiator, and the Chief Energy and Energy Services Negotiator shall hold office at the pleasure of the President and shall have the rank of Ambassador''.

(b) DUTIES.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following:

''(6) The principal function of the Chief Energy and Energy Services Negotiator shall be to eliminate energy subsidies and policies of foreign governments that distort trade and adversely affect the United States.''.

SEC. 18. STUDIES AND REPORTS ON SUBSIDIZATION OF FUELS AND ENERGY USE BY FOREIGN COUNTRIES.

(a) ITC ANNUAL STUDY AND REPORT ON ECONOMIC IMPACT OF FOREIGN SUBSIDIZATION OF RETAIL FUEL AND ENERGY.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act and annually thereafter, the International Trade Commission shall commence a study on—

(A) the subsidization by foreign governments of retail fuel and energy use in foreign countries; and

(B) the impact of such subsidization on the economy of the United States.

(2) REPORT.—Not later than June 1, 2009, and June 1 of each year thereafter, the Secretary shall submit to Congress a report describing the findings of the Secretary with respect to the most recent study commenced by the Secretary under paragraph (1).

(b) USTR BI-ANNUAL STUDY AND REPORT ON ENERGY USE SUBSIDIES PROVIDED BY FOREIGN GOVERNMENTS.—

(1) STUDY.—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the United States Trade Representative shall conduct a study on the provision by foreign governments of energy use subsidies.

(2) REPORT.—Not later than January 1, 2009, and every 180 days thereafter, the United States Trade Representative shall submit to the Industry Trade Advisory Committee on Energy and Energy Services of the Department of Commerce and Congress a report on the findings of the United States Trade Representative with respect to the most recent study conducted by the United States Trade Representative under paragraph (1), including a description of the amounts of energy use subsidies provided by foreign governments.

(c) ENERGY INFORMATION AGENCY ANNUAL STUDY AND REPORT ON FOREIGN SUBSIDIZATION OF ENERGY AND FUEL USE.—

(1) ANNUAL STUDY.—Each year, the Secretary of Energy shall, acting through the Administrator of the Energy Information Administration, conduct a study on foreign governments that subsidize energy and fuel use and assess the impact of such subsidization on energy costs in the United States.

(2) ANNUAL REPORT.—Not later than June 1 of each year, the Secretary of Energy shall submit to the President and Congress a report on the findings of the Secretary with respect to the most recent study conducted under paragraph (1).

SEC. 19. DEPARTMENT OF STATE ANNUAL REPORT ON ENERGY SECURITY.

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of State shall submit to the appropriate committees of Congress a report on the efforts undertaken by the Secretary in the previous calendar year to achieve the following goals:

(1) To eliminate energy subsidies and policies of foreign governments that distort trade and adversely affect the United States.

(2) To enhance United States and global energy security by—

(A) promoting open and transparent, integrated, and diversified energy markets;

(B) encouraging appropriate energy-sector investments to expand access to energy and increase economic growth and opportunity; and

(C) developing clean and efficient energy technologies.

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Foreign Relations of the Senate;

(2) the Committee on Energy and Natural Resources of the Senate;

(3) the Committee on Foreign Affairs of the House of Representatives; and

(4) the Committee on Energy and Commerce of the House of Representatives.

SA 5177. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—NATURAL GAS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Drive America on Natural Gas Act of 2008''.

SEC. 202. NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT ALLOWED FOR DUAL FUELED MOTOR VEHICLES.

(a) IN GENERAL.—Clause (i) of section 30B(e)(4)(A) of the Internal Revenue Code of 1986 (relating to definition of new qualified alternative fuel motor vehicle) is amended to read as follows:

''(i) which—

''(I) is only capable of operating on an alternative fuel, or

''(II) is capable of operating on an alternative fuel alone and gasoline or diesel fuel alone,''.

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

SEC. 203. NATURAL GAS VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) NATURAL GAS.—The term ''natural gas'' means compressed natural gas, liquefied natural gas, biomethane, and mixtures of hydrogen and methane or natural gas.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) PROGRAM.—The Secretary, in coordination with the Administrator, shall conduct a program of natural gas vehicle research, development, and demonstration.

(c) PURPOSE.—The program under this section shall focus on—

(1) the continued improvement and development of new, cleaner, more efficient light-duty, medium-duty, and heavy-duty natural gas vehicle engines;

(2) the integration of those engines into light-duty, medium-duty, and heavy-duty natural gas vehicles for onroad and offroad applications;

(3) expanding product availability by assisting manufacturers with the certification of the engines or vehicles described in paragraph (1) or (2) to Federal and California certification requirements and in-use emission standards;

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

(5) the development and improvement of nationally recognized codes and standards for the continued safe operation of natural gas vehicles and components;

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

(7) the certification of natural gas fueling station infrastructure to nationally recognized and industry safety standards;

(8) the improvement in the reliability and efficiency of onboard natural gas fuel storage systems;

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

(10) the certification of onboard natural gas fuel storage systems to nationally recognized and industry safety standards; and

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

(d) CERTIFICATION OF CONVERSION SYSTEMS.—The Secretary shall coordinate with the Administrator on issues related to streamlining the certification of natural gas conversion systems to the appropriate Federal certification requirements and in-use emission standards.

(e) COOPERATION AND COORDINATION WITH INDUSTRY.—In developing and carrying out the program under this section, the Secretary shall coordinate with the natural gas vehicle industry to ensure cooperation between the public and the private sector.

(f) CONDUCT OF PROGRAM.—The program under this section shall be conducted in accordance with sections 3001 and 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13541, 13542).

(g) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SEC. 204. DEVELOPMENT OF LOW-EMISSION NATURAL GAS TRANSPORTATION-FUELED VEHICLES.

Part C of title II of the Clean Air Act (42 U.S.C. 7581 et seq.) is amended by adding at the end the following:

''SEC. 251. DEVELOPMENT OF LOW-EMISSION NATURAL GAS TRANSPORTATION-FUELED VEHICLES.

''(a) DEFINITIONS.—In this section:

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed or liquefied natural gas or liquefied petroleum gas.

''(2) ALTERNATIVE-FUELED VEHICLE.—The term 'alternative-fueled vehicle' means a vehicle that is manufactured or converted to operate using alternative fuel.

''(3) BI-FUELED VEHICLE.—The term 'bi-fueled vehicle' means a vehicle that is capable of operating on gasoline or an alternative fuel, but not both at the same time.

''(4) CONVERT.—The term 'convert', with respect to a vehicle, means to modify the engine and other applicable components of the vehicle to enable the vehicle to operate using an alternative fuel (including compressed natural gas).

''(5) OBD SYSTEM.—The term 'OBD system' means an on-board, computer-based diagnostic system built into certain vehicles to monitor the performance of certain primary engine components of the vehicle (including components responsible for controlling emissions).

''(6) PROGRAM.—The term 'program' means the alternative-fueled vehicle development demonstration program established under subsection (b).

''(7) SMALL VOLUME MANUFACTURER.—

''(A) IN GENERAL.—The term 'small volume manufacturer' means a manufacturer of vehicles described in section 86.001–1(e) of title 40, Code of Federal Regulations (or a successor regulation) that is approved and certified in accordance with part 86 of subchapter C of chapter I of title 40, Code of Federal Regulations (or successor regulations).

''(B) INCLUSION.—The term 'small volume manufacturer' includes a manufacturer of kits or equipment used to convert vehicles.

''(b) PROGRAM.—

''(1) ESTABLISHMENT.—For the period of fiscal years 2009 through 2013, the Administrator shall establish and carry out a demonstration program to assist States in facilitating the development of alternative-fueled vehicles.

''(2) APPLICATION.—A State may participate in the program by submitting to the Administrator an application at such time, in such form, and containing such information as the Administrator shall specify.

''(3) BENEFITS AVAILABLE TO PARTICIPATING SMALL VOLUME MANUFACTURERS.—Under the program, with respect to small volume manufacturers located in States participating in the program, the Administrator shall, by regulation—

''(A) waive all fees applicable to small volume manufacturers for the certification and conversion of alternative-fueled vehicles;

''(B) waive requirements for recertification of kits for the conversion of vehicles in any case in which, as determined by the Administrator—

''(i) the kit has been previously certified for the model of vehicle to be converted; and

''(ii) neither the kit nor the design and specifications of the model of vehicle to be converted have substantially changed;

''(C) modify such regulatory requirements relating to OBD systems as the Administrator determines to be appropriate to provide flexibility to small volume manufacturers in reprogramming OBD systems to be compatible with the use of alternative fuel;

''(D) permit small volume manufacturers to include more vehicles and engines in a single engine category to improve the cost-efficiency of emission testing of converted vehicles;

''(E) waive the liability of small volume manufacturers, in the case of a bi-fueled vehicle capable of operating on gasoline or compressed natural gas, for the compliance of the gasoline system of the bi-fueled vehicle with applicable emission requirements;

''(F) provide additional guidance to small volume manufacturers with respect to the conversion of older models of vehicles; and

''(G) revise and streamline certification requirements applicable to small volume manufacturers.

''(4) STATE RESPONSIBILITY.—As a condition of participating in the program, during the period of fiscal years 2009 through 2013, a State shall—

''(A) develop regulations for (as compared to Federal requirements in effect as of the date of enactment of this section) an equally effective but less burdensome system of certifying and verifying emissions of alternative-fueled vehicles and equipment used for conversions; and

''(B) not later than December 31, 2012, submit the proposed regulations of the State to the Administrator for review.

''(c) STATE PROGRAMS.—Upon receipt of proposed regulations of a State under subsection (b)(4), the Administrator shall—

''(1) review the regulations; and

''(2) if the Administrator determines that the implementation of the regulations would result in (as compared to Federal requirements in effect as of the date of enactment of this section) an equally effective but less burdensome system of certifying and verifying emissions of alternative-fueled vehicles and equipment used for conversions, authorize the State to implement the regulations with respect to small volume manufacturers in the State for the period of fiscal years 2014 through 2018, subject to—

''(A) the submission of annual reports to the Administrator; and

''(B) such periodic inspection and other oversight requirements as the Administrator determines to be appropriate.

''(d) DURATION OF PROGRAM.—The program and all authority under the program (other than the authority of the Administrator described in subsection (c)) shall terminate on December 31, 2013, unless the Administrator—

''(1) in consultation with the States, elects to continue the program; and

''(2) promulgates such regulations as are necessary to continue the program.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

SEC. 205. NATURAL GAS CONVERSION EMISSION CERTIFICATIONS.

Part C of title II of the Clean Air Act (42 U.S.C. 7581 et seq.) (as amended by section 204) is amended by adding at the end the following:

''SEC. 252. NATURAL GAS CONVERSION EMISSION CERTIFICATIONS.

''(a) IN GENERAL.—The Administrator shall waive requirements for recertification of kits for the conversion of vehicles into vehicles that are powered by natural gas or liquefied petroleum gas in any case in which, as determined by the Administrator—

''(1) the kit has been previously certified for the model of vehicle to be converted; and

''(2) neither the kit nor the design and specifications of the model of vehicle to be converted have substantially changed.

''(b) OLDER VEHICLES.—The Administrator shall waive emission certification system requirements for a vehicle that is over 10 years old or has over 120,000 miles that is powered by natural gas.''.

SA 5178. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—MARGINAL WELL PRODUCTION PRESERVATION AND ENHANCEMENT

SEC. 21. TAX TREATMENT FOR PROLONGED MARGINAL PRODUCTION.

(a) INCREASE IN PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

(1) IN GENERAL.—Paragraph (6) of section 613A(c) of the Internal Revenue Code of 1986 (relating to oil and natural gas produced from marginal properties), as amended by this Act, is amended to read as follows:

''(6) OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

''(A) IN GENERAL.—Except as provided in subsection (d)—

''(i) the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to the taxpayer's marginal production of domestic crude oil and domestic natural gas, and

''(ii) 27.5 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

''(B) COORDINATION WITH OTHER PRODUCTION OF DOMESTIC OIL AND NATURAL GAS.—For purposes of this subsection—

''(i) no allowance for depletion shall be allowed by reason of paragraph (1) with respect to the taxpayer's marginal production of domestic crude oil and domestic natural gas, and

''(ii) such production shall not be taken into account—

''(I) in determining under paragraph (1) how much of the taxpayer's depletable oil quantity or depletable natural gas quantity has been used, or

''(II) for purposes of applying subparagraph (A), (B), or (C) of paragraph (7).

''(C) MARGINAL PRODUCTION.—The term 'marginal production' means domestic crude oil or domestic natural gas which is produced during any taxable year from a property which—

''(i) is a stripper well property for the calendar year in which the taxable year begins, or

''(ii) is a property substantially all of the production of which during such calendar year is heavy oil.

''(D) STRIPPER WELL PROPERTY.—For purposes of this paragraph, the term 'stripper well property' means, with respect to any calendar year, any property with respect to which the amount determined by dividing—

''(i) the average daily production of domestic crude oil and domestic natural gas from producing wells on such property for such calendar year, by

''(ii) the number of such wells,

is 15 barrel equivalents or less.

''(E) HEAVY OIL.—For purposes of this paragraph, the term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

''(F) NONAPPLICATION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 613A(c)(3) of the Internal Revenue Code of 1986 (defining depletable oil quantity) is amended to read as follows:

''(3) DEPLETABLE OIL QUANTITY.—For purposes of paragraph (1), the taxpayer's depletable oil quantity shall be 1,000 barrels.''.

(B) Subparagraphs (A) and (B) of section 613A(c)(7) of such Code are each amended by striking ''or (6), as the case may be''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2008.

(b) 1-YEAR EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT.—Section 613A(c)(6)(H) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable income limit with respect to marginal production) is amended by striking ''2008'' and inserting ''2009''.

SEC. 22. OIL AND GAS WELLS AND PIPELINE FACILITIES TECHNICAL AMENDMENT.

Section 112(n)(4)(A) of the Clean Air Act (42 U.S.C. 7412(n)(4)(A)) is amended by striking ''this section'' and inserting ''this Act''.

SEC. 23. NATIONAL RESPONSE SYSTEM.

Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by striking paragraph (1) and inserting the following:

''(1) SYSTEM.—

''(A) DEFINITION OF.—In this paragraph, the term 'wastewater treatment facility' includes produced water from an oil production facility.

''(B) REGULATIONS.—Consistent with the National Contingency Plan required under subsection (d), as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall promulgate regulations consistent with maritime safety and marine and navigation laws—

''(i) establishing methods and procedures for removal of discharged oil and hazardous substances;

''(ii) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans;

''(iii) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities (other than wastewater treatment facilities), and to contain those discharges; and

''(iv) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of those cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

''(C) SMALL FACILITIES.—In carrying out clause (iii) of subparagraph (B), not later than 1 year after the date of enactment of that clause, the Administrator shall establish procedures, methods, and equipment and other requirements for, and consider the cost-effectiveness of those requirements on, small facilities (including agricultural and oil production facilities) to prevent discharges from facilities and offshore facilities, and to contain those discharges, by developing regulations based on storage volume and capacity that, with respect to those small facilities—

''(i) apply to any facility the total oil storage capacity of which is at least 1,320 gallons but less than 50,000 gallons, and at which no single tank exceeds a nominal capacity of 21,000 gallons; and

''(ii) establish minimal requirements and plans by eliminating engineer certification, flow lines, loading and unloading areas, integrity testing, and other requirements that, as determined by the Administrator, do not take into consideration and meet cost-effectiveness standards.''.

SEC. 24. RECOVERY PERIOD FOR DEPRECIATION OF PROPERTY USED TO INJECT QUALIFIED TERTIARY INJECTANTS.

(a) IN GENERAL.—Section 168(e)((3)(A) of the Internal Revenue Code of 1986 (defining 3-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified tertiary injectant property.''.

(b) QUALIFIED TERTIARY INJECTANT PROPERTY.—Section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED TERTIARY INJECTANT PROPERTY.—The term 'qualified tertiary injectant property' means—

''(A) any property—

''(i) the principal use of which is to inject any tertiary injectant as a part of a tertiary recovery method (as defined in section 193(b)(3)), or

''(ii) which is a pipeline used to carry any tertiary injectant in connection with such tertiary recovery method, and

''(B) which has a class life of more than 4 years.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subparagraph (A)(iii) the following new item:

''(A)(iv) ..... 7''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 5179. Mr. GRAHAM (for himself, Mr. KYL, Mr. MCCAIN, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—NUCLEAR POWER GENERATION

Subtitle A—Credit for Qualifying Nuclear Power Manufacturing

SEC. ___01. CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is certified under subsection (c) and—

''(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment,

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(D) which is placed in service on or before December 31, 2015.

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

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT AND QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT CERTIFICATION.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a program to consider and award certifications for property eligible for credits under this section as part of either a qualifying nuclear power manufacturing project or as qualifying nuclear power manufacturing equipment. The total amounts of credit that may be allocated under the program shall not exceed $100,000,000.

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

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including computers and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(b) CONFORMING AMENDMENTS.—

(1) ADDITIONAL INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting '', and''; and

(C) by inserting after paragraph (5) the following new paragraph:

''(6) the qualifying nuclear power manufacturing credit.''.

(2) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code, as amended by this Act, is amended—

(A) by striking ''and'' at the end of clause (iv);

(B) by striking the period at the end of clause (v) and inserting '', and''; and

(C) by inserting after clause (v) the following new clause:

''(vi) the basis of any property which is part of a qualifying nuclear power manufacturing project or qualifying nuclear power manufacturing equipment under section 48C.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code, as amended by this Act, is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying nuclear power manufacturing credit.''.

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

(1) the construction, reconstruction, or erection of which begins after the date of enactment of this Act; or

(2) which is acquired by the taxpayer on or after such date and not pursuant to a binding contract which was in effect on the day prior to such date.

Subtitle B—Accelerated Depreciation

SEC. _11. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

Subtitle C—Next Generation Nuclear Plant Project Modifications

SEC. _21. NEXT GENERATION NUCLEAR PLANT PROJECT MODIFICATIONS.

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means any nongreenhouse gas-emitting nuclear energy technology that provides—

''(i) an alternative to the burning of fossil fuels for industrial applications; and

''(ii) process heat to generate, for example, electricity, steam, hydrogen, and oxygen for activities such as—

''(I) petroleum refining;

''(II) petrochemical processes;

''(III) converting coal to synfuels and other hydrocarbon feedstocks; and

''(IV) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users (such as owners and operators of nuclear energy facilities, petrochemical entities, and petroleum entities), as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) demonstrates the capability of the nuclear energy system to provide high-temperature process heat to produce—

''(A) electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended to read as follows:

''SEC. 642. PROJECT MANAGEMENT.

''(a) DEPARTMENTAL MANAGEMENT.—

''(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy.

''(2) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Project may be carried out in coordination with the Generation IV Nuclear Energy Systems Initiative.

''(B) REQUIREMENT.—Regardless of whether the Project is carried out in coordination with the Generation IV Nuclear Energy Systems Initiative under subparagraph (A), the Secretary shall establish a separate budget line-item for the Project.

''(3) INTERACTION WITH INDUSTRY.—Any activity to support the Project by an individual or entity in the private industry shall be carried out pursuant to a competitive cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Department and the industry group established under subsection (c).

''(b) LABORATORY MANAGEMENT.—

''(1) IN GENERAL.—The Idaho National Laboratory shall be the lead National Laboratory for the Project.

''(2) COLLABORATION.—The Idaho National Laboratory shall collaborate regarding research and development activities with other National Laboratories, institutions of higher education, research institutes, representatives of industry, international organizations, and Federal agencies to support the Project.

''(c) INDUSTRY GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish a group of appropriate industrial partners in the private sector to carry out cost-shared activities with the Department to support the Project.

''(2) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a cooperative agreement or other assistance agreement with the industry group established under paragraph (1) to manage and support the development, licensing, construction, and initial operation of the Project.

''(B) REQUIREMENT.—The agreement under subparagraph (A) shall contain a provision under which the industry group may enter

into contracts with entities in the public sector for the provision of services and products to that sector that reflect typical commercial practices, including (without limitation) the conditions applicable to sales under section 2563 of title 10, United States Code.

''(C) PROJECT MANAGEMENT.—

''(i) IN GENERAL.—The industry group shall use commercial practices and project management processes and tools in carrying out activities to support the Project.

''(ii) INTERFACE REQUIREMENTS.—The requirements for interface between the project management requirements of the Department (including the requirements contained in the document of the Department numbered DOE O 413.3A and entitled 'Program and Project Management for the Acquisition of Capital Assets') and the commercial practices and project management processes and tools described in clause (i) shall be defined in the agreement under subparagraph (A).

''(3) COST SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

''(4) PREFERENCE.—Preference in determining the final structure of industrial partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

''(d) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

''(e) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transport and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (A), (B), and (D) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking ''powerplant'' and inserting ''power plant'';

(B) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY GROUP.—The industry group established under section 642(c) may enter into any necessary contracts for services, support, or equipment in carrying out an agreement with the Department.''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''RESEARCH'';

(ii) in the matter preceding subparagraph (A), by striking ''Research'';

(iii) by striking ''NERAC'' each place it appears and inserting ''NEAC'';

(iv) in subparagraph (A)—

(I) by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy and all progress under the Project on an ongoing basis;'';

(II) in clause (ii), by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(iii) ensure that industrial support for the first project phase under subsection (b)(1)(A) is continued before initiating the second project phase under subsection (b)(1)(B).'';

(v) in subparagraph (B), by striking ''or appoint'' and inserting ''by appointing''; and

(vi) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Secretary and the industry group established under section 642(c).''.

(d) NUCLEAR REGULATORY COMMISSION.—Section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Not later than'' and inserting the following:

''(1) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(2) REQUIREMENT.—To the maximum extent practicable, in carrying out subparagraphs (B) and (C) of paragraph (1), the Nuclear Regulatory Commission shall independently review and, as appropriate, use the results of analyses conducted for or by the license applicant.''; and

(2) by striking subsection (c) and inserting the following:

''(c) ONGOING INTERACTION.—The Nuclear Regulatory Commission shall establish a separate program office for advanced reactors—

''(1) to develop and implement regulatory requirements consistent with the safety bases of the type of nuclear reactor developed by the Project, with the specific objective that the requirements shall be applied to follow-on commercialized high-temperature, gas-cooled nuclear reactors;

''(2) to avoid conflicts in the availability of resources with licensing activities for light water reactors;

''(3) to focus and develop resources of the Nuclear Regulatory Commission for the review of advanced reactors;

''(4) to support the effective and timely review of preapplication activities and review of applications to support applicant needs; and

''(5) to provide for the timely development of regulatory requirements, including through the preapplication process, and review of applications for advanced technologies, such as high-temperature, gas-cooled nuclear technology systems.''.

(e) PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.—Section 645 of the Energy Policy Act of 2005 (42 U.S.C. 16025) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) SUMMARY OF AGREEMENT.—Not later than December 31, 2009, the Secretary shall submit to Congress a report that contains a summary of each cooperative agreement or other assistance agreement (such as a technology investment agreement) entered into between the Secretary and the industry group under section 642(a)(3), including a description of the means by which the agreement will provide for successful completion of the development, design, licensing, construction, and initial operation and demonstration period of the prototype facility of the Project.

''(b) OVERALL PROJECT PLAN.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall submit to Congress an overall plan for the Project, to be prepared jointly by the Secretary and the industry group established under section 642(c), pursuant to a cooperative agreement or other assistance agreement (such as a technology investment agreement).

''(2) INCLUSIONS.—The plan under paragraph (1) shall include—

''(A) a summary of the schedule for the design, licensing, construction, and initial operation and demonstration period for the nuclear energy system prototype facility and hydrogen production prototype facility of the Project;

''(B) the process by which a specific design for the prototype nuclear energy system facility and hydrogen production facility will be selected;

''(C) the specific licensing strategy for the Project, including—

''(i) resource requirements of the Nuclear Regulatory Commission; and

''(ii) the schedule for the submission of a preapplication, the submission of an application, and application review for the prototype nuclear energy system facility of the Project;

''(D) a summary of the schedule for each major event relating to the Project; and

''(E) a time-based cost and cost-sharing profile to support planning for appropriations.''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''research and construction activities'' and inserting ''research and development, design, licensing, construction, and initial operation and demonstration activities''.

SA 5180. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 4a(h)(4)(C)(i) of the Commodity Exchange Act (as added by section 6), strike subclause (II) and insert the following:

''(II) APPLICATION.—The Commission shall apply the limits imposed under subclause (I) to—

''(aa) any person who executes accounts, agreements, or transactions involving an energy commodity for the own account of the person and to any person for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a registered entity or in covered over-the-counter trading; and

''(bb) any citizen of the United States who executes accounts, agreements, or transactions involving an energy commodity for the own account of the citizen and to any citizen of the United States for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a foreign board of trade or trading facility based in a country other than the United States.

SA 5181. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 16. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Stop Excessive Energy Speculation Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 17. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS AND FEDERAL PRODUCTION AREAS.

(a) IN GENERAL.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

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

''(2) FEDERAL PRODUCTION AREA.—The term 'Federal production area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located more than 60 miles from the coastline of the State and more than 125 miles off the Gulf Coast of Florida.

''(3) MORATORIUM AREA.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(4) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located within 60 miles of the coastline of the State and within 125 miles of the Gulf Coast of Florida.

''(5) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(6) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(7) QUALIFIED FEDERAL PROTECTION AREA REVENUES.—The term 'qualified Federal protection area revenues' means qualified outer Continental Shelf revenues from leases for Federal protection areas.

''(8) QUALIFIED NEW PRODUCING AREA REVENUES.—The term 'qualified new producing area revenues' means qualified Outer Continental Shelf revenues from leases for new producing areas.

''(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

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

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(3) DISPOSITION OF QUALIFIED NEW PRODUCING AREA REVENUES.—

''(A) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this paragraph, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(i) 50 percent of qualified new producing area revenues in the Energy Independence Fund established under section 19 of the Stop Excessive Energy Speculation Act of 2008; and

''(ii) 50 percent of qualified new producing area revenues in a special account in the Treasury from which the Secretary shall disburse—

''(I) 75 percent to new producing States in accordance with subparagraph (B); and

''(II) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(B) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(i) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under subparagraph (A)(ii)(I) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified new producing area revenues generated in the new producing area offshore each State.

''(ii) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(I) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under clause (i), to the coastal political subdivisions of the new producing State.

''(II) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(C) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under subparagraph (B) shall be at least 5 percent of the amounts available under for the fiscal year under subparagraph (A)(ii)(I).

''(D) TIMING.—The amounts required to be deposited under clause (ii) of subparagraph (B) for the applicable fiscal year shall be made available in accordance with that clause during the fiscal year immediately following the applicable fiscal year.

''(E) AUTHORIZED USES.—

''(i) IN GENERAL.—Subject to clause (ii), each new producing State and coastal political subdivision shall use all amounts received under subparagraph (B) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(I) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(II) Mitigation of damage to fish, wildlife, or natural resources.

''(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(IV) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(V) Planning assistance and the administrative costs of complying with this section.

''(ii) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under subparagraph (B) may be used for the purposes described in clause (i)(V).

''(F) ADMINISTRATION.—Amounts made available under subparagraph (A)(ii) shall—

''(i) be made available, without further appropriation, in accordance with this paragraph;

''(ii) remain available until expended; and

''(iii) be in addition to any amounts appropriated under—

''(I) other provisions of this Act;

''(II) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(III) any other provision of law.

''(4) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of paragraph (3) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(A) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(B) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

''(c) LEASING IN FEDERAL PRODUCTION AREAS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall make the Federal production areas available for oil and gas leasing.

''(2) PRIORITY.—The Secretary may prioritize the lease sales under paragraph (1) based on available data of oil and gas reserves in the Federal production areas.

''(3) DISPOSITION OF QUALIFIED FEDERAL PRODUCING AREA REVENUES.—For each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 85 percent of qualified Federal producing area revenues in the Energy Independence Fund established by section 19; and

''(B) 15 percent of qualified Federal producing area revenues in a special account in the Treasury from which the Secretary shall disburse to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5)''.

(b) CONFORMING AMENDMENT.—Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

SEC. 18. OUTER CONTINENTAL SHELF INVENTORY.

(a) IN GENERAL .—Not later than 3 years after the date of enactment of this Act, the Director of the Minerals Management Service shall conduct a comprehensive inventory of oil and gas reserves of the outer Continental Shelf.

(b) ANNUAL REPORT.—Beginning on the date that is 1 year after the date of enactment of this Act and annually thereafter until the inventory required under subsection (a) is completed, the Director of the Minerals Management Service shall submit to the appropriate committees of Congress a report describing the progress of the inventory.

SEC. 19. ENERGY INDEPENDENCE TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Energy Independence Trust Fund'' (referred to in this section as the ''Fund''), consisting of—

(1) such amounts as are deposited in the Fund under subsections (b)(3)(A)(i) and (c)(3)(A) of the Outer Continental Shelf Lands Act (as added by section 17(a)); and

(2) any interest earned from investment of amounts in the Fund.

(b) AUTHORIZED USES.—Subject to appropriations, the amounts in the Fund shall be available to offset the cost of alternative fuel and conservation programs carried out by the Department of Agriculture, Department of Energy, and Department of Transportation that—

(1) enhance and accelerate the use of domestic renewable energy resources and alternative fuels, with an emphasis on cellulosic ethanol;

(2) increase the development and deployment of biofuels infrastructure, including—

(A) alternative fuel refueling pumps, which are capable of dispensing blends of gasoline from 10 percent ethanol to 85 percent ethanol; and

(B) a biofuel dedicated pipeline;

(3) promote the utilization of energy-efficient products and practices and encourage and reward sound energy conservation practices;

(4) expand research, development, and deployment of renewable energy and efficiency technologies;

(5) expand research development, and deployment of hydrogen fuel cell technology; or

(6) expand research, development, and deployment of electric plug-in vehicle and advanced battery technology.

SA 5182. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 1(a) of the Commodity Exchange Act (as amended by section 2(a)), strike paragraph (13) and insert the following:

''(13) ENERGY COMMODITY.—

''(A) IN GENERAL.—The term 'energy commodity' means each energy commodity traded on—

''(i) the Chicago Mercantile Exchange;

''(ii) the Chicago Board of Trade;

''(iii) the New York Mercantile Exchange; and

''(iv) any other United States Exchange.

''(B) INCLUSIONS.—The term 'energy commodity' includes—

''(i) a petroleum product, including—

''(I) light sweet crude oil;

''(II) heating oil; and

''(III) Reformulated Blendstock for Oxygenate Blending (RBOB) gasoline;

''(ii) natural gas;

''(iii) ethanol;

''(iv) electricity;

''(v) uranium;

''(vi) coal; and

''(vii) carbon.''.

SA 5183. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, add the following:

SEC. 17. EMERGENCY TRANSFER FROM AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—The Department of Transportation Appropriations Act, 2008 (title I of division K of Public Law 110–161) is amended, under the heading ''PAYMENTS TO AIR CARRIERS'', by striking ''$60,000,000'' and inserting ''$120,000,000''.

(b) EMERGENCY REQUIREMENT.—The additional amount made available by the amendment under subsection (a) is designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SA 5184. Mr. REED (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—NATIONAL OILHEAT RESEARCH ALLIANCE

SEC. __01. NATIONAL OILHEAT RESEARCH ALLIANCE ACT OF 2000.

(a) FINDINGS.—Section 702 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(b) DEFINITIONS.—Section 703 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears (other than paragraph (10)) and inserting ''oilheat fuel'';

(2) by striking paragraph (7) and inserting the following:

''(7) OILHEAT FUEL.—The term 'oilheat fuel' means distillate liquid that is used as a fuel for nonindustrial commercial or residential space or hot water heating.'';

(3) in paragraph (8), by striking ''OILHEAT'' and inserting ''OILHEAT FUEL'';

(4) in paragraph (14)—

(A) by striking ''No. 1 distillate or No. 2 dyed distillate'' each place it appears and inserting ''distillate liquid''; and

(B) in subparagraph (B), by striking ''sells the distillate'' and inserting ''sells the distillate liquid'';

(5) by redesignating paragraphs (3) through (13) and (14) as paragraphs (4) through (14) and (16), respectively, and moving paragraph (16) (as so redesignated) to appear after paragraph (15); and

(6) by inserting after paragraph (2) the following:

''(3) DISTILLATE LIQUID.—The term 'distillate liquid' means—

''(A) No. 1 distillate;

''(B) No. 2 dyed distillate; or

''(C) a liquid blended with No. 1 distillate or No. 2 dyed distillate.''.

(c) REFERENDA.—Section 704 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) by striking ''No. 1 distillate and No. 2 dyed distillate'' each place it appears in subsections (a) and (c) and inserting ''distillate liquid'';

(3) in subsection (a)—

(A) in paragraph (5)(B), by striking ''Except as provided in subsection (b), the'' and inserting ''The''; and

(B) in paragraph (6), by striking '', No. 1 distillate, or No. 2 dyed distillate'' and inserting ''or distillate liquid''; and

(4) in subsection (b), by striking ''under'' and inserting ''consistent with''.

(d) MEMBERSHIP.—Section 705 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) in subsection (b)(2), by striking ''No. 1 distillate and No. 2 dyed distillate'' and inserting ''distillate liquid''; and

(3) by striking subsection (c) and inserting the following:

''(c) NUMBER OF MEMBERS.—

''(1) IN GENERAL.—The membership of the Alliance shall be as follows:

''(A) 1 member representing each State participating in the Alliance.

''(B) 5 representatives of retail marketers, of whom 1 shall be selected by each of the qualified State associations of the 5 States with the highest volume of annual oilheat fuel sales.

''(C) 5 additional representatives of retail marketers.

''(D) 21 representatives of wholesale distributors.

''(E) 6 public members, who shall be representatives of significant users of oilheat fuel, the oilheat fuel research community, State energy officials, or other groups with expertise in oilheat fuel.

''(2) FULL-TIME OWNERS OR EMPLOYEES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), other than the public members of the Alliance, Alliance members shall be full-time managerial owners or employees of members of the oilheat fuel industry.

''(B) EMPLOYEES.—Members described in subparagraphs (B), (C), and (D) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.''.

(e) FUNCTIONS.—Section 706 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(f) ASSESSMENTS.—Section 707 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) by striking ''oilheat'' each place it appears and inserting ''oilheat fuel'';

(2) by striking subsection (a) and inserting the following:

''(a) RATE.—

''(1) IN GENERAL.—The assessment rate for calendar years 2008 and 2009 shall be equal to 2/10 of 1 cent per gallon of distillate liquid.

''(2) SUBSEQUENT ASSESSMENTS.—Subject to paragraphs (3) and (4), beginning with calendar year 2010, the annual assessment rate shall be sufficient to cover the costs of the plans and programs developed by the Alliance.

''(3) MAXIMUM RATE.—The annual assessment rate shall not exceed ½ of 1 cent per gallon of distillate liquid.

''(4) LIMITATIONS ON INCREASE.—

''(A) IN GENERAL.—The annual assessment shall not be increased by more than ½ of 1 cent per gallon in any 1 year.

''(B) APPROVAL.—No increase in the assessment may occur unless the increase is approved by 2/3 of the members voting at a regularly scheduled meeting of the Alliance.

''(C) NOTICE.—The Alliance shall provide notice of a change in assessment at least 90 days before the date on which the change is to take effect.'';

(3) in subsection (b)—

(A) by striking ''No. 1 distillate or No. 2 dyed distillate'' each place it appears and inserting ''distillate liquid''; and

(B) in paragraphs (2)(B) and (5)(B), by striking ''fuel'' each place it appears and inserting ''distillate liquid''; and

(4) in subsection (c), by striking ''No. 1 distillate and No. 2 dyed distillate'' and inserting ''Distillate liquid''.

(g) MARKET SURVEY AND CONSUMER PROTECTION.—Section 708 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended by striking ''oilheat'' each place it appears and inserting ''oilheat fuel''.

(h) VIOLATIONS.—Section 712(a) of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is amended—

(1) in paragraph (2), by striking ''oilheat'' and inserting ''oilheat fuel''; and

(2) by striking paragraph (3) and inserting the following:

''(3) a direct reference to a competing product.''.

(i) REPEAL OF SUNSET.—Section 713 of the National Oilheat Research Alliance Act of 2000 (42 U.S.C. 6201 note; Public Law 106–469) is repealed.

SA 5185. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—ENERGY SECURITY

SEC. __01. SHORT TITLE.

This title may be cited as the ''Energy Security Act of 2008''.

SEC. __02. PURPOSE AND GOALS.

The purpose of this title is to provide support for projects and activities to facilitate the energy security of the United States so as to ensure that all but 10 percent of the energy needs of the United States are supplied by domestic energy sources by calendar year 2017.

SEC. __03. NATIONAL COMMISSION ON ENERGY SECURITY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission, to be known as the ''National Commission on Energy Security'' (referred to in this section as the ''Commission'').

(2) MEMBERSHIP.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the majority leader of the Senate;

(C) 3 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 3 shall be appointed by the minority leader of the House of Representatives.

(3) CO-CHAIRPERSONS.—

(A) IN GENERAL.—The President shall designate 2 co-chairpersons from among the members of the Commission appointed.

(B) POLITICAL AFFILIATION.—The co-chairpersons designated under subparagraph (A) shall not both be affiliated with the same political party.

(4) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act.

(5) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—Any vacancy in the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(b) PURPOSE.—The Commission shall conduct a comprehensive review of the energy policy of the United States by—

(1) reviewing relevant analyses of the current and long-term energy policy of, and conditions in, the United States;

(2) identifying problems that may threaten the achievement by the United States of long-term energy policy goals, including energy security;

(3) analyzing potential solutions to problems that threaten the long-term ability of the United States to achieve those energy policy goals; and

(4) providing recommendations that will ensure, to the maximum extent practicable, that the energy policy goals of the United States are achieved.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than June 30 of each of calendar years 2009, 2011, 2013, and 2015, the Commission shall submit to Congress and the President a report on the progress of United States in meeting the long-term energy policy goal of energy security, including a detailed statement of the findings, conclusions, and recommendations of the Commission.

(2) LEGISLATIVE LANGUAGE.—If a recommendation submitted under paragraph (1) involves legislative action, the report shall include proposed legislative language to carry out the action.

(d) COMMISSION PERSONNEL MATTERS.—

(1) STAFF AND DIRECTOR.—The Commission shall have a staff headed by an Executive Director.

(2) STAFF APPOINTMENT.—The Executive Director may appoint such personnel as the Executive Director and the Commission determine to be appropriate.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) FEDERAL AGENCIES.—

(A) DETAIL OF GOVERNMENT EMPLOYEES.—

(i) IN GENERAL.—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission.

(ii) NATURE OF DETAIL.—Any detail of a Federal employee under clause (i) shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(B) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out the duties of the Commission.

(e) RESOURCES.—

(1) IN GENERAL.—The Commission shall have reasonable access to materials, resources, statistical data, and such other information from Executive agencies as the Commission determines to be necessary to carry out the duties of the Commission.

(2) FORM OF REQUESTS.—The co-chairpersons of the Commission shall make requests for access described in paragraph (1) in writing, as necessary.

SA 5186. Ms. CANTWELL (for herself, Mr. LIEBERMAN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

In section 6, at page 10 line 8, strike all through page 20 line 6 and insert the following:

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 5) is amended by adding at the end the following:

''(h) ELIMINATION OF EXCESSIVE SPECULATION AS A CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.—

''(1) ''(1).—DEFINITION OF BONA-FIDE HEDGE TRADING.—

(A) IN GENERAL.—The term 'Bona-Fide Hedge Trading' means a transaction that—

(aa) represents a substitute for a transaction to be made or a position to be taken at a later time in a physical marketing channel;

(bb) is economically appropriate for the reduction of risks in the conduct and management of a commercial enterprise that uses the underlying commodity in the production or operation of its business; and

(cc) arises from the potential change in the value of—

(AA) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

(BB) liabilities that a person incurs or anticipates incurring; or

(CC) services that a person provides or purchases (or anticipates providing or purchasing).

(B) EXCLUSION.—The term 'Bona-fide Hedge Trading' does not include a transaction entered into on a designated contract market for the purpose of offsetting a financial risk arising from an over-the-counter commodity derivative.''

''(2) IDENTIFICATION OF BONA-FIDE HEDGE TRADING.—In carrying out this Act, the Commission shall distinguish between—

''(A) bona-fide hedge trading; and

''(B) all other trading in energy commodities.

(3) DEFINITION OF COVERED OVER-THE-COUNTER COMMODITY DERIVATIVE.—The term 'over-the-counter commodity derivative' means any agreement, contract, or transaction that—

(A) (aa) traded or executed in the United States;

(bb) is held by a person located in the United States; or

(B) is not traded on a designated contract market or derivatives transaction execution facility; and

(C) (aa) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or substantially based on the value of, or more qualifying commodities or an economic or financial index or measure of economic or financial risk primarily associated with 1 or more qualifying commodities;

(bb) provides on an executory basis for the applicable transaction, on a fixed or contingent basis, of 1 or more payments substantially based on the value of 1 or more qualifying commodities or an economic or financial index or measure of economic or financial risk primarily associated with 1 or more qualifying commodities, and that transfers between the parties to the transaction, in whole or in part, the economic or financial risk associated with a future change in any such value without also conveying a current or future direct or indirect ownership interest in an asset or liability that incorporates the financial risk that is transferred; or

(cc) is any combination or permutation of, or option on, any agreement, contract, or transaction described in item (aa) or (bb).

''(4) ''CONTROL ENTITY.—For purposes of this Act, a control entity shall mean a person or entity that holds or controls a position in proportion to the person or entity's direct or indirect ownership or equity interest in the position.

(5) In section 4a(h)(4)(C)(i) of the Commodity Exchange Act (as added by section 6), strike subclause (II) and insert the following:

''(II) APPLICATION.—The Commission shall apply the limits imposed under subclause (I) to—

''(aa) any person who executes accounts, agreements, or transactions involving an energy commodity for the own account of the person and to any person for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a registered entity or in covered over-the-counter trading; and

''(bb) any citizen of the United States who executes accounts, agreements, or transactions involving an energy commodity for the own account of the citizen and to any citizen of the United States for whom an agent in fact or substance executes accounts, agreements, or transactions involving an energy commodity, on a foreign board of trade or trading facility based in a country other than the United States.

''(4) ELIMINATION OF EXCESSIVE SPECULATION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Commission shall review all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, and other actions taken by or on behalf of the Commission (including any action or inaction taken pursuant to delegated authority by an exchange, self-regulatory organization, or any other entity) regarding all energy futures market participants or market activity (referred to in this subsection individually as a 'prior action') to ensure that—

''(i) bona fide hedge trading is protected and promoted; and

''(ii) excessive speculation is eliminated.

''(B) PRIOR ACTION.—

''(i) IN GENERAL.—The Commission shall modify or revoke the application after the date of enactment of this subsection of any prior action taken by the Commission (including any prior action taken pursuant to delegated authority by any other entity) with respect to any trade on any market, exchange, foreign board of trade, swap or swap transaction, index or index market participant or trade, hedge fund, pension fund, and any other transaction, trade, trader, or petroleum or energy futures market activity unless the Commission affirmatively determines that such prior action will protect and promote bona fide hedge trading and does not permit or encourage excessive speculation.

''(ii) REVOCATION.—In carrying out this subparagraph, the Commission shall modify or revoke the results of each prior action that, in whole or in part, has the direct or indirect affect of limiting, reducing, or eliminating the filing of any report or data regarding any direct or indirect trade or trader, including the filing of large trader reports.

''(C) AGGREGATE SPECULATIVE POSITION LIMITS APPLICABLE TO TRADING IN ENERGY COMMODITIES AND DERIVATIVES THAT IS NOT BONAFIDE HEDGE TRADING.—

''(i) AGGREGATE SPECULATIVE POSITION LIMITS.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall impose, by rule, regulation, or order, aggregate speculative position limits on trading that is not bona fide hedge trading at the control entity level,

''(a) on designated contract markets;

''(b) on derivatives transaction execution facilities; and

''(c) in covered over-the-counter commodity derivatives.

''(II) In establishing aggregate speculative position limits, the Commission shall set the limits at the minimum level practicable—

(a) to ensure sufficient market liquidity for the conduct of bonafide hedging activities;

(b) to ensure that price discovery is not disrupted;

(c) to protect and promote bonafide hedge trading;

(d) to minimize non-bonafide hedge trading; and (e) to eliminate excess speculation.''

''(II) The aggregate speculative position limits shall apply to positions held that expire during—

(a) the spot month;

(b) each separate futures trading month (other than the spot month); or

(c) the sum of each trading month (including the spot month).''

''(ii) ADVISORY GROUP.—Physical Hedgers Energy Advisory Committee

(a) ADVISORY COMMITTEE.—Not later than 30 days after enactment, the CFTC shall establish a ''physical hedgers energy advisory committee'' for users of futures and swaps transactions for price discovery or hedging price risk of physical energy commodities (hereinafter ''physical hedgers''), which shall include:

(aa) commercial producers or sellers,

(bb) purchasers or users, or

(cc) middlemen involved with the purchase or sale of such energy commodities

(b) COMPOSITION.—In making appointments, not fewer than 75% of the membership of this committee shall be composed of participants (or their associations) for whom the preponderance of their participation in futures or over the counter markets is confined to hedging price risk for an energy commodity in their capacity as a commercial producer, seller, purchaser, user or middleman involved with such commodities. Not fewer than two representatives shall be appointed from each category:

(aa) Airlines

(bb) Trucking and Railroads

(cc) Petroleum Marketers and Heating Oil Distributors

(dd) Industrial Energy Consumers

(ee) Public and private gas and electric utilities

(ff) Oil and distillate refiners

(gg) Crude oil producers and shippers/terminal operators

(hh) Natural gas producers and pipeline operators

(ii) Other energy producers or sellers who use futures markets

Up to 25% of such committee shall include consumer advocacy organizations, futures

exchanges and trading facilities, state and local governments, financial services industry participants.

(c) MEETINGS.—This committee shall meet not less than 4 times per year, but shall meet more often upon the call of the Chair or by the request of the Commission.

(d) PURPOSES.—The Physical Hedgers Energy Advisory Committee shall provide advice to the Commission on rules, regulations and policies related to energy commodity markets, recommend appropriate levels of liquidity necessary for price discovery and physical hedging, review and make recommendations on the size of speculative positions limits, review and make recommendations on transactions that should be deemed commercial or non-commercial, evaluate whether additional policies are needed to prevent excessive speculation, and recommend improvements to rules, regulations and policies, and for other purposes.

(e) CHAIR AND TENURE.—The Chair shall be selected by the full Commission. Members shall serve for 3 year terms. The Committee shall have not more than 24 members.

(f) FACA.—The Committee shall be subject to the Federal Advisory Committee Act (FACA).

(g) INTERIM RECOMMENDATIONS TO CFTC.—Not later than 60 days after enactment, the ''physical hedgers energy advisory committee'' shall submit to the CFTC interim recommendations on the establishment of an appropriate level for aggregate speculative position limits for each energy commodity. Such recommendation shall be transmitted to Congress.

''(iii) REVIEW OF RECOMMENDATIONS.—Not later than 270 days after the date of enactment of this subsection, the Commission shall—

''(I) analyze and review the recommendations submitted by the advisory group under clause (ii)(II); and

''(II) submit to the appropriate committees of Congress a report describing each recommendation (including each modification to the statutory authority of the Commission that the Commission determines to be necessary to effectuate each recommendation).

''(iv) RULEMAKING.—

''(I) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Commission shall promulgate a final rule that establishes speculative position limits—

''(aa) for any person engaged in trading of an energy commodity that is not bona-fide hedge trading; and

''(bb) that are consistent with this Act.

''(II) EFFECTIVE DATE.—The final rule described in subclause (I) shall take effect on the date that is 30 days after the date on which the Commission promulgates the final rule.

''(V) DEVELOPMENT OF METHODOLOGY.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Commission shall propose a methodology to determine and set aggregate speculative position limits for each person engaging trading that is not bona-fide hedge trading of energy commodities—

''(aa) on designated contract markets;

''(bb) on derivatives transaction execution facilities; and

''(cc) in covered over-the-counter commodity derivatives.

''(dd) The aggregate speculative position limits established under this subsection shall apply to positions held that expire during—

(AA) the spot month;

(BB) each separate futures trading month (other than the spot month); or

(CC) the sum of each trading month (including the spot month).''

''(II) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Commission shall submit to the appropriate committees of Congress a report that contains—

''(aa) any recommendations regarding any additional statutory authority that the Commission determines to be necessary for the imposition of the speculative position limits described in subclause (I); and

''(bb) a description of the resources that the Commission considers to be necessary to implement the speculative position limits.

''(D) MAXIMUM LEVEL OF SPECULATIVE POSITION LIMITS.—

''(i) IN GENERAL. In establishing speculative position limits under this section (including subparagraph (C)(iv)), the Commission shall set the limits at the minimum level practicable—

''(I) to ensure sufficient market liquidity for the conduct of bona-fide hedging activities;

''(II) to ensure that price discovery is not disrupted;

''(III) to protect and promote bona-fide hedge trading;

''(IV) to minimize trading of an energy commodity that is not bona-fide hedge trading; and

''(V) to eliminate excess speculation.

SA 5187. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE II—NEW CLEAN FUELS

SEC. 21. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the ''New Clean Energy Tax Extenders Act''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Subtitle A—Extension of Clean Energy Production Incentives

SEC. 22. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2013'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility

producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2013.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. 23. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''January 1, 2017''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''January 1, 2017''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 24. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 25. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the New Clean Energy Tax Extenders Act and ending before January 1, 2013, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

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

SEC. 26. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2013''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 5 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives to Improve Energy Efficiency

SEC. 27. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2012''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

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

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. 28. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. 29. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

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

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

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

SEC. 30. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

Subtitle C—Revenue Provisions

SEC. 31. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 32. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2008 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Advancement and Investment Act of 2007) for preceding taxable years beginning after December 31, 1982.

''(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2007, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2007.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Advancement and Investment Act of 2007.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

(2) by adding at the end the following new paragraph:

''(4) TRANSITION RULES FOR PRE-2008 AND 2008 DISALLOWED CREDITS.—

''(A) PRE-2008 CREDITS.—In the case of any unused credit year beginning before January 1, 2008, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2007, by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in applying subsection (a) for each relevant year.

''(B) 2008 CREDITS.—In the case of any unused credit year beginning in 2008, the amendments made to this subsection by the Energy Advancement and Investment Act of 2007 shall be treated as being in effect for any preceding year beginning before January 1, 2008, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SA 5188. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. OPEC ACCOUNTABILITY.

(a) SHORT TITLE.—This section may be cited as the ''OPEC Accountability Act''.

(b) FINDINGS.—Congress makes the following findings:

(1) Gasoline prices have more than quadrupled since January 2002, with crude oil recently trading at more than $119 per barrel for the first time ever.

(2) Rising gasoline prices have placed an inordinate burden on American families.

(3) High gasoline prices have hindered and will continue to hinder economic recovery.

(4) The Organization of Petroleum Exporting Countries (OPEC) has formed a cartel and engaged in anticompetitive practices to manipulate the price of oil, keeping it artificially high.

(5) Eight member nations of OPEC—Ecuador, Indonesia, Kuwait, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela—are also members of the World Trade Organization. Algeria, Iran, Iraq, and Libya are also Observer Governments of the World Trade Organization.

(6) The agreement among OPEC member nations to limit oil exports is an illegal prohibition or restriction on the exportation or sale for export of a product under article XI of the GATT 1994.

(7) The export quotas and resulting high prices harm American families, undermine the American economy, impede American and foreign commerce, and are contrary to the national interests of the United States.

(c) ACTIONS TO CURB CERTAIN CARTEL ANTICOMPETITIVE PRACTICES.—

(1) DEFINITIONS.—In this section:

(A) GATT 1994.—The term ''GATT 1994'' has the meaning given such term in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)).

(B) UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES.—The term ''Understanding on Rules and Procedures Governing the Settlement of Disputes'' means the agreement described in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(C) WORLD TRADE ORGANIZATION.—

(i) IN GENERAL.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(ii) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(2) ACTION BY PRESIDENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President shall, not later than 15 days after the date of enactment of this Act, initiate consultations with the countries described in subparagraph (B) to seek the elimination by those countries of any action that—

(i) limits the production or distribution of oil, natural gas, or any other petroleum product;

(ii) sets or maintains the price of oil, natural gas, or any petroleum product; or

(iii) otherwise is an action in restraint of trade with respect to oil, natural gas, or any petroleum product, when such action constitutes an act, policy, or practice that is unjustifiable and burdens and restricts United States commerce.

(B) COUNTRIES DESCRIBED.—The countries described in this paragraph are the following:

(i) Indonesia.
(ii) Kuwait.
(iii) Nigeria.
(iv) Qatar.
(v) The United Arab Emirates.
(vi) Venezuela.
(vii) Ecuador.
(viii) Saudi Arabia.

(3) INITIATION OF WTO DISPUTE PROCEEDINGS.—If the consultations described in paragraph (2) are not successful with respect to any country described in paragraph (2)(B), the United States Trade Representative shall, not later than 60 days after the date of enactment of this Act, institute proceedings pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes with respect to that country and shall take appropriate action with respect to that country under the trade remedy laws of the United States.

SA 5189. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5190. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5191. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed

to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5192. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5162 submitted by Mr. WARNER (for himself and Mr. WEBB) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5193. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5194. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5195. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5196. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5197. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr.

ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5198. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5199. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5200. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5201. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5202. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5203. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5204. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5205. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5206. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5207. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5208. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5209. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5210. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5211. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5212. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr.

ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5213. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5214. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5215. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5216. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5217. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5162 submitted by Mr. WARNER (for himself and Mr. WEBB) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application

to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5218. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5219. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5220. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5221. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5222. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5223. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5224. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5225. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

Strike the period at the end of the amendment and insert a period and the following:

SEC. _____. CONSENT FOR NEW OIL AND GAS LEASING ACTIVITIES.

Notwithstanding any other provision of law, no new offshore oil and gas leasing, preleasing, or related activity may commence in any State—

(1)(A) in the waters of which offshore oil and gas preleasing, leasing, and related activity has, as of the date of enactment of this Act, never been permitted; or

(B) all or a portion of the waters of which are subject to any moratorium on oil and gas preleasing, leasing, and related activity described in section 104 or 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118), regardless of whether any preleasing, leasing, or related activity is ongoing in the waters of the State as of the date of enactment of this Act; and

(2) without the consent of each other State the waters of which are located within 100 miles of the waters of the State in which the new offshore oil and gas preleasing, leasing, or related activity is proposed to occur.

SA 5226. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5090 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5227. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5228. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5229. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5108 submitted by Mr. MCCONNELL and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5230. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5109 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas

with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5231. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5110 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5232. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5116 submitted by Mr. DOMENICI and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5233. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5121 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5234. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5123 submitted by Mr. BOND and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue

any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5235. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5132 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5236. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5137 submitted by Mr. COLEMAN (for himself, Mr. DOMENICI, Mrs. HUTCHISON, Mr. MCCONNELL, Mr. ALEXANDER, Mr. ALLARD, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. COCHRAN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mrs. DOLE, Mr. ENZI, Mr. GRAHAM, Mr. INHOFE, Mr. ISAKSON, Mr. MARTINEZ, Mr. ROBERTS, Mr. VITTER, Mr. VOINOVICH, Mr. WICKER, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5237. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5147 submitted by Mr. DEMINT and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5238. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5153 submitted by Mr. CRAIG (for himself, Mr. CRAPO, Mr. BOND, Mr. VITTER, and Mr. INHOFE) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price

speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5239. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5154 submitted by Mr. COBURN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5240. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5241. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5161 submitted by Mr. CORNYN and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5242. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5166 submitted by Mr. BURR and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5243. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5171 submitted by Mr. VOINOVICH (for himself, Mr. ROBERTS, and Mr. SUNUNU) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5244. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5181 submitted by Mr. THUNE and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. ___. ISSUANCE OF NEW LEASES.

(a) DEFINITIONS.—In this section:

(1) LESSEE.—The term ''lessee'' includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASES.—Effective beginning on the date of promulgation of regulations under subsection (c), the Secretary shall not issue any new lease that authorizes the exploration for or production of oil or natural gas under section 17 of the Mineral Leasing Act (33 U.S.C. 226), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person unless the person—

(1) certifies for each existing lease under those Acts for the production of oil or gas with respect to which the person is a lessee, that the person has diligently developed the Federal land that is subject to the lease in order to produce oil or natural gas or is producing oil or natural gas from the land; or

(2) has relinquished all Federal oil and gas leases under which oil and gas is not being diligently developed.

(c) DILIGENT DEVELOPMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that define ''diligently developed'' for purposes of this section.

(2) REGULATIONS.—The regulations shall—

(A) include benchmarks for oil and gas development that will ensure that leaseholders produce oil and gas from each lease within the original term of the lease; and

(B) require each leaseholder to submit to the Secretary a diligent development plan demonstrating how the lessee will meet the benchmarks.

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—Any person that fails to comply with this section (including any regulation or order issued under this section) shall be liable for a civil penalty under the terms and conditions of section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719).

SA 5245. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. VITTER and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. _____. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related

qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SA 5246. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, after line 23, insert the following:

TITLE V—TAX PROVISIONS

SEC. 501. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 511. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(2) 3-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(A) Clauses (i) and (ii) of paragraph (2)(A).

(B) Clauses (i)(I) and (ii) of paragraph (3)(A).

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

(F) Paragraph (7).

(G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF CREDIT PHASEOUT.—

(1) REPEAL OF PHASEOUT.—Subsection (b) of section 45 is amended—

(A) by striking paragraph (1), and

(B) by striking ''the 8 cent amount in paragraph (1),'' in paragraph (2) thereof.

(2) LIMITATION BASED ON INVESTMENT IN FACILITY.—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:

''(1) LIMITATION BASED ON INVESTMENT IN FACILITY.—

''(A) IN GENERAL.—In the case of any qualified facility originally placed in service after December 31, 2009, the amount of the credit determined under subsection (a) for any taxable year with respect to electricity produced at such facility shall not exceed the product of—

''(i) the applicable percentage with respect to such facility, multiplied by

''(ii) the eligible basis of such facility.

''(B) CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.—

''(i) UNUSED LIMITATION.—If the limitation imposed under subparagraph (A) with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such facility for the succeeding taxable year shall be increased by the amount of such excess.

''(ii) EXCESS CREDIT.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.

''(iii) PRELIMITATION CREDIT.—The term 'prelimitation credit' with respect to any facility for a taxable year means the credit determined under subsection (a) with respect to such facility for such taxable year, determined without regard to subparagraph (A) and after taking into account any increase for such taxable year under clause (ii).

''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable percentage' means, with respect to any facility, the appropriate percentage prescribed by the Secretary for the month in which such facility is originally placed in service.

''(ii) METHOD OF PRESCRIBING APPLICABLE PERCENTAGES.—The applicable percentages prescribed by the Secretary for any month under clause (i) shall be percentages which yield over a 10-year period amounts of limitation under subparagraph (A) which have a present value equal to 35 percent of the eligible basis of the facility.

''(iii) METHOD OF DISCOUNTING.—The present value under clause (ii) shall be determined—

''(I) as of the last day of the 1st year of the 10-year period referred to in clause (ii),

''(II) by using a discount rate equal to the greater of 110 percent of the Federal long-term rate as in effect under section 1274(d) for the month preceding the month for which the applicable percentage is being prescribed, or 4.5 percent, and

''(III) by taking into account the limitation under subparagraph (A) for any year on the last day of such year.

''(D) ELIGIBLE BASIS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible basis' means, with respect to any facility, the sum of—

''(I) the basis of such facility determined as of the time that such facility is originally placed in service, and

''(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).

''(ii) RULES FOR ALLOCATION.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.

''(iii) SHARED QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'shared qualified property' means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—

''(I) which a qualified facility will require for utilization of such facility, and

''(II) which is not a qualified facility.

''(iv) SPECIAL RULE RELATING TO GEOTHERMAL FACILITIES.—In the case of any qualified facility using geothermal energy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.

''(E) SPECIAL RULE FOR FIRST AND LAST YEAR OF CREDIT PERIOD.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.

''(F) ELECTION TO TREAT ALL FACILITIES PLACED IN SERVICE IN A YEAR AS 1 FACILITY.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is placed in service at the mid-point of such year or the first day of the following calendar year.''.

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service

after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(e) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.

(f) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:

''(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REPEAL OF CREDIT PHASEOUT.—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.

(3) LIMITATION BASED ON INVESTMENT IN FACILITY.—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.

(4) TRASH FACILITY CLARIFICATION; SALES TO RELATED REGULATED PUBLIC UTILITIES.—The amendments made by subsections (c) and (e) shall apply to electricity produced and sold after the date of the enactment of this Act.

(5) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 512. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 513. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2015''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48, and''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(v)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(C) the energy efficiency percentage of which exceeds 60 percent, and

''(D) which is placed in service before January 1, 2015.

''(2) LIMITATION.—

''(A) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(3) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(4) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(A) paragraph (1)(C) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 514. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 515. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 516. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

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

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond, or

''(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified clean renewable energy bonds.''.

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

PART II—CARBON MITIGATION PROVISIONS

SEC. 521. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking ''$1,300,000,000'' and inserting ''$2,550,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

''(iii) $1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

''(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 522. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 523. TEMPORARY INCREASE IN COAL EXCISE TAX.

Paragraph (2) of section 4121(e) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (A) and inserting ''December 31, 2018'', and

(2) by striking ''January 1 after 1981'' in subparagraph (B) and inserting ''December 31 after 2007''.

SEC. 524. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

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

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 525. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

Subtitle B—Transportation and Domestic Fuel Security Provisions

SEC. 531. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel'',

(2) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of such subsection and inserting ''CELLULOSIC BIOFUEL'', and

(3) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of paragraph (2) thereof and inserting ''CELLULOSIC BIOFUEL''.

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

SEC. 532. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking ''50 cents'' and inserting ''$1.00''.

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

''(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.''.

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking ''subsection (b)(5)(C)'' and inserting ''subsection (b)(4)(C)''.

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking ''subsection (b)(5)(B)'' and inserting ''subsection (b)(4)(B)''.

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting '', D396, or other equivalent standard approved by the Secretary''.

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following new sentence: ''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following: ''The term 'renewable diesel' also means fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (d) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 533. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Paragraph (6) of section 40(d) is amended to read as follows:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

SEC. 534. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (32) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(33) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by section 104, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A)

shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 535. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

''(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act.

SEC. 536. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2009.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Energy Independence and Tax Relief Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''

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

SEC. 537. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 538. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

Subtitle C—Energy Conservation and Efficiency Provisions

SEC. 541. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 106, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

''(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(e) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(g) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by section 106, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond,

''(B) a new clean renewable energy bond, or

''(C) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by section 106, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54D. Qualified energy conservation bonds.''.

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

SEC. 542. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

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

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsection (b), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2007.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 543. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 544. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'',

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 545. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) IN GENERAL.—Section 168(e)(3)(D) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

''(iii) any qualified smart electric meter, and

''(iv) any qualified smart electric grid system.''.

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.

''(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

''(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

''(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

''(ii) providing real-time, two-way communications to monitor or manage such grid, and

''(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or''.

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

SEC. 546. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking ''October 1, 2009'' and inserting ''October 1, 2012''.

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking ''issuance,'' and inserting ''issuance of the last issue with respect to such project,''.

Subtitle D—Limitation of Oil Incentives

SEC. 551. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(2) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a major integrated oil company (as defined in section 167(h)(5)(B))) has oil related qualified production activities income for any taxable year beginning after 2009, the amount of the deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 552. CLARIFICATION OF DETERMINATION OF FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) IN GENERAL.—Paragraph (1) of section 907(c) is amended by redesignating subparagraph (B) as subparagraph (C), by striking ''or'' at the end of subparagraph (A), and by inserting after subparagraph (A) the following new subparagraph:

''(B) so much of any transportation of such minerals as occurs before the fair market value event, or''.

(b) FAIR MARKET VALUE EVENT.—Subsection (c) of section 907 is amended by adding at the end the following new paragraph:

''(6) FAIR MARKET VALUE EVENT.—For purposes of this section, the term 'fair market value event' means, with respect to any mineral, the first point in time at which such mineral—

''(A) has a fair market value which can be determined on the basis of a transfer, which is an arm's length transaction, of such mineral from the taxpayer to a person who is not related (within the meaning of section 482) to such taxpayer, or

''(B) is at a location at which the fair market value is readily ascertainable by reason of transactions among unrelated third parties with respect to the same mineral (taking into account source, location, quality, and chemical composition).''.

(c) SPECIAL RULE FOR CERTAIN PETROLEUM TAXES.—Subsection (c) of section 907, as amended by subsection (b), is amended to by adding at the end the following new paragraph:

''(7) OIL AND GAS TAXES.—In the case of any tax imposed by a foreign country which is limited in its application to taxpayers engaged in oil or gas activities—

''(A) the term 'oil and gas extraction taxes' shall include such tax,

''(B) the term 'foreign oil and gas extraction income' shall include any taxable income which is taken into account in determining such tax (or is directly attributable to the activity to which such tax relates), and

''(C) the term 'foreign oil related income' shall not include any taxable income which is treated as foreign oil and gas extraction income under subparagraph (B).''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 907(c)(1), as redesignated by this section, is amended by inserting ''or used by the taxpayer in the activity described in subparagraph (B)'' before the period at the end.

(2) Subparagraph (B) of section 907(c)(2) is amended to read as follows:

''(B) so much of the transportation of such minerals or primary products as is not taken into account under paragraph (1)(B),''.

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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, July 24, 2008, in room 406 of the Dirksen Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 2 p.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, July 24, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate to conduct a hearing entitled, ''Crimes Associated with Polygamy: The Need for a Coordinated State and Federal Response'' on Thursday, July 24, 2008, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, July 24, 2008, at 2:30 p.m. to conduct a hearing entitled, ''Improving Federal Program Management Using Performance Information.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Zachary Manning, Byron Hurlbut, and Madeleine Ward, who are interns with my office and with the Energy and Natural Resources Committee, be granted floor privileges today.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROVING RENEWAL OF IMPORT RESTRICTIONS IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 896, H.J. Res. 93, the Burma Sanctions Act.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 93), approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

There being no objection, the Senate proceeded to consider the joint resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the statutory time be yielded back, the joint resolution be read three times, passed, and the motions to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res 93) was ordered to a third reading, was read the third time, and passed.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader pursuant to Public Law 107–252, Title II, Section 214, appoints the following individual to serve as a member of the Election Assistance Board of Advisors: Dr. Barbara Simons, of California.

UNANIMOUS-CONSENT AGREEMENT—S. 3268 AND H.R. 3221

Mrs. MURRAY. Mr. President, I ask unanimous consent that following the cloture vote on S. 3268, and if cloture has not been invoked, and the Senate has subsequently invoked cloture on the motion to concur in the House amendment to the Senate amendment to the House amendments to the Senate amendment to H.R. 3221, then postcloture debate time on Friday, July 25, be divided in 30-minute blocks, beginning at 10 a.m., and until 1 p.m., and as specified in a subsequent order; with postcloture time running during any recess or adjournment of the Senate; that when the Senate convenes on Saturday, July 26 at 9 a.m., after the opening of the Senate, the time until 11 a.m. be equally divided and controlled by the leaders or their designees, with the time from 10:40 a.m. to 10:50 a.m. controlled by the Republican leader, and the time from 10:50 a.m. to 11 a.m. controlled by the majority leader; that at 11 a.m., all postcloture time be yielded back, the Senate proceed to vote on the motion to concur in the House amendment to the Senate amendment to the House amendments to the Senate amendment to H.R. 3221; that if the motion is successful, the motion to reconsider be laid upon the table and the motion to concur with an amendment be withdrawn; further, that if cloture is invoked on S. 3268, then the provisions of this agreement be null and void.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 3335

Mrs. MURRAY. Mr. President, I understand that S. 3335, which was introduced earlier today by Senator BAUCUS, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3335) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mrs. MURRAY. Mr. President, I ask for a second reading and object to my own request.