

111TH CONGRESS
1ST SESSION

S. 1333

To provide clean, affordable, and reliable energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2009

Mr. BARRASSO (for himself, Mr. CRAPO, Mr. HATCH, Mr. VITTER, Mr. RISCH, Mr. BENNETT, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide clean, affordable, and reliable energy, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Clean, Affordable, and Reliable Energy Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—PROMOTING DEVELOPMENT AND DEPLOYMENT OF RENEWABLE AND ALTERNATIVE ENERGY

Subtitle A—American Renewable and Alternative Energy Trust Fund

Sec. 101. American Renewable and Alternative Energy Trust Fund.

Subtitle B—Nuclear

- Sec. 111. Use of funds for recycling; Nuclear Waste Fund budget status.
- Sec. 112. Rulemaking for licensing of spent nuclear fuel recycling facilities.
- Sec. 113. Waste confidence.
- Sec. 114. Domestic manufacturing base for nuclear components and equipment.

Subtitle C—Synthetic and Alternative Energy

- Sec. 121. Repeal of Federal purchasing requirement.
- Sec. 122. Procurement of fuel derived from coal, oil shale, and oil sands.
- Sec. 123. Expanded definition of biomass for certain programs.

Subtitle D—Renewable Technologies

- Sec. 131. Stewardship end-result contracting projects.

TITLE II—DOMESTIC ENERGY EDUCATION AND WORKFORCE

- Sec. 201. Short title.
- Sec. 202. Findings and policy.
- Sec. 203. Definitions.
- Sec. 204. Maintaining science and technology education programs.
- Sec. 205. Grants for scholarships and fellowships.
- Sec. 206. Use of grant funds by institutions.
- Sec. 207. Career technical and community college education.
- Sec. 208. Funding.

TITLE III—DOMESTIC PRODUCTION

Subtitle A—Outer Continental Shelf

- Sec. 301. Disposition of receipts.
- Sec. 302. Leasing program considered approved.
- Sec. 303. Outer Continental Shelf lease sales.
- Sec. 304. Repeal of the Gulf of Mexico Energy Security Act of 2006.

Subtitle B—Arctic National Wildlife Refuge

- Sec. 331. Short title.
- Sec. 332. Definitions.
- Sec. 333. Leasing program for land within the Coastal Plain.
- Sec. 334. Lease sales.
- Sec. 335. Grant of leases by the Secretary.
- Sec. 336. Lease terms and conditions.
- Sec. 337. Coastal plain environmental protection.
- Sec. 338. Expedited judicial review.
- Sec. 339. Federal and State distribution of revenues.
- Sec. 340. Rights-of-way across the Coastal plain.
- Sec. 341. Conveyance.
- Sec. 342. Local government impact aid and community service assistance.

Subtitle C—Oil Shale

- Sec. 351. Leasing of oil shale resources.

TITLE IV—ENERGY INFRASTRUCTURE

Subtitle A—Transmission

Sec. 401. Natural gas pipeline integrity reassessment intervals based on risk.

Subtitle B—Small Refinery Study and Temporary Exemption

Sec. 411. Small refinery study and temporary exemption.

TITLE V—REDUCING GOVERNMENT RED TAPE AND EXCESSIVE LITIGATION

Sec. 501. Alaska Offshore Continental Shelf Coordination Office.

Sec. 502. Clean air regulation.

Sec. 503. Endangered species.

Sec. 504. Minerals Management Service.

Sec. 505. Completion and review of environmental impact statements.

TITLE VI—CONSERVATION AND EFFICIENCY

Subtitle A—New Source Review

Sec. 601. Clarifying new source review requirements.

Subtitle B—Clean Coal Alternative Transition

Sec. 611. Carbon dioxide storage capacity assessment.

TITLE VII—TAX PROVISIONS

Sec. 701. Amendment of 1986 Code.

Subtitle A—Nuclear Energy

Sec. 711. ASME Nuclear Certification credit.

Sec. 712. Expansion of energy investment tax credit to include nuclear and clean-coal equipment.

Sec. 713. Credit for qualifying nuclear power manufacturing.

Subtitle B—Synthetic and Alternative Energy

Sec. 721. Coal-to-liquid facilities.

Sec. 722. Permanent extension of the credit for nonbusiness energy property and the credit for gas produced from biomass and for synthetic fuels produced from coal.

Sec. 723. Extension of 50 cent per gallon alternative fuels excise tax credit.

Sec. 724. Tax credit parity for open-loop biomass facilities.

Subtitle C—Alternative Fuel Vehicles

Sec. 731. Extension of credit for alternative fuel vehicles.

Sec. 732. Extension of alternative fuel vehicle refueling property credit.

Sec. 733. Extension of credit for new qualified plug-in electric drive motor vehicles.

Subtitle D—Energy Infrastructure

Sec. 741. Tax-exempt financing of energy transportation infrastructure not subject to private business use tests.

Sec. 742. Limitation on discriminatory taxation of certain pipeline property.

Subtitle E—Building Efficiency Incentives

Sec. 751. Home energy audits.

Sec. 752. Extension and clarification of new energy efficient home credit.

Sec. 753. Extension of credit for energy efficient appliances.

Sec. 754. Extension and modification of deduction for energy efficient commercial buildings.

1 TITLE I—PROMOTING DEVELOP- **2 MENT AND DEPLOYMENT OF** **3 RENEWABLE AND ALTER-** **4 NATIVE ENERGY**

5 Subtitle A—American Renewable **6 and Alternative Energy Trust Fund**

7 SEC. 101. AMERICAN RENEWABLE AND ALTERNATIVE EN- **8 ERGY TRUST FUND.**

9 (a) ESTABLISHMENT.—There is established in the
10 Treasury of the United States a trust fund, to be known
11 as the “American Renewable and Alternative Energy
12 Trust Fund”, consisting of such amounts as are trans-
13 ferred to the American Renewable and Alternative Energy
14 Trust Fund by law.

15 (b) EXPENDITURES.—

16 (1) IN GENERAL.—Subject to paragraph (2), of
17 the amounts in the American Renewable and Alter-
18 native Energy Trust Fund, the Secretary of Energy
19 shall use for each fiscal year, without further appro-
20 priation—

21 (A) 2 percent to provide grants to improve
22 the commercial value of forest biomass for elec-
23 tric energy, useful heat, transportation fuels,

1 and other commercial purposes under section
2 210 of the Energy Policy Act of 2005 (42
3 U.S.C. 15855);

4 (B) 2 percent to provide hydroelectric pro-
5 duction incentives under section 242 of the En-
6 ergy Policy Act of 2005 (42 U.S.C. 15881);

7 (C) 3 percent for development of oil shale,
8 oil sands, and other strategic unconventional
9 fuels under section 369 of the Energy Policy
10 Act of 2005 (42 U.S.C. 15927);

11 (D) 7 percent for the Clean Coal Power
12 Initiative under subtitle A of title IV of the En-
13 ergy Policy Act of 2005 (42 U.S.C. 15961 et
14 seq.);

15 (E) 6 percent for development of solar and
16 wind technologies under section 812 of the En-
17 ergy Policy Act of 2005 (42 U.S.C. 16161);

18 (F) 20 percent for renewable energy activi-
19 ties under section 931 of the Energy Policy Act
20 of 2005 (42 U.S.C. 16231);

21 (G) 2.5 percent to provide production in-
22 centives for cellulosic biofuels under section 942
23 of the Energy Policy Act of 2005 (42 U.S.C.
24 16251);

1 (H) 4 percent for the coal and related
2 technologies program under section 962 of the
3 Energy Policy Act of 2005 (42 U.S.C. 16292);

4 (I) 2.5 percent for methane hydrate re-
5 search activities under the Methane Hydrate
6 Research and Development Act of 2000 (30
7 U.S.C. 2001 et seq.);

8 (J) 7 percent to provide incentives for in-
9 novative technologies under title XVII of the
10 Energy Policy Act of 2005 (42 U.S.C. 16511 et
11 seq.);

12 (K) 14 percent to provide grants for the
13 production of advanced biofuels under section
14 207 of the Energy Independence and Security
15 Act of 2007 (42 U.S.C. 17022);

16 (L) 2.5 percent for the photovoltaic dem-
17 onstration program under section 607 of the
18 Energy Independence and Security Act of 2007
19 (42 U.S.C. 17175);

20 (M) 4 percent for activities for geothermal
21 energy under subtitle B of title VI of the En-
22 ergy Independence and Security Act of 2007
23 (42 U.S.C. 17191 et seq.);

24 (N) 2.5 percent for marine and
25 hydrokinetic renewable energy technologies

1 under subtitle C of title VI of the Energy Inde-
2 pendence and Security Act of 2007 (42 U.S.C.
3 17211 et seq.);

4 (O) 8 percent for energy storage competi-
5 tiveness activities under section 641 of the En-
6 ergy Independence and Security Act of 2007
7 (42 U.S.C. 17231);

8 (P) 6 percent for the smart grid tech-
9 nology research, development, and demonstra-
10 tion program under section 1304 of Energy
11 Independence and Security Act of 2007 (42
12 U.S.C. 17384);

13 (Q) 5 percent for the domestic energy edu-
14 cation and workforce program under title II of
15 this Act; and

16 (R) 2 percent for renewable energy sources
17 that supply base load power generation.

18 (2) APPORTIONMENT OF EXCESS AMOUNTS.—

19 Notwithstanding paragraph (1), any amounts allo-
20 cated to carry out a program or activity under that
21 paragraph that are in excess of the amounts other-
22 wise authorized to be appropriated carry out that
23 program or activity shall be reallocated proportion-
24 ally among the remaining activities and programs
25 specified in paragraph (1).

Subtitle B—Nuclear

SEC. 111. USE OF FUNDS FOR RECYCLING; NUCLEAR WASTE FUND BUDGET STATUS.

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”;

(2) in subsection (e), by adding at the end the following:

“(7) BUDGET AUTHORITY.—The receipts and disbursements of the Waste Fund shall not be counted as new budget authority, outlays, receipts, deficits, or surplus for purposes of—

“(A) the budget of the Federal Government, as submitted by the President;

“(B) the congressional budget; or

“(C) the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.).”; and

(3) by adding at the end the following:

“(f) RECYCLING.—

“(1) IN GENERAL.—Amounts in the Waste Fund may be used by the Secretary to make grants

1 to or enter into long-term contracts with private-sec-
 2 tor entities for the recycling of spent nuclear fuel.

3 “(2) COMPETITIVE SELECTION.—Grants and
 4 contracts authorized under paragraph (1) shall be
 5 provided or awarded on the basis of a competitive
 6 bidding process that—

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

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

12 “(C) ensures adequate protection against
 13 the proliferation of nuclear materials that could
 14 be used in the manufacture of nuclear weap-
 15 ons.”.

16 **SEC. 112. RULEMAKING FOR LICENSING OF SPENT NU-**
 17 **CLEAR FUEL RECYCLING FACILITIES.**

18 (a) REQUIREMENT.—The Nuclear Regulatory Com-
 19 mission shall, as expeditiously as practicable, but in no
 20 event later than 2 years after the date of enactment of
 21 this Act, complete a rulemaking establishing a process for
 22 the licensing by the Nuclear Regulatory Commission,
 23 under the Atomic Energy Act of 1954 (42 U.S.C. 2011
 24 et seq.), of facilities for the recycling of spent nuclear fuel.

1 (b) FUNDING.—Amounts in the Nuclear Waste Fund
2 established by section 302(c) of the Nuclear Waste Policy
3 Act of 1982 (42 U.S.C. 10222(c)) shall be made available
4 to the Nuclear Regulatory Commission to cover the costs
5 incurred in carrying out subsection (a).

6 **SEC. 113. WASTE CONFIDENCE.**

7 The Nuclear Regulatory Commission may not deny
8 an application for a license, permit, or other authorization
9 under the Atomic Energy Act of 1954 (42 U.S.C. 2011
10 et seq.) on the grounds that sufficient capacity does not
11 exist, or will not become available on a timely basis, for
12 the disposal of spent nuclear fuel or high-level radioactive
13 waste from the facility for which the license, permit, or
14 other authorization is sought.

15 **SEC. 114. DOMESTIC MANUFACTURING BASE FOR NUCLEAR**
16 **COMPONENTS AND EQUIPMENT.**

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

18 (1) to increase the competitiveness of the
19 United States nuclear energy product and service in-
20 dustries;

21 (2) to identify the stimulus or incentives nec-
22 essary to cause United States manufacturers of nu-
23 clear energy products to expand manufacturing ca-
24 pacity;

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

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

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

9 (6) to integrate into the foreign policy of the
10 United States, in a manner consistent with the in-
11 terests of the United States, the objectives described
12 in paragraphs (1) through (4); and

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

16 (b) ESTABLISHMENT.—

17 (1) IN GENERAL.—There is established an
18 interagency working group (referred to in this sec-
19 tion as the “Working Group”).

20 (2) COMPOSITION.—The Working Group shall
21 be composed of—

22 (A) the Secretary of Energy (or a designee
23 of the Secretary of Energy), who shall serve as
24 Chairperson of the Working Group; and

1 (B) such representatives of Federal agen-
2 cies as the President determines to be appro-
3 priate, including representatives of—

4 (i) the Department of Energy;

5 (ii) the Department of Commerce;

6 (iii) the Department of Defense;

7 (iv) the Department of Treasury;

8 (v) the Department of State;

9 (vi) the Environmental Protection
10 Agency;

11 (vii) the United States Agency for
12 International Development;

13 (viii) the Export-Import Bank of the
14 United States;

15 (ix) the Trade and Development
16 Agency;

17 (x) the Small Business Administra-
18 tion; and

19 (xi) the Office of the United States
20 Trade Representative.

21 (C) PERSONNEL AND SERVICES.—The Sec-
22 retary of Energy and the heads of other Fed-
23 eral agencies represented on the Working
24 Group shall detail such personnel and furnish
25 such services to the Working Group, with or

1 without reimbursement, as are necessary to
2 carry out the duties of the Working Group.

3 (c) DUTIES.—

4 (1) RECOMMENDATIONS.—

5 (A) IN GENERAL.—The Working Group, in
6 consultation with representative industry orga-
7 nizations and manufacturers of nuclear energy
8 products, shall make recommendations in ac-
9 cordance with this paragraph to coordinate the
10 actions and programs of the Federal Govern-
11 ment in order to promote—

12 (i) the increasing of domestic manu-
13 facturing capacity; and

14 (ii) the export of domestic nuclear en-
15 ergy products and services.

16 (B) ACTIONS, MECHANISMS, AND INITIA-
17 TIVES.—Not later than 180 days after the date
18 of enactment of this Act, the Working Group
19 shall identify—

20 (i) the actions necessary to promote
21 the safe development and application in
22 foreign countries of nuclear energy prod-
23 ucts and services—

24 (I) to increase electricity genera-
25 tion from nuclear energy sources

1 through development of new genera-
2 tion facilities;

3 (II) to improve the efficiency,
4 safety, and reliability of existing nu-
5 clear generating facilities through
6 modifications; and

7 (III) to enhance the safe treat-
8 ment, handling, storage, and disposal
9 of used nuclear fuel;

10 (ii) mechanisms (including tax stim-
11 ulus for investment, loans and loan guar-
12 antees, and grants) necessary for United
13 States companies to increase—

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

17 (II) the exports of the companies
18 of nuclear energy products and serv-
19 ices; and

20 (iii) administrative or legislative ini-
21 tiatives necessary—

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

1 (II) to provide technical and fi-
2 nancial assistance and support to
3 small and mid-sized businesses to es-
4 tablish quality assurance programs in
5 accordance with domestic and inter-
6 national nuclear quality assurance
7 code requirements;

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

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

19 (C) REPORT.—Not later than 270 days
20 after the date of enactment of this Act, the
21 Working Group shall submit to Congress a re-
22 port that describes the findings and rec-
23 ommendations of the Working Group under this
24 paragraph, including any recommendations of

1 the Working Group for new legislative author-
2 ity, as appropriate.

3 (2) TRADE ASSISTANCE.—The Working Group
4 shall encourage the agencies represented on the
5 Working Group—

6 (A) to provide technical training and edu-
7 cation for international development personnel
8 and local users in the home countries of the
9 personnel and users;

10 (B) to provide financial and technical as-
11 sistance to nonprofit institutions that support
12 the marketing and export efforts of domestic
13 companies that provide nuclear energy products
14 and services;

15 (C) to develop nuclear energy projects in
16 foreign countries;

17 (D) to provide technical assistance and
18 training materials to loan officers of the World
19 Bank, international lending institutions, com-
20 mercial and energy attachés at embassies of the
21 United States, and other appropriate personnel
22 in order to provide information about nuclear
23 energy products and services to foreign govern-
24 ments or other potential project sponsors;

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

6 (F) to augment budgets for trade and de-
 7 velopment programs in order to support
 8 prefeasibility or feasibility studies for projects
 9 that use nuclear energy products and services.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
 11 authorized to be appropriated to the Secretary of Energy
 12 for use in carrying out this section \$20,000,000 for the
 13 period of fiscal years 2009 and 2010.

14 **Subtitle C—Synthetic and** 15 **Alternative Energy**

16 **SEC. 121. REPEAL OF FEDERAL PURCHASING REQUIRE-** 17 **MENT.**

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

20 **SEC. 122. PROCUREMENT OF FUEL DERIVED FROM COAL,** 21 **OIL SHALE, AND OIL SANDS.**

22 Section 2922d(d) of title 10, United States Code, is
 23 amended by striking “1 or more” and inserting “up to
 24 25”.

1 **SEC. 123. EXPANDED DEFINITION OF BIOMASS FOR CER-**
 2 **TAIN PROGRAMS.**

3 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
 4 7545(o)(1)) is amended by striking subparagraph (I) and
 5 inserting the following:

6 “(I) RENEWABLE BIOMASS.—The
 7 term ‘renewable biomass’ has the
 8 meaning given the term ‘biomass’ in
 9 section 203(b) of the Energy Policy
 10 Act of 2005 (42 U.S.C. 15852(b)).”.

11 **Subtitle D—Renewable**
 12 **Technologies**

13 **SEC. 131. STEWARDSHIP END-RESULT CONTRACTING**
 14 **PROJECTS.**

15 Section 8 of the Cooperative Forestry Assistance Act
 16 of 1978 (16 U.S.C. 2104) is amended—

17 (1) by redesignating subsection (h) as sub-
 18 section (j) and moving that subsection so as to ap-
 19 pear at the end of the section; and

20 (2) by inserting after subsection (g) the fol-
 21 lowing:

22 “(h) CANCELLATION OR TERMINATION COSTS.—

23 “(1) IN GENERAL.—Notwithstanding section
 24 304B of the Federal Property and Administrative
 25 Services Act of 1949 (41 U.S.C. 254c), the Sec-
 26 retary is not required to obligate funds to cover the

1 cost of cancelling a Forest Service stewardship
2 multiyear contract under section 347 of the Depart-
3 ment of the Interior and Related Agencies Appro-
4 priations Act, 1999 (16 U.S.C. 2104 note; section
5 101(e) of division A of Public Law 105–277) until
6 the contract is cancelled.

7 “(2) FUNDING SOURCES.—The costs of any
8 cancellation or termination of a multiyear steward-
9 ship contract described in paragraph (1) may be
10 paid from—

11 “(A) appropriations originally made avail-
12 able for the performance of the contract con-
13 cerned;

14 “(B) appropriations currently available for
15 procurement of the type of service concerned,
16 and not otherwise obligated; or

17 “(C) funds appropriated for payments for
18 that performance or procurement.

19 “(3) ANTI-DEFICIENCY ACT VIOLATIONS.—In a
20 case in which payment or obligation of funds under
21 this subsection would constitute a violation of sec-
22 tion 1341 of title 31, United States Code (commonly
23 known as the ‘Anti-Deficiency Act’), the Secretary
24 may—

25 “(A) seek a supplemental appropriation; or

1 “(B) request funds from the permanent
2 judgment appropriation established pursuant to
3 section 1304 of title 31, United States Code.”.

4 **TITLE II—DOMESTIC ENERGY** 5 **EDUCATION AND WORKFORCE**

6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “Strengthening Amer-
8 ica’s Science and Technology Education Act”.

9 **SEC. 202. FINDINGS AND POLICY.**

10 (a) FINDINGS.—Congress finds that the science and
11 technology programs that produce the human capital
12 needed for the energy and mineral resources security of
13 the United States—

14 (1) are national assets; and

15 (2) should be assisted with Federal funds to en-
16 sure the continued success and existence of the pro-
17 grams.

18 (b) POLICY.—It is the policy of the United States to
19 maintain the human capital needed to preserve and foster
20 the economic, energy, and mineral resources security of
21 the United States.

22 **SEC. 203. DEFINITIONS.**

23 In this title:

24 (1) INSTITUTION OF HIGHER EDUCATION.—The
25 term “institution of higher education” has the

1 meaning given the term in section 102 of the Higher
 2 Education Act of 1965 (20 U.S.C. 1002).

3 (2) RECOGNIZED PROGRAM.—The term “recog-
 4 nized program” means a program of study at an in-
 5 stitution of higher education that—

6 (A)(i) is an engineering program for en-
 7 ergy, petroleum, chemical, mining, nuclear, or
 8 mineral engineering that is accredited as of the
 9 date of enactment of this Act;

10 (ii) is a geological engineering or geo-
 11 physical engineering program that—

12 (I) is accredited as of the date of en-
 13 actment of this Act; and

14 (II) is focused on petroleum or nat-
 15 ural gas production, the production of min-
 16 eral resources, or the development of per-
 17 manent underground workings, as dem-
 18 onstrated by the curriculum and the exper-
 19 tise of the faculty of the program; or

20 (iii) is a program in geology or geophysics
 21 that—

22 (I) the Secretary determines to be ac-
 23 ceptable under this title; and

24 (II) has undergraduate and graduate
 25 programs of research and education in the

1 geology and geophysics of conventional or
 2 nonconventional energy, geothermal en-
 3 ergy, or metallic and nonmetallic deposits,
 4 including industrial minerals, sand and
 5 gravel deposits; and

6 (B)(i) in the case of an engineering program,
 7 meets the specific program criteria established by
 8 the 1 or more applicable member societies of ABET,
 9 Inc.; or

10 (ii) in the case of a geology or geophysics pro-
 11 gram, meets the appropriate criteria established by
 12 the Secretary.

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

15 **SEC. 204. MAINTAINING SCIENCE AND TECHNOLOGY EDU-**
 16 **CATION PROGRAMS.**

17 (a) IN GENERAL.—Not later than 1 year after the
 18 date of enactment of this Act, the Secretary shall issue
 19 such regulations as are necessary to carry out this title.

20 (b) RESEARCH GRANTS.—In support of the policy de-
 21 scribed in section 202(b), the Secretary shall provide re-
 22 search grants to institutions of higher education and other
 23 institutions to assist in maintaining recognized programs
 24 in education and research.

25 (c) REQUIREMENTS.—

1 (1) RESEARCH.—Research funded at recognized
2 programs by grants under this section shall include
3 studies and research—

4 (A) to enhance basic science and engineer-
5 ing;

6 (B) to provide proof of scientific or engi-
7 neering concepts; and

8 (C) to determine scientific or engineering
9 feasibility.

10 (2) MAINTENANCE OF PROGRAM.—As a condi-
11 tion on receipt of a grant under this section, each
12 institution of higher education or other institution
13 that receives a grant shall—

14 (A) maintain the recognized program for
15 which the grant is provided for not less than 10
16 years after the date of the last receipt of a
17 grant; and

18 (B) take steps described in the application
19 for funding the grant of the institution to in-
20 crease the number of undergraduate students
21 enrolled in and completing the recognized pro-
22 grams.

23 (d) CONSORTIA.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 the Secretary may make grants available under this

1 section to consortia of institutions to conduct
 2 projects of broad application that could not other-
 3 wise be undertaken, including national and regional
 4 projects in geology or geophysics and engineering as
 5 applied to petroleum, geothermal, alternative energy,
 6 renewable energy, mining, nuclear, and mineral
 7 processing or beneficiation.

8 (2) REQUIREMENT.—Grants made to a consor-
 9 tium under paragraph (1) shall only be provided to
 10 a single eligible institution with a recognized pro-
 11 gram, which shall be responsible for distribution,
 12 monitoring, and reporting on the activities of the
 13 consortium as required by the Secretary.

14 **SEC. 205. GRANTS FOR SCHOLARSHIPS AND FELLOWSHIPS.**

15 (a) IN GENERAL.—The Secretary shall provide
 16 grants to eligible institutions of higher education for the
 17 purpose of providing merit-based scholarships for under-
 18 graduate education, graduate fellowships, and
 19 postdoctoral fellowships at the institutions.

20 (b) ELIGIBILITY.—

21 (1) IN GENERAL.—To be eligible to receive a
 22 grant under this section, an institution of higher
 23 education shall agree—

24 (A) to enforce the requirements of this sec-
 25 tion for scholarship or fellowship students; and

1 (B) to return to the Secretary any funds
2 recovered from an individual under subsection
3 (d)(2)(B).

4 (2) APPLICATION.—An institution of higher
5 education that seeks a grant under this section shall
6 describe, in the application of the institution of high-
7 er education to the Secretary—

8 (A) the number of students that would be
9 awarded scholarships or fellowships if the appli-
10 cation is approved;

11 (B) the manner in which the students
12 would be selected; and

13 (C) the manner in which the institution of
14 higher education would enforce this section.

15 (c) PREFERENCE.—Scholarships and fellowships
16 funded through grants under this section shall give a pref-
17 erence for veterans and service members who have received
18 or will receive the Afghanistan Campaign Medal or the
19 Iraq Campaign Medal as authorized by Public Law 108-
20 234 (118 Stat. 655), and Executive Order 13363 (69 Fed.
21 Reg. 70175; relating to establishing the Afghanistan and
22 Iraq Campaign Medals).

23 (d) REQUIREMENTS.—

1 (1) IN GENERAL.—To receive a scholarship or
2 fellowship funded through a grant under this sec-
3 tion, an individual shall—

4 (A) be a lawful permanent resident or cit-
5 izen of the United States;

6 (B) agree in writing to complete a course
7 of studies and receive a degree in petroleum,
8 chemical, mining, geological, geophysical, nu-
9 clear, or mineral engineering, petroleum geol-
10 ogy, geothermal geology, mining and economic
11 geology, petroleum and mining geophysics, min-
12 eral economics, or alternative or renewable en-
13 ergy in a recognized program; and

14 (C) agree to notify, through the institution
15 of higher education of the individual, the Sec-
16 retary—

17 (i) of the progress of the individual to-
18 wards completion of the course of studies;
19 and

20 (ii) not later than 30 days after the
21 date on which the individual is awarded a
22 degree from the institution of higher edu-
23 cation.

24 (2) RETENTION.—

1 (A) IN GENERAL.—To retain a scholarship
 2 or fellowship funded through a grant under this
 3 section, an individual shall—

4 (i) continue in 1 of the course of stud-
 5 ies described in paragraph (1)(B);

6 (ii) remain in good academic standing
 7 and demonstrate satisfactory academic
 8 progress, as determined by the institution
 9 of higher education; and

10 (iii) allow for reinstatement of the
 11 scholarship or fellowship by the Secretary,
 12 upon the recommendation of the institution
 13 of higher education.

14 (B) RECOVERY OF FUNDS.—An institution
 15 of higher education may recover remaining
 16 funds from a scholarship or fellowship funded
 17 by a grant under this section from an individual
 18 who fails to complete any of the courses of
 19 study described in paragraph (1)(B) after no-
 20 tice that completion is a requirement of contin-
 21 ued funding.

22 (C) CHANGE OF COURSE.—An individual
 23 receiving a scholarship or graduate fellowship
 24 funded by a grant under this section may
 25 change courses of study and continue receiving

1 funding if the individual remains within a
 2 course of study described in paragraph (1)(B).

3 **SEC. 206. USE OF GRANT FUNDS BY INSTITUTIONS.**

4 (a) IN GENERAL.—Each institution of higher edu-
 5 cation that receives a grant under this title shall—

6 (1) have an officer appointed by the governing
 7 authority of the institution of higher education who
 8 shall—

9 (A) receive and account for all grant funds
 10 received under this title; and

11 (B) make an annual report to the Sec-
 12 retary on or before the first day of September
 13 of each year, that—

14 (i) describes work accomplished and
 15 the status of projects underway; and

16 (ii) includes a detailed statement of
 17 the grant funds received under this title
 18 during the preceding fiscal year and of the
 19 disbursement of the grant funds on sched-
 20 ules prescribed by the Secretary;

21 (2) submit to the Secretary detailed reports
 22 about projects completed, in progress, or planned
 23 with grants made under this title.

24 (b) MATCHING FUNDS.—

1 (1) IN GENERAL.—Grants made under this title
2 for basic science and engineering studies and re-
3 search, as determined by the Secretary, shall not re-
4 quire additional participation by funding partners.

5 (2) OTHER GRANTS.—All other grants for stud-
6 ies made under this title—

7 (A) shall include participation by industry;
8 and

9 (B) may include funding from other Fed-
10 eral agencies.

11 (c) PROHIBITIONS.—

12 (1) IN GENERAL.—No funds made available
13 under this title may be applied to the acquisition by
14 purchase or lease of any land or interests in land,
15 or the rental, purchase, construction, preservation,
16 or repair of any building.

17 (2) MAINTENANCE.—With the express approval
18 of the Secretary, funding made available under this
19 title may be used for proposals to maintain or up-
20 grade existing laboratories and laboratory equip-
21 ment, but not for any university overhead expenses.

22 (d) PUBLIC AVAILABILITY.—

23 (1) IN GENERAL.—All uses, products, proc-
24 esses, and other developments resulting from any re-
25 search, demonstration, or experiment funded in

1 whole or in part under this title shall be made avail-
 2 able promptly to the general public, subject to—

3 (A) any exceptions or limitations that the
 4 Secretary may find necessary in the interest of
 5 national security; and

6 (B) applicable Federal patent law.

7 (2) REPORTS.—On not less than an annual
 8 basis, the Secretary shall make available to the pub-
 9 lic reports submitted under subsection (a)(2).

10 **SEC. 207. CAREER TECHNICAL AND COMMUNITY COLLEGE**
 11 **EDUCATION.**

12 (a) IN GENERAL.—The Secretary shall provide
 13 grants for the operation or development of programs in
 14 mining engineering technology, petroleum engineering
 15 technology, industrial engineering technology, industrial
 16 technology, alternative and renewable energy technology,
 17 electric power technology, extractive resources technology,
 18 and diesel power technology, construction, retrofitting,
 19 and design that—

20 (1) are focused on technology and the use of
 21 technology in energy and mineral production and re-
 22 lated maintenance, operational safety, or energy in-
 23 frastructure protection and security;

24 (2) prepare students for advanced or super-
 25 visory roles in the mining industry, the petroleum in-

1 dusttry, or alternative and renewable energy industry;
2 and

3 (3) grant an associate degree or a baccalaureate
4 degree.

5 (b) VOCATIONAL PROGRAMS.—

6 (1) IN GENERAL.—The Secretary shall provide
7 grants for the operation or development of pro-
8 grams, including joint apprenticeship programs au-
9 thorized by Federal law, programs at institutions of
10 higher education, secondary school vocational edu-
11 cation programs, or career academy programs, that
12 provide training for individuals seeking to enter the
13 geothermal, petroleum, mining, mineral mining, or
14 alternative and renewable energy industries.

15 (2) PROGRESSIVE CAREER PATH.—The Sec-
16 retary shall give particular consideration to sup-
17 porting programs that provide training for a pro-
18 gressive career path in the industries described in
19 paragraph (1).

20 (3) ESSENTIAL SUPPORT.—The Secretary may
21 provide grants to programs that grant degrees or
22 certificates in programs that provide training in dis-
23 ciplines that provide essential support for the indus-
24 tries described in paragraph (1) or subsection (c),

1 even if the programs are not purposely designed to
 2 provide personnel for those industries.

3 (c) OTHER PROGRAMS.—The Secretary shall provide
 4 grants for the operation or development of programs of
 5 career technical education at a secondary school, offered
 6 cooperatively with a community college in 1 of the indus-
 7 trial sectors of—

8 (1) agriculture, forestry, or fisheries;

9 (2) utilities, particularly power transmission
 10 and pipeline construction and operations;

11 (3) maintenance and maintenance logistics;

12 (4) construction;

13 (5) manufacturing;

14 (6) transportation and warehousing;

15 (7) industrial engineering and technology; or

16 (8) energy and natural resources.

17 (d) REQUIREMENTS.—As a condition of receiving a
 18 grant under this section, an institution of higher education
 19 or other entity shall—

20 (1) demonstrate to the satisfaction of the Sec-
 21 retary—

22 (A) an institutional commitment to career
 23 technical education; and

24 (B) that the institution of higher education
 25 or entity has received or will receive industry

1 cooperation in the form of equipment, employee
 2 time, or donations of funds to support the ac-
 3 tivities that are within the scope of this section;
 4 and

5 (2) agree to maintain the programs for which
 6 the grant is sought for a period of 10 years begin-
 7 ning on the date of receipt of the funding, unless the
 8 Secretary finds that a shorter period of time is ap-
 9 propriate for the local labor market or is required by
 10 State authorities.

11 (e) USE OF FUNDS FOR PROGRAM OPERATION.—

12 (1) INITIAL USE.—An institution of higher edu-
 13 cation or other entity that receives a grant under
 14 this section for the operation of a program may ini-
 15 tially only use the funds to enhance the instructional
 16 skills of teachers through additional training and
 17 necessary resources.

18 (2) EQUIPMENT.—After teachers have achieved
 19 enhanced skills and meet an appropriate standard as
 20 agreed to by local authorities in consultation with
 21 the Secretary, grant funds received under this sec-
 22 tion may be used to purchase classroom and labora-
 23 tory equipment.

24 (f) USE OF FUNDS FOR PROGRAM DEVELOPMENT.—

25 An institution of higher education or other entity that re-

1 ceives a grant under this section for the development of
 2 a new program shall use the grant—

3 (1) to support the purchase of classroom and
 4 laboratory equipment; and

5 (2) to supplement teacher salaries to encourage
 6 the hiring of highly qualified teachers.

7 (g) OTHER FUNDING.—An institution of higher edu-
 8 cation or other entity that receives a grant under this sec-
 9 tion may combine the grant funds with State funds, and
 10 other Federal funds if allowed by law, to carry out pro-
 11 grams described in this section, if the use of the funds
 12 is reported to the Secretary not less than annually.

13 **SEC. 208. FUNDING.**

14 The Secretary shall use amounts from the American
 15 Renewable and Alternative Energy Trust Fund under sec-
 16 tion 101(b)(1)(Q) to carry out this title for each of fiscal
 17 years 2009 through 2019, to remain available until ex-
 18 pended.

19 **TITLE III—DOMESTIC**
 20 **PRODUCTION**
 21 **Subtitle A—Outer Continental**
 22 **Shelf**

23 **SEC. 301. DISPOSITION OF RECEIPTS.**

24 (a) DEFINITIONS.—In this section:

1 (1) ADJACENT STATE.—The term “Adjacent
2 State” means a coastal State that—

3 (A) has a coastal seaward boundary that is
4 within a 100 statute miles distance of the geo-
5 graphical center of a leased tract in an outer
6 Continental Shelf planning area; and

7 (B) as of January 1, 2000, had no oil or
8 natural gas production within a 100 statute
9 miles distance of the geographical center of a
10 leased tract in an outer Continental Shelf plan-
11 ning area.

12 (2) COASTAL POLITICAL SUBDIVISION.—The
13 term “coastal political subdivision”, with respect to
14 an Adjacent State, means a county-equivalent sub-
15 division of the Adjacent State all or part of which—

16 (A) lies within the coastal zone (as defined
17 in section 304(1) of the Coastal Zone Manage-
18 ment Act of 1972 (16 U.S.C. 1453(1)); and

19 (B) the closest point of which is not more
20 than 100 statute miles from the geographical
21 center of any leased tract.

22 (3) DISTANCE.—The term “distance” means
23 minimum great circle distance.

24 (4) LEASED TRACT.—The term “leased tract”
25 means a tract leased under the Outer Continental

1 Shelf Lands Act (43 U.S.C. 1331 et seq.) for the
2 purpose of drilling for, developing, and producing oil
3 or natural gas resources.

4 (5) QUALIFIED OUTER CONTINENTAL SHELF
5 RECEIPTS.—

6 (A) IN GENERAL.—The term “qualified
7 outer Continental Shelf receipts” means all
8 amounts received by the United States in the
9 fiscal year immediately following the fiscal year
10 during which this Act is enacted and each fiscal
11 year thereafter—

12 (i) from each leased tract or portion
13 of a leased tract, the geographical center of
14 which lies within a distance of 100 statute
15 miles from any part of the coastline of an
16 Adjacent State, including bonus bids,
17 rents, royalties (including the value of roy-
18 alties taken in kind), net profit share pay-
19 ments, fees, and related late payment in-
20 terest; and

21 (ii) from leases entered into on or
22 after January 1, 2000.

23 (B) EXCLUSIONS.—The term “qualified
24 outer Continental Shelf receipts” does not in-
25 clude—

1 (i) receipts from the forfeiture of a
 2 bond or other surety securing obligations
 3 other than royalties, or civil penalties; or

4 (ii) receipts generated from leases
 5 subject to section 8(g) of the Outer Conti-
 6 nental Shelf Lands Act (43 U.S.C.
 7 1337(g)).

8 (6) SECRETARY.—The term “Secretary” means
 9 the Secretary of the Interior.

10 (b) DISPOSITION OF QUALIFIED OUTER CONTI-
 11 NENTAL SHELF RECEIPTS FROM OUTER CONTINENTAL
 12 SHELF OIL AND GAS LEASING PLANNING AREAS.—

13 (1) IN GENERAL.—Notwithstanding section 9 of
 14 the Outer Continental Shelf Lands Act (43 U.S.C.
 15 1338) and subject to the other provisions of this
 16 subsection, for each applicable fiscal year, the Sec-
 17 retary of the Treasury shall deposit—

18 (A) 62.5 percent of qualified outer Conti-
 19 nental Shelf revenues in the miscellaneous re-
 20 ceipts of the Treasury; and

21 (B) 37.5 percent of qualified outer Conti-
 22 nental Shelf revenues in a special account in
 23 the Treasury that the Secretary shall disburse
 24 to—

25 (i) Adjacent States; and

1 (ii) certain coastal political subdivi-
 2 sions of the Adjacent States.

3 (2) ALLOCATION AMONG ADJACENT STATES
 4 AND COASTAL POLITICAL SUBDIVISIONS.—

5 (A) ALLOCATION AMONG ADJACENT
 6 STATES.—

7 (i) IN GENERAL.—Effective for the
 8 fiscal year immediately following the fiscal
 9 year in which this Act is enacted and each
 10 fiscal year thereafter, the amount made
 11 available under paragraph (1)(B) shall be
 12 allocated by the Secretary to each Adjacent
 13 State in amounts (based on a formula es-
 14 tablished by the Secretary by regulation)
 15 that are inversely proportional to the re-
 16 spective distances between the point on the
 17 coastline of each Adjacent State that is
 18 closest to the geographical center of the
 19 applicable leased tract and the geo-
 20 graphical center of the leased tract.

21 (ii) SINGLE ADJACENT STATE.—If
 22 only 1 Adjacent State is within 100 miles
 23 of the geographical center of a lease de-
 24 scribed in clause (i), the entire amount
 25 made available under paragraph (1)(B)

1 from the lease shall be allocated to the Ad-
 2 jacent State.

3 (B) ALLOCATION AMONG COASTAL POLIT-
 4 ICAL SUBDIVISIONS OF ADJACENT STATES.—

5 (i) IN GENERAL.—The Secretary shall
 6 pay 40 percent of the allocable share of
 7 each Adjacent State (as determined under
 8 subparagraph (A)) to certain coastal polit-
 9 ical subdivisions of the Adjacent State.

10 (ii) ALLOCATION.—

11 (I) IN GENERAL.—For each
 12 leased tract that is used to calculate
 13 the allocation of an Adjacent State,
 14 the Secretary shall allocate funds to
 15 the coastal political subdivisions that
 16 are within 100 miles of the geo-
 17 graphical center of the leased tract
 18 based on the relative distance of the
 19 coastal political subdivisions from the
 20 leased tract.

21 (II) DISTANCE.—For each coast-
 22 al political subdivision described in
 23 subclause (I), the Secretary shall de-
 24 termine the distance between—

- 1 (aa) the point on the coastal
 2 political subdivision coastline
 3 closest to the geographical center
 4 of the leased tract; and
- 5 (bb) the geographical center
 6 of the tract.

7 (III) INVERSELY PROPORTIONAL
 8 ALLOCATION.—The Secretary shall di-
 9 vide and allocate the qualified outer
 10 Continental Shelf revenues derived
 11 from the leased tract among the
 12 coastal political subdivisions described
 13 in subclause (I) in amounts that are
 14 inversely proportional to the distances
 15 determined under subclause (II).

16 (3) TIMING.—The amounts required to be de-
 17 posited under paragraph (1)(B) for the applicable
 18 fiscal year shall be made available in accordance
 19 with paragraph (1)(B) during the first 90 days of
 20 the fiscal year immediately following the applicable
 21 fiscal year.

22 (4) AUTHORIZED USES.—Each Adjacent State
 23 and coastal political subdivision shall use all
 24 amounts received under paragraph (2) in accordance

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

3 (A) Projects and activities for the purposes
4 of coastal protection (including conservation),
5 coastal restoration, storm protection, and infra-
6 structure directly affected by coastal wetland
7 and tundra losses.

8 (B) Mitigation of damage to fish, wildlife,
9 or natural resources.

10 (C) Implementation of a federally approved
11 marine, coastal, or comprehensive conservation
12 management plan.

13 (D) Mitigation of the impact of outer Con-
14 tinental Shelf activities through the funding of
15 onshore infrastructure projects.

16 (E) Any other purpose authorized for the
17 use of those amounts under State law.

18 (5) LIMITATIONS ON AMOUNT OF DISTRIBUTED
19 QUALIFIED OUTER CONTINENTAL SHELF RE-
20 CEIPTS.—The total amount of qualified outer Conti-
21 nental Shelf receipts made available under para-
22 graph (1)(B) to an Adjacent State and coastal polit-
23 ical subdivisions of the Adjacent State shall not ex-
24 ceed \$500,000,000 for each fiscal year (in 2008 dol-
25 lars), as adjusted for inflation.

1 (6) AMERICAN RENEWABLE AND ALTERNATIVE
 2 ENERGY TRUST FUND.—Of the amounts of qualified
 3 outer Continental Shelf revenues described in para-
 4 graph (1)(A), 90 percent of the amounts shall be de-
 5 posited in the American Renewable and Alternative
 6 Energy Trust Fund established by section 101.

7 **SEC. 302. LEASING PROGRAM CONSIDERED APPROVED.**

8 (a) IN GENERAL.—The Draft Proposed Outer Conti-
 9 nental Shelf Oil and Gas Leasing Program 2010-2015
 10 issued by the Secretary of the Interior (referred to in this
 11 section as the “Secretary”) under section 18 of the Outer
 12 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
 13 ered to have been approved by the Secretary as a final
 14 oil and gas leasing program under that section.

15 (b) COMPLETION AND REVIEW OF ENVIRONMENTAL
 16 IMPACT STATEMENTS.—

17 (1) COMPLETION.—

18 (A) IN GENERAL.—Notwithstanding any
 19 other provision of law, each review carried out
 20 in accordance with the National Environmental
 21 Policy Act of 1969 (42 U.S.C. 4321 et seq.) for
 22 the program described in subsection (a) shall be
 23 completed not later than 270 days after the
 24 date of enactment of this Act.

(B) FAILURE TO COMPLETE REVIEW.—If a review described in subparagraph (A) has not been completed for an action subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the date specified in subparagraph (A)—

(i) the action shall be considered to have no significant impact to the human environment for purposes of the Act (42 U.S.C. 4321 et seq.); and

(ii) that classification shall be considered to be a final agency action.

(2) LEAD AGENCY.—The lead agency for a review of an action under this subsection shall be the Federal agency to which funds are made available for the action.

(3) REVIEW.—

(A) JUDICIAL REVIEW.—

(i) IN GENERAL.—Judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

(ii) ADMINISTRATIVE RECORD.—An appeal to the court described in clause (i)

1 shall be based only on the administrative
2 record.

3 (iii) PENDENCY OF JUDICIAL RE-
4 VIEW.—After an agency has made a final
5 decision with respect to a review carried
6 out under this subsection, the decision
7 shall be effective during the course of any
8 subsequent appeal to a court described in
9 clause (i).

10 (B) CIVIL ACTION.—Each civil action cov-
11 ered by this subsection shall be considered to
12 arise under the laws of the United States.

13 **SEC. 303. OUTER CONTINENTAL SHELF LEASE SALES.**

14 (a) REQUIREMENT TO CONDUCT LEASE SALES.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), not later than 1 year after the date of en-
17 actment of this Act and annually thereafter, the Sec-
18 retary of the Interior (referred to in this section as
19 the “Secretary”) shall conduct at least 1 lease sale
20 in an Atlantic Planning Area, 1 lease sale in the Pa-
21 cific Planning Area, 1 lease sale in the Alaska Plan-
22 ning Area, and 3 lease sales in a Gulf of Mexico
23 Planning Area for which the Secretary determines
24 that there is a commercial interest in purchasing

1 Federal oil and gas leases for production on the
2 outer Continental Shelf.

3 (2) SUBSEQUENT DETERMINATIONS AND
4 SALES.—If the Secretary determines that there is
5 not a commercial interest in purchasing Federal oil
6 and gas leases for production on the outer Conti-
7 nental Shelf in a planning area under this sub-
8 section, not later than 2 years after the date of en-
9 actment of the determination and every 2 years
10 thereafter, the Secretary shall—

11 (A) determine whether there is a commer-
12 cial interest in purchasing Federal oil and gas
13 leases for production on the outer Continental
14 Shelf in the planning area; and

15 (B) if the Secretary determines that there
16 is a commercial interest described in subpara-
17 graph (A), conduct a lease sale in the planning
18 area.

19 (b) LEASING PLAN.—Any areas made available for
20 leasing under subsection (a) shall be offered for lease
21 under this section notwithstanding the omission of any of
22 the applicable area from the applicable 5-year plan devel-
23 oped by the Secretary pursuant to section 18 of the Outer
24 Continental Shelf Lands Act (43 U.S.C. 1344).

1 **SEC. 304. REPEAL OF THE GULF OF MEXICO ENERGY SECU-**
 2 **RITY ACT OF 2006.**

3 The Gulf of Mexico Energy Security Act of 2006 (43
 4 U.S.C. 1331 note; Public Law 109–432) is repealed.

5 **Subtitle B—Arctic National Wildlife**
 6 **Refuge**

7 **SEC. 331. SHORT TITLE.**

8 This subtitle may be cited as the “American Energy
 9 Independence and Price Reduction Act”.

10 **SEC. 332. DEFINITIONS.**

11 In this subtitle:

12 (1) **COASTAL PLAIN.**—The term “Coastal
 13 Plain” means the area described in appendix I to
 14 part 37 of title 50, Code of Federal Regulations, as
 15 in effect on July 14, 2008, popularly known as the
 16 “Coastal Plain of the Arctic National Wildlife Ref-
 17 uge”.

18 (2) **FEDERAL AGREEMENT.**—The term “Fed-
 19 eral Agreement” means the Federal Agreement and
 20 Grant Right-of-Way for the Trans-Alaska Pipeline
 21 issued on January 23, 1974, in accordance with sec-
 22 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
 23 and the Trans-Alaska Pipeline Authorization Act
 24 (43 U.S.C. 1651 et seq.).

25 (3) **FINAL STATEMENT.**—The term “Final
 26 Statement” means the final legislative environmental

1 impact statement on the Coastal Plain, dated April
 2 1987, and prepared pursuant to—

3 (A) section 1002 of the Alaska National
 4 Interest Lands Conservation Act (16 U.S.C.
 5 3142); and

6 (B) section 102(2)(C) of the National En-
 7 vironmental Policy Act of 1969 (42 U.S.C.
 8 4332(2)(C)).

9 (4) SECRETARY.—The term “Secretary” means
 10 the Secretary of the Interior (or the designee of the
 11 Secretary), acting through the Director of the Bu-
 12 reau of Land Management, in consultation with the
 13 Director of the United States Fish and Wildlife
 14 Service.

15 **SEC. 333. LEASING PROGRAM FOR LAND WITHIN THE**
 16 **COASTAL PLAIN.**

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

19 (1) to establish and implement, in accordance
 20 with this subtitle, a competitive oil and gas leasing
 21 program that will result in an environmentally sound
 22 program for the exploration, development, and pro-
 23 duction of the oil and gas resources of the Coastal
 24 Plain; and

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

(A) 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, fish and wildlife habitat, subsistence resources, and the environment; and

(B) 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 OF PROHIBITION.—

(1) IN GENERAL.—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 contained in section 1 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. prec. 3143) is amended by striking the item relating to section 1003.

1 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
2 TAIN OTHER LAWS.—

3 (1) COMPATIBILITY.—For purposes of the Na-
4 tional Wildlife Refuge System Administration Act of
5 1966 (16 U.S.C. 668dd et seq.)—

6 (A) the oil and gas leasing program and
7 activities authorized by this section in the
8 Coastal Plain shall be considered to be compat-
9 ible with the purposes for which the Arctic Na-
10 tional Wildlife Refuge was established; and

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

14 (2) ADEQUACY OF DOI LEGISLATIVE ENVIRON-
15 MENTAL IMPACT STATEMENT.—The Final State-
16 ment shall be considered to satisfy the requirements
17 of the National Environmental Policy Act of 1969
18 (42 U.S.C. 4321 et seq.) that apply with respect to
19 prelease activities, including actions authorized to be
20 taken by the Secretary to develop and promulgate
21 the regulations for the establishment of a leasing
22 program authorized by this subtitle before the con-
23 duct of the first lease sale.

24 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
25 TIONS.—

1 (A) IN GENERAL.—Before conducting the
2 first lease sale under this subtitle, the Secretary
3 shall prepare an environmental impact state-
4 ment in accordance with the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et
6 seq.) with respect to the actions authorized by
7 this subtitle that are not referred to in para-
8 graph (2).

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

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

15 (ii) to analyze the environmental ef-
16 fects of those courses of action.

17 (C) IDENTIFICATION OF PREFERRED AC-
18 TION.—Not later than 18 months after the date
19 of enactment of this Act, the Secretary shall—

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

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

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

9 (E) EFFECT OF COMPLIANCE.—Notwith-
 10 standing any other provision of law, compliance
 11 with this paragraph shall be considered to sat-
 12 isfy all requirements for the analysis and con-
 13 sideration of the environmental effects of pro-
 14 posed leasing under this subtitle.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
 16 ITY.—Nothing in this subtitle expands or limits State or
 17 local regulatory authority.

18 (e) SPECIAL AREAS.—

19 (1) DESIGNATION.—

20 (A) IN GENERAL.—The Secretary, after
 21 consultation with the State of Alaska, the
 22 North Slope Borough, Alaska, and the City of
 23 Kaktovik, Alaska, may designate not more than
 24 45,000 acres of the Coastal Plain as a special
 25 area if the Secretary determines that the special

1 area would be of such unique character and in-
 2 terest as to require special management and
 3 regulatory protection.

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

9 (2) MANAGEMENT.—The Secretary shall man-
 10 age each special area designated under this sub-
 11 section in a manner that preserves the unique and
 12 diverse character of the area, including fish, wildlife,
 13 subsistence resources, and cultural values of the
 14 area.

15 (3) EXCLUSION FROM LEASING OR SURFACE
 16 OCCUPANCY.—

17 (A) IN GENERAL.—The Secretary may ex-
 18 clude any special area designated under this
 19 subsection from leasing.

20 (B) NO SURFACE OCCUPANCY.—If the Sec-
 21 retary leases all or a portion of a special area
 22 for the purposes of oil and gas exploration, de-
 23 velopment, production, and related activities,
 24 there shall be no surface occupancy of the land
 25 comprising the special area.

1 (4) DIRECTIONAL DRILLING.—Notwithstanding
2 any other provision of this subsection, the Secretary
3 may lease all or a portion of a special area under
4 terms that permit the use of horizontal drilling tech-
5 nology from sites on leases located outside the spe-
6 cial area.

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

11 (g) REGULATIONS.—

12 (1) IN GENERAL.—Not later than 15 months
13 after the date of enactment of this Act, the Sec-
14 retary shall promulgate such regulations as are nec-
15 essary to carry out this subtitle, including rules and
16 regulations relating to protection of the fish and
17 wildlife, fish and wildlife habitat, subsistence re-
18 sources, and environment of the Coastal Plain.

19 (2) REVISION OF REGULATIONS.—The Sec-
20 retary shall periodically review and, as appropriate,
21 revise the rules and regulations issued under para-
22 graph (1) to reflect any significant biological, envi-
23 ronmental, scientific or engineering data that come
24 to the attention of the Secretary.

1 **SEC. 334. LEASE SALES.**

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

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

8 (1) receipt and consideration of sealed nomina-
9 tions for any area in the Coastal Plain for inclusion
10 in, or exclusion (as provided in subsection (c)) from,
11 a lease sale;

12 (2) the holding of lease sales after that nomina-
13 tion process; and

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

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

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

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

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

4 (2) not later than 90 days after the date of the
5 completion of the sale, evaluate the bids in the sale
6 and issue leases resulting from the sale; and

7 (3) conduct additional sales at appropriate in-
8 tervals if sufficient interest in exploration or devel-
9 opment exists to warrant the conduct of the addi-
10 tional sales.

11 **SEC. 335. GRANT OF LEASES BY THE SECRETARY.**

12 (a) IN GENERAL.—On payment by a lessee of such
13 bonus as may be accepted by the Secretary, the Secretary
14 may grant to the highest responsible qualified bidder in
15 a lease sale conducted pursuant to section 334 a lease for
16 any land on the Coastal Plain.

17 (b) SUBSEQUENT TRANSFERS.—

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

22 (2) CONDITION FOR APPROVAL.—Before grant-
23 ing any approval described in paragraph (1), the
24 Secretary shall consult with and give due consider-
25 ation to the opinion of the Attorney General.

1 **SEC. 336. LEASE TERMS AND CONDITIONS.**

2 An oil or gas lease issued pursuant to this subtitle
3 shall—

4 (1) provide for the payment of a royalty of not
5 less than 12½ percent of the amount or value of the
6 production removed or sold from the lease, as deter-
7 mined by the Secretary in accordance with regula-
8 tions applicable to other Federal oil and gas leases;

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

14 (3) require that each lessee of land within the
15 Coastal Plain shall be fully responsible and liable for
16 the reclamation of land within the Coastal Plain and
17 any other Federal land that is adversely affected in
18 connection with exploration, development, produc-
19 tion, or transportation activities within the Coastal
20 Plain conducted by the lessee or by any of the sub-
21 contractors or agents of the lessee;

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

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

4 (A) a condition capable of supporting the
5 uses that the land was capable of supporting
6 prior to any exploration, development, or pro-
7 duction activities; or

8 (B) on application by the lessee, to a high-
9 er or better standard, as approved by the Sec-
10 retary;

11 (6) contain terms and conditions relating to
12 protection of fish and wildlife, fish and wildlife habi-
13 tat, subsistence resources, and the environment as
14 required under section 333(a)(2);

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

22 (8) prohibit the export of oil produced under
23 the lease; and

24 (9) contain such other provisions as the Sec-
25 retary determines to be necessary to ensure compli-

1 ance with this subtitle and the regulations promul-
2 gated under this subtitle.

3 **SEC. 337. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

4 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
5 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

6 In accordance with section 333, the Secretary shall admin-
7 ister this subtitle through regulations, lease terms, condi-
8 tions, restrictions, prohibitions, stipulations, or other pro-
9 visions that—

10 (1) ensure, to the maximum extent practicable,
11 that oil and gas exploration, development, and pro-
12 duction activities on the Coastal Plain will result in
13 no significant adverse effect on fish and wildlife, fish
14 and wildlife habitat, and the environment;

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

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

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

2 The Secretary shall require, with respect to any proposed
3 drilling and related activities on the Coastal Plain, that—

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

9 (2) a plan be implemented to avoid, minimize,
10 and mitigate (in that order and to the maximum ex-
11 tent practicable) any significant adverse effect iden-
12 tified under paragraph (1); and

13 (3) the development of the plan shall occur
14 after consultation with the 1 or more agencies hav-
15 ing jurisdiction over matters mitigated by the plan.

16 (c) REGULATIONS TO PROTECT COASTAL PLAIN
17 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
18 AND THE ENVIRONMENT.—Before implementing the leas-
19 ing program authorized by this subtitle, the Secretary
20 shall prepare and issue regulations, lease terms, condi-
21 tions, restrictions, prohibitions, stipulations, or other
22 measures designed to ensure, to the maximum extent prac-
23 ticable, that the activities carried out on the Coastal Plain
24 under this subtitle are conducted in a manner consistent

1 with the purposes and environmental requirements of this
2 subtitle.

3 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
4 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
5 proposed regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations for the leasing program
7 under this subtitle shall require—

8 (1) compliance with all applicable provisions of
9 Federal and State environmental law (including reg-
10 ulations);

11 (2) implementation of and compliance with—

12 (A) standards that are at least as effective
13 as the safety and environmental mitigation
14 measures, as described in items 1 through 29
15 on pages 167 through 169 of the Final State-
16 ment, on the Coastal Plain; and

17 (B) seasonal limitations on exploration, de-
18 velopment, and related activities, as necessary,
19 to avoid significant adverse effects during peri-
20 ods of concentrated fish and wildlife breeding,
21 denning, nesting, spawning, and migration;

22 (3) that exploration activities (except surface
23 geological studies) be limited to the period between
24 approximately November 1 and May 1 of each year
25 and be supported, if necessary, by ice roads, winter

1 trails with adequate snow cover, ice pads, ice air-
2 strips, and air transport methods (except that those
3 exploration activities may be permitted at other
4 times if the Secretary determines that the explo-
5 ration will have no significant adverse effect on fish
6 and wildlife, fish and wildlife habitat, and the envi-
7 ronment of the Coastal Plain);

8 (4) design safety and construction standards for
9 all pipelines and any access and service roads,
10 that—

11 (A) minimize, to the maximum extent
12 practicable, adverse effects on the passage of
13 migratory species such as caribou; and

14 (B) minimize adverse effects on the flow of
15 surface water by requiring the use of culverts,
16 bridges, and other structural devices;

17 (5) prohibitions on general public access and
18 use on all pipeline access and service roads;

19 (6) stringent reclamation and rehabilitation re-
20 quirements, consistent with the standards described
21 in this subtitle, requiring the removal from the
22 Coastal Plain of all oil and gas development and
23 production facilities, structures, and equipment on
24 completion of oil and gas production operations, ex-
25 cept that the Secretary may exempt from the re-

1 quirements of this paragraph those facilities, struc-
2 tures, or equipment that the Secretary determines
3 would assist in the management of the Arctic Na-
4 tional Wildlife Refuge and that are donated to the
5 United States for that purpose;

6 (7) appropriate prohibitions or restrictions on
7 access by all modes of transportation;

8 (8) appropriate prohibitions or restrictions on
9 sand and gravel extraction;

10 (9) consolidation of facility siting;

11 (10) appropriate prohibitions or restrictions on
12 use of explosives;

13 (11)(A) avoidance, to the maximum extent
14 practicable, of springs, streams, and river system;

15 (B) the protection of natural surface drainage
16 patterns, wetland, and riparian habitats; and

17 (C) the regulation of methods or techniques for
18 developing or transporting adequate supplies of
19 water for exploratory drilling;

20 (12) the avoidance or minimization of air traf-
21 fic-related disturbance to fish and wildlife;

22 (13) treatment and disposal of hazardous and
23 toxic wastes, solid wastes, reserve pit fluids, drilling
24 muds and cuttings, and domestic wastewater, includ-

1 ing, in accordance with applicable Federal and State
2 environmental laws (including regulations)—

3 (A) preparation of an annual waste man-
4 agement report;

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

7 (C) prohibition on the use of chlorinated
8 solvents;

9 (14) fuel storage and oil spill contingency plan-
10 ning;

11 (15) research, monitoring, and reporting stipu-
12 lations;

13 (16) conduct of periodic field crew environ-
14 mental briefings;

15 (17) avoidance of significant adverse effects on
16 subsistence hunting, fishing, and trapping;

17 (18) compliance with applicable air and water
18 quality standards;

19 (19) appropriate seasonal and safety zone des-
20 ignations around well sites, within which subsistence
21 hunting and trapping shall be limited;

22 (20) reasonable stipulations for protection of
23 cultural and archeological resources; and

24 (21) development and implementation of such
25 other protective environmental requirements, restric-

1 tions, terms, or conditions as the Secretary deter-
2 mines to be necessary.

3 (e) CONSIDERATIONS.—In preparing and issuing reg-
4 ulations, lease terms, conditions, restrictions, prohibitions,
5 or stipulations under this section, the Secretary shall take
6 into consideration—

7 (1) the stipulations and conditions that govern
8 the National Petroleum Reserve-Alaska leasing pro-
9 gram, as set forth in the 1999 Northeast National
10 Petroleum Reserve-Alaska Final Integrated Activity
11 Plan/Environmental Impact Statement;

12 (2) the environmental protection standards that
13 governed the initial Coastal Plain seismic exploration
14 program under parts 37.31 through 37.33 of title
15 50, Code of Federal Regulations (or successor regu-
16 lations); and

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

22 (f) FACILITY CONSOLIDATION PLANNING.—

23 (1) IN GENERAL.—After providing for public
24 notice and comment, the Secretary shall prepare and
25 periodically update a plan to govern, guide, and di-

1 rect the siting and construction of facilities for the
2 exploration, development, production, and transpor-
3 tation of oil and gas resources from the Coastal
4 Plain.

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

7 (A) the avoidance of unnecessary duplica-
8 tion of facilities and activities;

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

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

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

17 (E) the enhancement of compatibility be-
18 tween wildlife values and development activities.

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

21 (1) manage public land in the Coastal Plain in
22 accordance with subsections (a) and (b) of section
23 811 of the Alaska National Interest Lands Con-
24 servation Act (16 U.S.C. 3121); and

1 (2) ensure that local residents shall have rea-
 2 sonable access to public land in the Coastal Plain for
 3 traditional uses.

4 **SEC. 338. EXPEDITED JUDICIAL REVIEW.**

5 (a) FILING OF COMPLAINTS.—

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

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

13 (B) in the case of a complaint based solely
 14 on grounds arising after the 90-day period de-
 15 scribed in subparagraph (A), by not later than
 16 90 days after the date on which the complain-
 17 ant knew or reasonably should have known
 18 about the grounds for the complaint.

19 (2) VENUE.—A complaint seeking judicial re-
 20 view of a provision of this subtitle or an action of
 21 the Secretary under this subtitle shall be filed in the
 22 United States Court of Appeals for the District of
 23 Columbia Circuit.

24 (3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary relating to a lease sale 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. 339. 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 op-

1 erations authorized under this subtitle for each fiscal
2 year—

3 (1) 50 percent shall be paid to the State of
4 Alaska; and

5 (2) except as otherwise provided in this Act, 90
6 percent of the balance shall be deposited into the
7 American Renewable and Alternative Energy Trust
8 Fund established by section 101.

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

11 **SEC. 340. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

15 (1) except as provided in paragraph (2), under
16 section 28 of the Mineral Leasing Act (30 U.S.C.
17 185), without regard to title XI of the Alaska Na-
18 tional Interest Lands Conservation Act (16 U.S.C.
19 3161 et seq.); and

20 (2) under title XI of the Alaska National Inter-
21 est Lands Conservation Act (16 U.S.C. 3161 et
22 seq.), for access authorized by sections 1110 and
23 1111 of that Act (16 U.S.C. 3170, 3171).

24 (b) TERMS AND CONDITIONS.—The Secretary shall
25 include in any right-of-way or easement issued under sub-

1 section (a) such terms and conditions as may be necessary
2 to ensure that transportation of oil and gas does not result
3 in a significant adverse effect on the fish and wildlife, sub-
4 sistence resources, their habitat, and the environment of
5 the Coastal Plain, including requirements that facilities be
6 sited or designed so as to avoid unnecessary duplication
7 of roads and pipelines.

8 (c) REGULATIONS.—The Secretary shall include in
9 regulations under section 333(g) provisions granting
10 rights-of-way and easements described in subsection (a).

11 **SEC. 341. CONVEYANCE.**

12 Notwithstanding section 1302(h)(2) of the Alaska
13 National Interest Lands Conservation Act (16 U.S.C.
14 3192(h)(2)), to remove any cloud on title to land, and to
15 clarify land ownership patterns in the Coastal Plain, the
16 Secretary shall—

17 (1) to the extent necessary to fulfill the entitle-
18 ment of the Kaktovik Inupiat Corporation under sec-
19 tions 12 and 14 of the Alaska Native Claims Settle-
20 ment Act (43 U.S.C. 1611, 1613), as determined by
21 the Secretary, convey to that Corporation the sur-
22 face estate of the land described in paragraph (1) of
23 Public Land Order 6959, in accordance with the
24 terms and conditions of the agreement between the
25 Secretary, the United States Fish and Wildlife Serv-

1 ice, the Bureau of Land Management, and the
 2 Kaktovik Inupiat Corporation, dated January 22,
 3 1993; and

4 (2) convey to the Arctic Slope Regional Cor-
 5 poration the remaining subsurface estate to which
 6 that Corporation is entitled under the agreement be-
 7 tween that corporation and the United States, dated
 8 August 9, 1983.

9 **SEC. 342. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
 10 **NITY SERVICE ASSISTANCE.**

11 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

12 (1) IN GENERAL.—The Secretary may use
 13 amounts available from the Coastal Plain Local Gov-
 14 ernment Impact Aid Assistance Fund established by
 15 subsection (d) to provide timely financial assistance
 16 to entities that are eligible under paragraph (2).

17 (2) ELIGIBLE ENTITIES.—The North Slope
 18 Borough, the City of Kaktovik, and any other bor-
 19 ough, municipal subdivision, village, or other com-
 20 munity in the State of Alaska that is directly im-
 21 pacted by exploration for, or the production of, oil
 22 or gas on the Coastal Plain under this subtitle, as
 23 determined by the Secretary, shall be eligible for fi-
 24 nancial assistance under this section.

1 (b) USE OF ASSISTANCE.—Financial assistance
2 under this section may be used only—

3 (1) to plan for mitigation, implement a mitiga-
4 tion plan, or maintain a mitigation project to ad-
5 dress the potential effects of oil and gas exploration
6 and development on environmental, social, cultural,
7 recreational, and subsistence resources of the com-
8 munity;

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

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

12 (B) services to address the needs and prob-
13 lems associated with the effects described in
14 paragraph (1), including firefighting, police,
15 water and waste treatment, first responder, and
16 other medical services; and

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

20 (A) to coordinate with and advise devel-
21 opers on local conditions and the history of
22 areas affected by development; and

23 (B) to provide to the Committee on Re-
24 sources of the House of Representatives and the
25 Committee on Energy and Natural Resources of

1 the Senate annual reports on the status of the
2 coordination between developers and commu-
3 nities affected by development.

4 (c) APPLICATION.—

5 (1) IN GENERAL.—Any community that is eligi-
6 ble for assistance under this section may submit an
7 application for such assistance to the Secretary, in
8 such form and under such procedures as the Sec-
9 retary may prescribe by regulation.

10 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
11 community located in the North Slope Borough may
12 apply for assistance under this section either directly
13 to the Secretary or through the North Slope Bor-
14 ough.

15 (3) APPLICATION ASSISTANCE.—The Secretary
16 shall work closely with and assist the North Slope
17 Borough and other communities eligible for assist-
18 ance under this section in developing and submitting
19 applications for assistance under this section.

20 (d) ESTABLISHMENT OF FUND.—

21 (1) IN GENERAL.—There is established in the
22 Treasury the “Coastal Plain Local Government Im-
23 pact Aid Assistance Fund” (referred to in this sec-
24 tion as the “Fund”).

1 (2) USE.—Amounts in the Fund may be used
2 only for providing financial assistance under this
3 section.

4 (3) DEPOSITS.—Subject to paragraph (4), there
5 shall be deposited into the Fund amounts received
6 by the United States as revenues derived from rents,
7 bonuses, and royalties from Federal leases and lease
8 sales authorized under this subtitle.

9 (4) LIMITATION ON DEPOSITS.—The total
10 amount in the Fund may not exceed \$11,000,000.

11 (5) INVESTMENT OF BALANCES.—The Sec-
12 retary of the Treasury shall invest amounts in the
13 Fund in interest bearing government securities.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Secretary from the
16 Fund to provide financial assistance under this section
17 \$5,000,000 for each fiscal year.

18 **Subtitle C—Oil Shale**

19 **SEC. 351. LEASING OF OIL SHALE RESOURCES.**

20 The Secretary of the Interior shall—

21 (1) offer for leasing for research and develop-
22 ment of oil shale resources under subsection (c) of
23 the Oil Shale, Tar Sands, and Other Strategic Un-
24 conventional Fuels Act of 2005 (42 U.S.C.
25 15927(c)), any additional 160-acre tracts of land

1 that the Secretary determines to be necessary to ful-
 2 fill the research and development objectives of that
 3 Act; and

4 (2) offer for leasing for commercial exploration,
 5 development, and production of oil shale resources
 6 under subsection (e) of the Oil Shale, Tar Sands,
 7 and Other Strategic Unconventional Fuels Act of
 8 2005 (42 U.S.C. 15927(e)), public land in States for
 9 which the Secretary finds sufficient support and in-
 10 terest as required by that subsection.

11 **TITLE IV—ENERGY**

12 **INFRASTRUCTURE**

13 **Subtitle A—Transmission**

14 **SEC. 401. NATURAL GAS PIPELINE INTEGRITY REASSESS-** 15 **MENT INTERVALS BASED ON RISK.**

16 (a) IN GENERAL.—Section 60109(c)(3)(B) of title
 17 49, United States Code, is amended by inserting “, until
 18 the date on which the Secretary promulgates regulations
 19 basing the reassessment intervals on technical data, risk
 20 factors, and engineering analyses, consistent with the rec-
 21 ommendations of the Comptroller General of the United
 22 States contained in the report numbered 06–945” before
 23 the period at the end.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) takes effect on the date of enactment of
 3 this Act.

4 **Subtitle B—Small Refinery Study**
 5 **and Temporary Exemption**

6 **SEC. 411. SMALL REFINERY STUDY AND TEMPORARY EX-**
 7 **EMPTION.**

8 Section 211(o)(9)(A) of the Clean Air Act (42 U.S.C.
 9 7545(o)(9)(A)) is amended—

10 (1) in clause (i), by striking “‘calendar year
 11 2011’” and inserting “‘calendar year 2015’”; and

12 (2) in clause (ii), by striking subclause (I) and
 13 inserting the following

14 “(I) STUDY.—Not later than De-
 15 cember 31, 2012, the Secretary of
 16 Energy, in consultation with States
 17 and stakeholders (including small re-
 18 fineries), shall conduct a study—

19 “(aa) to evaluate the eco-
 20 nomic viability of small refineries
 21 in the United States;

22 “(bb) to evaluate the cost of
 23 compliance with the requirements
 24 of paragraph (2) for small refin-
 25 eries in the United States;

1 “(cc) to determine whether
 2 compliance would impose an eco-
 3 nomic hardship on small refin-
 4 eries; and

5 “(dd) to assess the impact
 6 on availability and prices of gas
 7 for consumers in areas with small
 8 refineries.”.

9 **TITLE V—REDUCING GOVERN-**
 10 **MENT RED TAPE AND EXCES-**
 11 **SIVE LITIGATION**

12 **SEC. 501. ALASKA OFFSHORE CONTINENTAL SHELF CO-**
 13 **ORDINATION OFFICE.**

14 (a) ESTABLISHMENT.—The Secretary of the Interior,
 15 in coordination with the Mayor of the North Slope Bor-
 16 ough of Alaska, shall establish and maintain in the De-
 17 partment of the Interior a separate office, to be known
 18 as the “Alaska Offshore Continental Shelf Coordination
 19 Office”.

20 (b) DUTIES.—The Alaska Offshore Continental Shelf
 21 Coordination Office shall—

22 (1) coordinate leasing of the outer Continental
 23 Shelf off the coast of Alaska;

24 (2) advise persons awarded leases of the outer
 25 Continental Shelf off the coast of Alaska regarding

1 local conditions and history of areas affected by de-
2 velopment of the oil and gas resources of that area
3 of the outer Continental Shelf;

4 (3) provide to the Committee on Natural Re-
5 sources of the House of Representatives and the
6 Committee on Energy and Natural Resources of the
7 Senate annual reports describing the status of co-
8 ordination between the Office and the communities
9 affected by development of the outer Continental
10 Shelf off the coast of Alaska;

11 (4) collect from residents of the North Slope re-
12 gion of Alaska information regarding the impacts of
13 that development on marine wildlife, coastal habi-
14 tats, marine and coastal subsistence resources, and
15 the marine and coastal environment of the region;
16 and

17 (5) ensure that the information collected under
18 paragraph (4) is submitted to—

19 (A) developers of resources in the North
20 Slope region; and

21 (B) appropriate Federal departments and
22 agencies.

1 **SEC. 502. CLEAN AIR REGULATION.**

2 (a) DEFINITION OF AIR POLLUTANT.—Section
3 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is
4 amended—

5 (1) by striking “(g) The term” and inserting
6 the following:

7 “(g) AIR POLLUTANT.—

8 “(1) IN GENERAL.—The term”;

9 (2) in the second sentence, by striking “Such
10 term” and inserting the following:

11 “(2) INCLUSIONS.—The term ‘air pollutant’”;

12 and

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

14 “(3) EXCLUSIONS.—The term ‘air pollutant’
15 does not include—

16 “(A) carbon dioxide;

17 “(B) methane from agriculture or live-
18 stock; or

19 “(C) water vapor.”.

20 (b) STATE STANDARDS.—The Administrator of the
21 Environmental Protection Agency shall not provide to any
22 State a waiver under section 209(b) of the Clean Air Act
23 (42 U.S.C. 7543(b)) for preemption under that Act of any
24 regulation of the State to control greenhouse gas emis-
25 sions from motor vehicles.

1 **SEC. 503. ENDANGERED SPECIES.**

2 (a) EMERGENCIES.—Section 10 of the Endangered
3 Species Act of 1973 (16 U.S.C. 1539) is amended by add-
4 ing at the end the following:

5 “(k) EMERGENCIES.—On the declaration of an emer-
6 gency by the Governor of a State, the Secretary, for the
7 duration of the emergency, shall temporarily exempt from
8 the prohibition against taking and the prohibition against
9 the adverse modification of critical habitat under this Act
10 any action that is reasonably necessary to avoid or amelio-
11 rate the impact of the emergency, including the operation
12 of any water supply or flood control project by a Federal
13 agency.”.

14 (b) PROHIBITION OF CONSIDERATION OF IMPACT OF
15 GREENHOUSE GAS.—

16 (1) IN GENERAL.—The Endangered Species Act
17 of 1973 (16 U.S.C. 1531 et seq.) is amended by
18 adding at the end the following:

19 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**
20 **GREENHOUSE GAS.**

21 “(a) DEFINITION OF GREENHOUSE GAS.—In this
22 section, the term ‘greenhouse gas’ means any of—

23 “(1) carbon dioxide;

24 “(2) methane;

25 “(3) nitrous oxide;

26 “(4) sulfur hexafluoride;

1 “(5) a hydrofluorocarbon;

2 “(6) a perfluorocarbon; or

3 “(7) any other anthropogenic gas designated by
4 the Secretary for purposes of this section.

5 “(b) IMPACT OF GREENHOUSE GAS.—The impact of
6 a greenhouse gas on any species of fish, wildlife, or plant
7 shall not be considered for any purpose in the implementa-
8 tion of this Act.”.

9 (2) CONFORMING AMENDMENT.—The table of
10 contents of the Endangered Species Act of 1973 (16
11 U.S.C. prec. 1531) is amended by adding at the end
12 the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

13 **SEC. 504. MINERALS MANAGEMENT SERVICE.**

14 Title III of the Federal Oil and Gas Royalty Manage-
15 ment Act of 1982 (30 U.S.C. 1751 et seq.) is amended
16 by adding at the end the following:

17 **“SEC. 310. MINERALS MANAGEMENT SERVICE.**

18 “Any Director of the Minerals Management Service
19 shall be appointed by the President, by and with the advice
20 and consent of the Senate.”.

21 **SEC. 505. COMPLETION AND REVIEW OF ENVIRONMENTAL**
22 **IMPACT STATEMENTS.**

23 (a) COMPLETION.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, each review carried out in accord-
3 ance with the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) for any project car-
5 ried out under this Act shall be completed not later
6 than 270 days after the date on which the conduct
7 of the project is initiated.

8 (2) FAILURE TO COMPLETE REVIEW.—If a re-
9 view described in paragraph (1) has not been com-
10 pleted for an action subject to the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
12 by the date specified in paragraph (1)—

13 (A) the action shall be considered to have
14 no significant impact to the human environment
15 for purposes of the Act (42 U.S.C. 4321 et
16 seq.); and

17 (B) that classification shall be considered
18 to be a final agency action.

19 (b) LEAD AGENCY.—The lead agency for a review of
20 an action under this section shall be the Federal agency
21 to which funds are made available for the action.

22 (c) REVIEW.—

23 (1) ADMINISTRATIVE APPEALS.—There shall be
24 a single administrative appeal for each review car-
25 ried out pursuant to this section.

1 (2) JUDICIAL REVIEW.—

2 (A) IN GENERAL.—On resolution of the
3 administrative appeal, judicial review of the
4 final agency decision after exhaustion of admin-
5 istrative remedies shall lie with the United
6 States Court of Appeals for the District of Co-
7 lumbia Circuit.

8 (B) ADMINISTRATIVE RECORD.—An appeal
9 to the court described in subparagraph (A)
10 shall be based only on the administrative
11 record.

12 (C) PENDENCY OF JUDICIAL REVIEW.—
13 After an agency has made a final decision with
14 respect to a review carried out under this sec-
15 tion, the decision shall be effective during the
16 course of any subsequent appeal to a court de-
17 scribed in subparagraph (A).

18 (3) CIVIL ACTION.—Each civil action covered by
19 this section shall be considered to arise under the
20 laws of the United States.

1 **TITLE VI—CONSERVATION AND** 2 **EFFICIENCY**

3 **Subtitle A—New Source Review**

4 **SEC. 601. CLARIFYING NEW SOURCE REVIEW REQUIRE-** 5 **MENTS.**

6 Notwithstanding any other provision of law, routine
 7 maintenance and repair at a facility, and the replacement
 8 of equipment at a facility in accordance with such require-
 9 ments as the Administrator of the Environmental Protec-
 10 tion Agency shall specify, shall not constitute a modifica-
 11 tion of an existing source requiring compliance with new
 12 source review requirements under parts C and D of title
 13 I of the Clean Air Act (42 U.S.C. 7470 et seq.).

14 **Subtitle B—Clean Coal Alternative** 15 **Transition**

16 **SEC. 611. CARBON DIOXIDE STORAGE CAPACITY ASSESS-** 17 **MENT.**

18 (a) DEFINITIONS.—In this section:

19 (1) ADMINISTRATOR.—The term “Adminis-
 20 trator” means the Administrator of the Environ-
 21 mental Protection Agency.

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

1 (3) CAPACITY.—The term “capacity” means the
2 portion of a storage formation that can retain car-
3 bon dioxide in accordance with the requirements (in-
4 cluding physical, geological, and economic require-
5 ments) established under the methodology developed
6 under subsection (b).

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

11 (5) RISK.—The term “risk” includes any risk
12 posed by geomechanical, geochemical, hydrogeologi-
13 cal, structural, and engineered hazards.

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

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

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

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

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

5 (3) the injectivity of the potential storage for-
6 mations;

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

10 (5) the risk associated with the potential stor-
11 age formations; and

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

15 (c) COORDINATION.—

16 (1) FEDERAL COORDINATION.—

17 (A) CONSULTATION.—The Secretary shall
18 consult with the Secretary of Energy and the
19 Administrator on issues of data sharing, for-
20 mat, development of the methodology under
21 subsection (b), and content of the assessment
22 required under this title to ensure the max-
23 imum usefulness and success of the assessment.

24 (B) COOPERATION.—The Secretary of En-
25 ergy and the Administrator shall cooperate with

1 the Secretary to ensure, to the maximum extent
2 practicable, the usefulness and success of the
3 assessment.

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

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

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

15 (2) establish a panel of individuals with exper-
16 tise in the matters described in paragraphs (1)
17 through (5) of subsection (b) that is composed, as
18 appropriate, of representatives of Federal agencies,
19 institutions of higher education, nongovernmental
20 organizations, State organizations, industry, and
21 international geoscience organizations to review the
22 methodology and comments received under para-
23 graph (1); and

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

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

8 (f) NATIONAL ASSESSMENT.—

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

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

22 (A) well log data;

23 (B) core data; and

24 (C) fluid sample data.

1 (3) PARTNERSHIP WITH OTHER DRILLING PRO-
2 GRAMS.—As part of the drilling program under
3 paragraph (2), the Secretary shall enter, as appro-
4 priate, into partnerships with other entities to collect
5 and integrate data from other drilling programs rel-
6 evant to the storage of carbon dioxide in geological
7 formations.

8 (4) INCORPORATION INTO NATCARB.—

9 (A) IN GENERAL.—On completion of the
10 assessment, the Secretary of Energy shall incor-
11 porate the results of the assessment using the
12 NatCarb database, to the maximum extent
13 practicable.

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

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

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

5 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
 6 authorized to be appropriated to carry out this section
 7 \$30,000,000 for the period of fiscal years 2010 through
 8 2014.

9 **TITLE VII—TAX PROVISIONS**

10 **SEC. 701. AMENDMENT OF 1986 CODE.**

11 Except as otherwise expressly provided, whenever in
 12 this title an amendment or repeal is expressed in terms
 13 of an amendment to, or repeal of, a section or other provi-
 14 sion, the reference shall be considered to be made to a
 15 section or other provision of the Internal Revenue Code
 16 of 1986.

17 **Subtitle A—Nuclear Energy**

18 **SEC. 711. ASME NUCLEAR CERTIFICATION CREDIT.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
 20 chapter A of chapter 1 is amended by adding at the end
 21 the following new section:

22 **“SEC. 45R. ASME NUCLEAR CERTIFICATION CREDIT.**

23 “(a) IN GENERAL.—For purposes of section 38, the
 24 ASME Nuclear Certification credit determined under this
 25 section for any taxable year is an amount equal to 15 per-

1 cent of the qualified nuclear expenditures paid or incurred
 2 by the taxpayer.

3 “(b) QUALIFIED NUCLEAR EXPENDITURES.—For
 4 purposes of this section, the term ‘qualified nuclear ex-
 5 penditures’ means any expenditure related to—

6 “(1) obtaining a certification under the Amer-
 7 ican Society of Mechanical Engineers Nuclear Com-
 8 ponent Certification program, or

9 “(2) increasing the taxpayer’s capacity to con-
 10 struct, fabricate, assemble, or install components—

11 “(A) for any facility which uses nuclear en-
 12 ergy to produce electricity, and

13 “(B) with respect to the construction, fab-
 14 rication, assembly, or installation of which the
 15 taxpayer is certified under such program.

16 “(c) TIMING OF CREDIT.—The credit allowed under
 17 subsection (a) for any expenditures shall be allowed—

18 “(1) in the case of a qualified nuclear expendi-
 19 ture described in subsection (b)(1), for the taxable
 20 year of such certification, and

21 “(2) in the case of any other qualified nuclear
 22 expenditure, for the taxable year in which such ex-
 23 penditure is paid or incurred.

24 “(d) SPECIAL RULES.—

1 “(1) BASIS ADJUSTMENT.—For purposes of
2 this subtitle, if a credit is allowed under this section
3 for an expenditure, the increase in basis which would
4 result (but for this subsection) for such expenditure
5 shall be reduced by the amount of the credit allowed
6 under this section.

7 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
8 tion shall be allowed under this chapter for any
9 amount taken into account in determining the credit
10 under this section.

11 “(e) TERMINATION.—This section shall not apply to
12 any expenditures paid or incurred in taxable years begin-
13 ning after December 31, 2019.”.

14 (b) CREDIT TO BE PART OF BUSINESS CREDIT.—
15 Subsection (b) of section 38 is amended by striking “plus”
16 at the end of paragraph (34), by striking the period at
17 the end of paragraph (35) and inserting “, plus”, and by
18 adding at the end the following new paragraph:

19 “(36) the ASME Nuclear Certification credit
20 determined under section 45R(a).”.

21 (c) CONFORMING AMENDMENT.—Subsection (a) of
22 section 1016 is amended by striking “and” at the end of
23 paragraph (36), by striking the period at the end of para-
24 graph (37) and inserting “, and”, and by adding at the
25 end the following new paragraph:

1 “(38) to the extent provided in section
2 45R(d)(1).”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following new item:

“Sec. 45R. ASME Nuclear Certification credit.”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to expenditures paid or incurred
8 in taxable years beginning after December 31, 2009.

9 **SEC. 712. EXPANSION OF ENERGY INVESTMENT TAX CRED-**
10 **IT TO INCLUDE NUCLEAR AND CLEAN-COAL**
11 **EQUIPMENT.**

12 (a) IN GENERAL.—Clause (i) of section 48C(c)(1)(A)
13 is amended—

14 (1) by striking “or” at the end of subclause
15 (VI),

16 (2) by striking “and” at the end of subclause
17 (VII), and

18 (3) by inserting after subclause (VII) the fol-
19 lowing new subclauses:

20 “(VIII) property designed to be
21 used to produce energy from an ad-
22 vanced nuclear power facility (as de-
23 fined in section 45J(d)), or

1 “(IX) property designed to be
 2 used to produce energy from clean-
 3 coal equipment, and”.

4 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (e)
 5 of section 48C is amended by inserting “45J, 45R,” before
 6 “48”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to property placed in service after
 9 December 31, 2009.

10 **SEC. 713. CREDIT FOR QUALIFYING NUCLEAR POWER MAN-**
 11 **UFACTURING.**

12 (a) IN GENERAL.—Subpart E of part IV of sub-
 13 chapter A of chapter 1 is amended by inserting after sec-
 14 tion 48C the following new section:

15 **“SEC. 48D. QUALIFYING NUCLEAR POWER MANUFAC-**
 16 **TURING CREDIT.**

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

21 “(b) QUALIFIED INVESTMENT.—

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

1 “(A) which is either part of a qualifying
 2 nuclear power manufacturing project or is
 3 qualifying nuclear power manufacturing equip-
 4 ment,

5 “(B)(i) the construction, reconstruction, or
 6 erection of which is completed by the taxpayer,
 7 or

8 “(ii) which is acquired by the taxpayer if
 9 the original use of such property commences
 10 with the taxpayer,

11 “(C) with respect to which depreciation (or
 12 amortization in lieu of depreciation) is allow-
 13 able, and

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

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

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

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

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

7 “(2) QUALIFYING NUCLEAR POWER MANUFAC-
 8 TURING EQUIPMENT.—The term ‘qualifying nuclear
 9 power manufacturing equipment’ means machine
 10 tools and other similar equipment, including com-
 11 puters and other peripheral equipment, acquired or
 12 constructed primarily to enable the taxpayer to
 13 produce or test equipment necessary for the con-
 14 struction or operation of a nuclear power plant.

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

18 (b) CONFORMING AMENDMENTS.—

19 (1) ADDITIONAL INVESTMENT CREDIT.—Sec-
 20 tion 46 is amended—

21 (A) by striking the period at the end of
 22 paragraph (5) and inserting “, and”, and

23 (B) by adding at the end the following new
 24 paragraph:

1 “(6) the qualifying nuclear power manufac-
2 turing credit.”.

3 (2) APPLICATION OF SECTION 49.—Subpara-
4 graph (C) of section 49(a)(1) is amended—

5 (A) by striking “and” at the end of clause
6 (iv),

7 (B) by striking the period at the end of
8 clause (v) and inserting “, and”, and

9 (C) by adding at the end the following new
10 clause:

11 “(vi) the basis of any property which
12 is part of a qualifying nuclear power equip-
13 ment manufacturing project under section
14 48D.”.

15 (3) TABLE OF SECTIONS.—The table of sections
16 for subpart E of part IV of subchapter A of chapter
17 1 is amended by adding at the end the following new
18 item:

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

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

21 (1) the construction, reconstruction, or erection
22 of which began after the date of the enactment of
23 this Act, or

24 (2) which was acquired by the taxpayer on or
25 after the date of the enactment of this Act and not

1 pursuant to a binding contract which was in effect
 2 on the day prior to such date.

3 **Subtitle B—Synthetic and** 4 **Alternative Energy**

5 **SEC. 721. COAL-TO-LIQUID FACILITIES.**

6 (a) IN GENERAL.—Section 168 is amended by adding
 7 at the end the following:

8 “(o) SPECIAL ALLOWANCE FOR COAL-TO-LIQUID
 9 PLANT PROPERTY.—

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

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

17 “(B) the adjusted basis of such property
 18 shall be reduced by the amount of such deduc-
 19 tion before computing the amount otherwise al-
 20 lowable as a depreciation deduction under this
 21 chapter for such taxable year and any subse-
 22 quent taxable year.

23 “(2) QUALIFIED COAL-TO-LIQUID PLANT PROP-
 24 PERTY.—

1 “(A) IN GENERAL.—The term ‘qualified
2 coal-to-liquid plant property’ means property of
3 a character subject to the allowance for depre-
4 ciation—

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

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

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

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

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

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

15 “(B) EXCEPTIONS.—

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

20 “(ii) TAX-EXEMPT BOND-FINANCED
 21 PROPERTY.—Such term shall not include
 22 any property any portion of which is fi-
 23 nanced with the proceeds of any obligation
 24 the interest on which is exempt from tax
 25 under section 103.

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

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

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

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

16 “(C) by substituting ‘qualified coal-to-liq-
17 uid plant property’ for ‘qualified property’ in
18 clause (iv) thereof.

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

23 “(5) RECAPTURE.—For purposes of this sub-
24 section, rules similar to the rules under section
25 179(d)(10) shall apply with respect to any qualified

1 coal-to-liquid plant property which ceases to be
 2 qualified coal-to-liquid plant property.”.

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

7 **SEC. 722. PERMANENT EXTENSION OF THE CREDIT FOR**
 8 **NONBUSINESS ENERGY PROPERTY AND THE**
 9 **CREDIT FOR GAS PRODUCED FROM BIOMASS**
 10 **AND FOR SYNTHETIC FUELS PRODUCED**
 11 **FROM COAL.**

12 (a) CREDIT FOR NONBUSINESS ENERGY PROPERTY
 13 MADE PERMANENT.—

14 (1) IN GENERAL.—Section 25C is amended by
 15 striking subsection (g).

16 (2) EFFECTIVE DATE.—The amendment made
 17 by this subsection shall apply to property placed in
 18 service after December 31, 2009.

19 (b) CREDIT FOR GAS PRODUCED FROM BIOMASS
 20 AND FOR SYNTHETIC FUELS PRODUCED FROM COAL
 21 MADE PERMANENT.—

22 (1) IN GENERAL.—Subparagraph (B) of section
 23 45K(f)(1) is amended to read as follows:

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

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to fuel sold after De-
6 cember 31, 2009.

7 **SEC. 723. EXTENSION OF 50 CENT PER GALLON ALTER-**
8 **NATIVE FUELS EXCISE TAX CREDIT.**

9 Paragraph (5) of section 6426(d) is amended by
10 striking “2009” and inserting “2019” and by striking
11 “2014” and inserting “2024”.

12 **SEC. 724. TAX CREDIT PARITY FOR OPEN-LOOP BIOMASS**
13 **FACILITIES.**

14 (a) IN GENERAL.—Subparagraph (A) of section
15 45(b)(4) is amended by striking “paragraph (3),” and in-
16 serting “paragraph”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to electricity produced and sold
19 after the date of the enactment of this Act.

**Subtitle C—Alternative Fuel
Vehicles**

**SEC. 731. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL
VEHICLES.**

Paragraph (4) of section 30B(k) is amended by striking “December 31, 2010” and inserting “December 31, 2020”.

**SEC. 732. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-
FUELING PROPERTY CREDIT.**

Paragraph (1) of section 30C(g) is amended—

(1) by striking “hydrogen,” and inserting “hydrogen or alternative fuels (as defined in section 30B(e)(4)(B)),”, and

(2) by striking “December 31, 2014” and inserting “December 31, 2020”.

**SEC. 733. EXTENSION OF CREDIT FOR NEW QUALIFIED
PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

(a) IN GENERAL.—Section 30D is amended by adding at the end the following new subsection:

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

(b) REPEAL OF LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—Section 30D, as amended by subsection (a), is amended by striking subsection (e) and

1 redesignating subsections (f) and (g) as subsections (e)
2 and (f), respectively.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 1016(a)(37) is amended by striking
5 “section 30D(e)(4)” and inserting “section
6 30D(e)(1)”.

7 (2) Section 6501(m) is amended by striking
8 “section 30D(e)(4)” and inserting “section
9 30D(e)(6)”.

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

13 **Subtitle D—Energy Infrastructure**

14 **SEC. 741. TAX-EXEMPT FINANCING OF ENERGY TRANSPOR-** 15 **TATION INFRASTRUCTURE NOT SUBJECT TO** 16 **PRIVATE BUSINESS USE TESTS.**

17 (a) IN GENERAL.—Section 141(b)(6) is amended by
18 adding at the end the following new subparagraph:

19 “(C) EXCEPTION FOR CERTAIN ENERGY
20 TRANSPORTATION INFRASTRUCTURE.—

21 “(i) IN GENERAL.—For purposes of
22 the 1st sentence of subparagraph (A), the
23 operation or use of any property described
24 in clause (ii) by any person which is not a

1 governmental unit shall not be considered
2 a private business use.

3 “(ii) PROPERTY DESCRIBED.—For
4 purposes of clause (i), the following prop-
5 erty is described in this clause:

6 “(I) Any tangible property used
7 to transmit electricity at 230 or more
8 kilovolts if such property is placed in
9 service as part of a State or multi-
10 State effort to improve interstate elec-
11 tricity transmission and is physically
12 located in not less than 2 States.

13 “(II) Any tangible property used
14 to transmit electricity generated from
15 renewable resources.

16 “(III) Any tangible property used
17 as a transmission pipeline for crude
18 oil or diesel fuel produced from coal
19 or other synthetic petroleum products
20 produced from coal if such property is
21 placed in service as part of a State or
22 multi-State effort to improve the
23 transportation of crude oil or diesel
24 fuel produced from coal or other syn-

1 thetic petroleum products produced
2 from coal.

3 “(IV) Any tangible property used
4 as a carbon dioxide transmission pipe-
5 line if such property is placed in serv-
6 ice as part of a State or multi-State
7 effort to improve interstate or intra-
8 state efforts to develop transportation
9 infrastructure for purposes of perma-
10 nently sequestering carbon dioxide.”.

11 (b) EXCEPTION TO PRIVATE LOAN FINANCING
12 TEST.—Section 141(c)(2) is amended—

13 (1) by striking “or” at the end of subparagraph
14 (B),

15 (2) by striking the period at the end of sub-
16 paragraph (C) and inserting “, or”, and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(D) enables the borrower to finance any
20 property described in subsection (b)(6)(C)(ii).”.

21 (c) REDUCTION OF STATE VOLUME CAP BY AMOUNT
22 OF ENERGY TRANSPORTATION INFRASTRUCTURE FI-
23 NANCING.—Section 146 is amended by adding at the end
24 the following new subsection:

1 “(o) REDUCTION FOR ENERGY TRANSPORTATION IN-
 2 FRASTRUCTURE FINANCING.—The volume cap of any
 3 issuing authority for any calendar year shall be reduced
 4 by the amount of bonds issued as part of an issue by such
 5 authority to provide for property described in section
 6 141(b)(6)(C)(ii).”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to obligations issued after the date
 9 of the enactment of this Act and before December 31,
 10 2016.

11 **SEC. 742. LIMITATION ON DISCRIMINATORY TAXATION OF**
 12 **CERTAIN PIPELINE PROPERTY.**

13 (a) DEFINITIONS.—For purposes of this section:

14 (1) ASSESSMENT.—The term “assessment”
 15 means valuation for a property tax levied by a taxing
 16 authority.

17 (2) ASSESSMENT JURISDICTION.—The term
 18 “assessment jurisdiction” means a geographical area
 19 used in determining the assessed value of property
 20 for ad valorem taxation.

21 (3) COMMERCIAL AND INDUSTRIAL PROP-
 22 ERTY.—The term “commercial and industrial prop-
 23 erty” means property (excluding pipeline property,
 24 public utility property, and land used primarily for
 25 agricultural purposes or timber growth) devoted to

1 commercial or industrial use and subject to a prop-
2 erty tax levy.

3 (4) PIPELINE PROPERTY.—The term “pipeline
4 property” means all property, real, personal, and in-
5 tangible, owned or used by a natural gas pipeline
6 providing transportation or storage of natural gas,
7 subject to the jurisdiction of the Federal Energy
8 Regulatory Commission.

9 (5) PUBLIC UTILITY PROPERTY.—The term
10 “public utility property” means property (excluding
11 pipeline property) that is devoted to public service
12 and is owned or used by any entity that performs a
13 public service and is regulated by any governmental
14 agency.

15 (b) DISCRIMINATORY ACTS.—The acts specified in
16 this subsection unreasonably burden and discriminate
17 against interstate commerce. A State, subdivision of a
18 State, authority acting for a State or subdivision of a
19 State, or any other taxing authority (including a taxing
20 jurisdiction and a taxing district) may not do any of the
21 following such acts:

22 (1) Assess pipeline property at a value that has
23 a higher ratio to the true market value of the pipe-
24 line property than the ratio that the assessed value
25 of other commercial and industrial property in the

1 same assessment jurisdiction has to the true market
 2 value of the other commercial and industrial prop-
 3 erty.

4 (2) Levy or collect a tax on an assessment that
 5 may not be made under paragraph (1).

6 (3) Levy or collect an ad valorem property tax
 7 on pipeline property at a tax rate that exceeds the
 8 tax rate applicable to commercial and industrial
 9 property in the same assessment jurisdiction.

10 (4) Impose any other tax that discriminates
 11 against a pipeline providing transportation subject to
 12 the jurisdiction of the Federal Energy Regulatory
 13 Commission.

14 (c) JURISDICTION OF COURTS; RELIEF.—

15 (1) GRANT OF JURISDICTION.—Notwith-
 16 standing section 1341 of title 28, United States
 17 Code, and notions of comity, and without regard to
 18 the amount in controversy or citizenship of the par-
 19 ties, the district courts of the United States shall
 20 have jurisdiction, concurrent with other jurisdiction
 21 of the courts of the United States, of States, and of
 22 all other taxing authorities and taxing jurisdictions,
 23 to prevent a violation of subsection (b).

24 (2) RELIEF.—Except as otherwise provided in
 25 this paragraph, relief may be granted under this Act

1 only if the ratio of assessed value to true market
2 value of pipeline property exceeds by at least 5 per-
3 cent the ratio of assessed value to true market value
4 of other commercial and industrial property in the
5 same assessment jurisdiction. If the ratio of the as-
6 sessed value of other commercial and industrial
7 property in the assessment jurisdiction to the true
8 market value of all other commercial and industrial
9 property cannot be determined to the satisfaction of
10 the court through the random-sampling method
11 known as a sales assessment ratio study (to be car-
12 ried out under statistical principles applicable to
13 such a study), each of the following shall be a viola-
14 tion of subsection (b) for which relief under this sec-
15 tion may be granted:

16 (A) An assessment of the pipeline property
17 at a value that has a higher ratio of assessed
18 value to the true market value of the pipeline
19 property than the ratio of the assessed value of
20 all other property (excluding public utility prop-
21 erty) subject to a property tax levy in the as-
22 sessment jurisdiction has to the true market
23 value of all other property (excluding public
24 utility property).

1 (B) The collection of an ad valorem prop-
 2 erty tax on the pipeline property at a tax rate
 3 that exceeds the tax rate applicable to all other
 4 taxable property (excluding public utility prop-
 5 erty) in the taxing jurisdiction.

6 **Subtitle E—Building Efficiency** 7 **Incentives**

8 **SEC. 751. HOME ENERGY AUDITS.**

9 (a) IN GENERAL.—Subpart A of part IV of sub-
 10 chapter A of chapter 1 is amended by inserting after sec-
 11 tion 25D the following new section:

12 **“SEC. 25E. HOME ENERGY AUDITS.**

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

19 “(b) LIMITATIONS.—

20 “(1) DOLLAR LIMITATION.—The amount of the
 21 credit allowed under subsection (a) for any taxable
 22 year shall not exceed \$400.

23 “(2) LIMITATION BASED ON AMOUNT OF
 24 TAX.—In the case of any taxable year to which sec-

1 tion 26(a)(2) does not apply, the credit allowed
2 under subsection (a) shall not exceed the excess of—

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

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

9 “(c) QUALIFIED HOME ENERGY AUDIT EX-
10 PENSES.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘qualified home energy audit expenses’
13 means expenses paid or incurred for an energy
14 audit, performed by a qualified energy auditor
15 through a comprehensive site visit, of a principal
16 residence of the taxpayer which is located in the
17 United States. Such audit may include a blower door
18 test, an infra-red camera test, and a furnace com-
19 bustion efficiency test.

20 “(2) INCLUDED TESTS.—The audit described in
21 paragraph (1) shall include such tests as the Sec-
22 retary may by regulation require, including sub-
23 stitute tests for the tests specified in such para-
24 graph.

1 “(3) PRINCIPAL RESIDENCE.—For purposes of
 2 this subsection, the term ‘principal residence’ has
 3 the same meaning as when used in section 121.

4 “(4) QUALIFIED ENERGY AUDITOR.—

5 “(A) IN GENERAL.—The Secretary shall
 6 specify by regulations the qualifications re-
 7 quired for an auditor to be considered a quali-
 8 fied energy auditor for purposes of this section.
 9 Such regulations shall include rules prohibiting
 10 conflicts of interest, including the disallowance
 11 of commissions or other payments based on
 12 goods or non-audit services purchased by the
 13 taxpayer from the auditor.

14 “(B) CERTIFICATION.—The Secretary
 15 shall prescribe the procedures and methods for
 16 certifying that an auditor is a qualified energy
 17 auditor. To the maximum extent practicable,
 18 such procedures and methods shall provide for
 19 a variety of sources from which an auditor may
 20 obtain certifications.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 23(b)(4)(B) is amended by striking
 23 “section 25D” and inserting “sections 25D and
 24 25E”.

1 (2) Section 23(c)(1) is amended by inserting “,
2 25E,” after “25D”.

3 (3) Section 24(b)(3)(B) is amended by inserting
4 “25E,” after “25D,”.

5 (4) Section 25(e)(1)(C) is amended by inserting
6 “25E,” after “25D,” each place it appears in
7 clauses (i) and (ii).

8 (5) Section 25B(g)(2) is amended by inserting
9 “25E,” after “25D,”.

10 (6) Section 25D(c) is amended by inserting
11 “and section 25E” after “this section” each place it
12 appears in paragraphs (1)(B) and (2)(A).

13 (7) Section 904(i) is amended by inserting
14 “25E,” after “25B,”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for subpart A of part IV of subchapter A of chapter 1
17 is amended by inserting after the item relating to section
18 25D the following new item:

“Sec. 25E. Home energy audits.”.

19 (d) EFFECTIVE DATES.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to amounts paid or incurred
22 in taxable years beginning after December 31, 2009.

23 (2) APPLICATION OF EGGTRA SUNSET.—The
24 amendments made by paragraphs (1) and (3) of
25 subsection (b) shall be subject to title IX of the Eco-

1 nomic Growth and Tax Relief Reconciliation Act of
 2 2001 in the same manner as the provisions of such
 3 Act to which such amendments relate.

4 **SEC. 752. EXTENSION AND CLARIFICATION OF NEW EN-**
 5 **ERGY EFFICIENT HOME CREDIT.**

6 (a) EXTENSION.—Subsection (g) of section 45L is
 7 amended by striking “December 31, 2009” and inserting
 8 “December 31, 2013”.

9 (b) CLARIFICATION.—

10 (1) IN GENERAL.—Paragraph (1) of section
 11 45L(a) is amended by striking “and” at the end of
 12 subparagraph (A) and by striking subparagraph (B)
 13 and inserting the following:

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

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

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

21 **SEC. 753. EXTENSION OF CREDIT FOR ENERGY EFFICIENT**
 22 **APPLIANCES.**

23 (a) IN GENERAL.—Subsection (b) of section 45M is
 24 amended—

25 (1) in paragraph (1)—

1 (A) by striking “2008 or 2009” in sub-
 2 paragraph (A) and inserting “2008, 2009,
 3 2010, 2011, or 2012”, and

4 (B) by striking “2008, 2009, or 2010” in
 5 subparagraph (B) and inserting “2008, 2009,
 6 2010, 2011, 2012, or 2013”,

7 (2) in paragraph (2)—

8 (A) by striking “2008 or 2009” in sub-
 9 paragraph (B) and inserting “2008, 2009,
 10 2010, 2011, or 2012”,

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

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

17 (3) in paragraph (3)—

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

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

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

4 (b) INCREASE IN AGGREGATE CREDIT AMOUNT AL-
 5 LOWED.—Paragraph (1) of section 45M(e) is amended by
 6 striking “\$75,000,000” and inserting “\$100,000,000”.

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

10 **SEC. 754. EXTENSION AND MODIFICATION OF DEDUCTION**
 11 **FOR ENERGY EFFICIENT COMMERCIAL**
 12 **BUILDINGS.**

13 (a) EXTENSION.—Subsection (h) of section 179D is
 14 amended to read as follows:

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

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

19 “(2) which is placed in service after December
 20 31, 2014.

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

1 (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
 2 TION.—

3 (1) IN GENERAL.—Subparagraph (A) of section
 4 179D(b)(1) is amended by striking “\$1.80” and in-
 5 serting “\$2.25”.

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

8 (A) by striking “\$.60” and inserting
 9 “\$0.75”, and

10 (B) by striking “\$1.80” and inserting
 11 “\$2.25”.

12 (c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

13 (1) METHODS OF CALCULATING ENERGY SAV-
 14 INGS.—

15 (A) IN GENERAL.—Paragraph (2) of sec-
 16 tion 179D(d) is amended—

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

1 (ii) by adding at the end the following
2 new sentence: “The calculation methods
3 contained in such regulations shall also
4 provide for the calculation of appropriate
5 energy savings for design methods and
6 technologies not otherwise credited in such
7 manual or standard, including energy sav-
8 ings associated with natural ventilation,
9 evaporative cooling, automatic lighting con-
10 trols (such as occupancy sensors,
11 photocells, and time clocks), day lighting,
12 designs utilizing semi-conditioned spaces
13 which maintain adequate comfort condi-
14 tions without air conditioning or without
15 heating, improved fan system efficiency
16 (including reductions in static pressure),
17 advanced unloading mechanisms for me-
18 chanical cooling (such as multiple or vari-
19 able speed compressors), on-site generation
20 of electricity (including combined heat and
21 power systems, fuel cells, and renewable
22 energy generation such as solar energy),
23 and wiring with lower energy losses than
24 wiring satisfying Standard 90.1–2001 re-

quirements 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 con-

1 sumption costs of the building or sys-
 2 tem with respect to which the calcula-
 3 tion is being made.”.

4 (2) TARGETS FOR PARTIAL ALLOWANCE OF
 5 CREDIT.—Paragraph (1)(B) of section 179D(d) is
 6 amended—

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

9 “(i) IN GENERAL.—The Secretary”,
 10 and

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

12 “(ii) ADDITIONAL REQUIREMENTS.—
 13 For purposes of clause (i)—

14 “(I) the Secretary shall deter-
 15 mine prescriptive criteria that can be
 16 modeled explicitly for reference build-
 17 ings which meet the requirements of
 18 subsection (c)(1)(D) for different
 19 building types and regions,

20 “(II) a system may be certified
 21 as meeting the target under subpara-
 22 graph (A)(ii) if the appropriate ref-
 23 erence building either meets the re-
 24 quirements of subsection (c)(1)(D)
 25 with such system rather than the

1 comparable reference system (using
 2 the calculation under paragraph (2))
 3 or meets the relevant prescriptive cri-
 4 teria under subclause (I), and

5 “(III) the lighting system target
 6 shall be based on lighting power den-
 7 sity, except that it shall allow lighting
 8 controls credits that trade off for
 9 lighting power density savings based
 10 on section 3.2.2 of the 2005 Cali-
 11 fornia Nonresidential Alternative Cal-
 12 culation Method Approval Manual.

13 “(B) PUBLICATION.—The Secretary shall
 14 publish in the Federal Register the bases for
 15 the target levels established in the regulations
 16 under clause (i).”.

17 (d) ALTERNATIVE STANDARDS.—Section 179D(d) is
 18 amended by adding at the end the following new para-
 19 graph:

20 “(7) ALTERNATIVE STANDARDS PENDING
 21 FINAL REGULATIONS.—Until such time as the Sec-
 22 retary issues final regulations under paragraph
 23 (1)(B)—

24 “(A) in the case of property which is part
 25 of a building envelope, the building envelope

1 system target under paragraph (1)(A)(ii) shall
 2 be a 7 percent reduction in total annual energy
 3 and power costs (determined in the same man-
 4 ner as under subsection (c)(1)(D)), and

5 “(B) in the case of property which is part
 6 of the heating, cooling, ventilation, and hot
 7 water systems, the heating, cooling, ventilation,
 8 and hot water system shall be treated as meet-
 9 ing the target under paragraph (1)(A)(ii) if it
 10 would meet the requirement in subsection
 11 (c)(1)(D) if combined with a building envelope
 12 system and lighting system which met their re-
 13 spective targets under paragraph (1)(A)(ii) (in-
 14 cluding interim targets in effect under sub-
 15 section (f) and subparagraph (A)).”.

16 (e) MODIFICATIONS TO LIGHTING STANDARDS.—

17 (1) STANDARDS TO BE ALTERNATE STAND-
 18 ARDS.—Subsection (f) of section 179D is amend-
 19 ed—

20 (A) by striking “INTERIM” in the heading
 21 and inserting “ALTERNATIVE”, and

22 (B) by inserting “, or, if the taxpayer
 23 elects, in lieu of the target set forth in such
 24 final regulations” after “lighting system” at the
 25 end of the matter preceding paragraph (1).

1 (2) QUALIFIED INDIVIDUALS.—Section
 2 179D(d)(6)(C) is amended by adding at the end the
 3 following: “For purposes of certification of whether
 4 the alternative target for lighting systems under
 5 subsection (f) is met, individuals qualified to deter-
 6 mine compliance shall include individuals who are
 7 certified as Lighting Certified (LC) by the National
 8 Council on Qualifications for the Lighting Profes-
 9 sions, Certified Energy Managers (CEM) by the As-
 10 sociation of Energy Engineers, and LEED Accred-
 11 ited Professionals (AP) by the U.S. Green Buildings
 12 Council.”.

13 (3) REQUIREMENT FOR BILEVEL SWITCHING.—
 14 Section 179D(f) is amended by adding at the end
 15 the following new paragraph:

16 “(3) APPLICATION OF SUBSECTION TO BILEVEL
 17 SWITCHING.—

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

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

5 “(i) by striking ‘40 percent’ and in-
 6 serting ‘50 percent’ in subparagraph (A)
 7 thereof, and

8 “(ii) in subparagraph (B)(ii) there-
 9 of—

10 “(I) by striking ‘25 percentage
 11 points’ and inserting ‘37.5 percentage
 12 points’; and

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

15 (f) PUBLIC PROPERTY.—Paragraph (4) of section
 16 179(d) is amended by striking “the Secretary shall pro-
 17 mulgate a regulation to allow the allocation of the deduc-
 18 tion” and inserting “the deduction under this section shall
 19 be allowed”.

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

