

111TH CONGRESS  
2D SESSION

# S. 3464

To establish an energy and climate policy framework to reach measurable gains in reducing dependence on foreign oil, saving Americans money, improving energy security, and cutting greenhouse gas emissions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 9, 2010

Mr. LUGAR (for himself, Mr. GRAHAM, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To establish an energy and climate policy framework to reach measurable gains in reducing dependence on foreign oil, saving Americans money, improving energy security, and cutting greenhouse gas emissions, 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 “Practical Energy and Climate Plan Act of 2010”.

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

Sec. 1. Short title; table of contents.

## TITLE I—REDUCING FOREIGN OIL DEPENDENCE

### Subtitle A—Vehicle Efficiency

Sec. 101. Fuel efficiency standards.

Sec. 102. Revenue neutral fuel performance program for motor vehicles.

### Subtitle B—Fuel Choice

Sec. 111. Production incentives for renewable fuels.

Sec. 112. Ensuring the availability of dual fueled automobiles and light duty trucks.

## TITLE II—ENERGY EFFICIENCY

### Subtitle A—National Building Energy Performance Standards

Sec. 201. Greater energy efficiency in building codes.

### Subtitle B—Federal Buildings

Sec. 211. Energy efficient Federal buildings.

### Subtitle C—Homes and Buildings Energy Retrofits Program

Sec. 221. Definitions.

Sec. 222. Homes and Buildings Energy Retrofits Program.

Sec. 223. General provisions.

Sec. 224. Authorization of appropriations.

### Subtitle D—Rural Energy Savings Program

Sec. 231. Rural energy savings program.

### Subtitle E—Industrial Energy Efficiency

Sec. 241. State partnership industrial energy efficiency revolving loan program.

### Subtitle F—Appliance and Equipment Efficiency Standards

Sec. 251. Appliance and equipment efficiency.

Sec. 252. Federal procurement of energy efficient products.

## TITLE III—DIVERSE DOMESTIC POWER

Sec. 301. Federal diverse energy standard.

Sec. 302. Fossil fuel generating facility retirement program.

Sec. 303. Funding for loan guarantees for advanced nuclear energy facilities.

## TITLE IV—MEASUREMENT AND REVIEW OF ENERGY AND CLIMATE PROGRAMS

Sec. 401. Measurement and review of energy and climate change programs.

**TITLE I—REDUCING FOREIGN  
OIL DEPENDENCE  
Subtitle A—Vehicle Efficiency**

**SEC. 101. FUEL EFFICIENCY STANDARDS.**

(a) STANDARDS FOR LIGHT VEHICLES.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting “, reflecting at least a 4 percent annual increase beginning in model year 2017 (rounded to the nearest  $\frac{1}{10}$  mile per gallon)” before the period at the end;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “2020” and inserting “2016”;

(II) by striking “2020” and inserting “2016”; and

(III) by striking “35” and inserting “34.1”;

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking “2021” and inserting “2017”;

1 (II) by striking “2021” and in-  
 2 serting “2017”; and

3 (III) by inserting “, reflecting at  
 4 least a 4 percent annual increase for  
 5 each model year” before the period at  
 6 the end; and

7 (iii) in subparagraph (C)—

8 (I) by striking “subparagraph  
 9 (A)” and inserting “subparagraphs  
 10 (A) and (B)”;

11 (II) by striking “and ending with  
 12 model year 2020”; and

13 (III) by adding at the end the  
 14 following: “The projected aggregate  
 15 level of average fuel economy for  
 16 model year 2017 and each succeeding  
 17 model year shall reflect at least a 4  
 18 percent increase from the level for the  
 19 prior model year (rounded to the  
 20 nearest  $\frac{1}{10}$  mile per gallon).”; and

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

22 “(5) UNIFIED REGULATORY REQUIREMENTS.—  
 23 Regulations under this subsection and amendments  
 24 to regulations under subsection (c) shall, to the max-  
 25 imum extent practicable, be promulgated (including

1 through joint rulemaking), coordinated, and imple-  
2 mented in conjunction with pollutant regulations  
3 promulgated by the the Administrator of the Envi-  
4 ronmental Protection Agency.”;

5 (3) in subsection (c)—

6 (A) by inserting “(1)” before “The Sec-  
7 retary”;

8 (B) by striking “that model year.” and in-  
9 serting the following: “model year, including to  
10 a level lower than a 4 percent annual increase  
11 if the Secretary determines the standards pre-  
12 scribed under subsection (b) for each model  
13 year—

14 “(A) are technologically unachievable;

15 “(B) cannot be achieved without materially re-  
16 ducing the overall safety of automobiles manufac-  
17 tured or sold in the United States; or

18 “(C) is shown, by clear and convincing evidence,  
19 not to be cost effective.

20 “(2) If a standard reflecting a level lower than a 4  
21 percent annual increase is prescribed for a model year  
22 under subsection (b), such standard shall be the maximum  
23 standard that—

24 “(A) is technologically achievable;

1           “(B) can be achieved without materially reduc-  
 2           ing the overall safety of automobiles manufactured  
 3           or sold in the United States; and

4           “(C) is cost effective.”;

5           (C) by striking “Section 553” and insert-  
 6           ing the following:

7           “(3) Section 553”; and

8           (D) by adding at the end the following:

9           “(4) Not later than 90 days before issuing an amend-  
 10          ed standard that would lower the fuel economy standards  
 11          below the level prescribed under subsection (b), the Sec-  
 12          retary shall—

13           “(A) provide written notification to the Com-  
 14          mittee on Energy and Commerce of the House of  
 15          Representatives, the Committee on Commerce,  
 16          Science, and Transportation of the Senate, and the  
 17          Committee on Energy and Natural Resources of the  
 18          Senate, regarding the amendments made to the fuel  
 19          economy standards prescribed in subsection (b); and

20           “(B) make publicly available non-proprietary  
 21          documentation regarding the amendment decision”;  
 22          and

23           (4) in subsection (f)—

24           (A) by striking “When deciding” and in-  
 25          serting “(1) In determining”;

1 (B) by striking “economic practicability”  
 2 and inserting “cost effectiveness”; and

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

4 “(2) In determining cost effectiveness under para-  
 5 graph (1), the Secretary of Transportation shall take into  
 6 account the total value to the Nation of reduced petroleum  
 7 use, including the value of reducing external costs of pe-  
 8 troleum use, using a value for such costs equal to 50 per-  
 9 cent of the value of a gallon of gasoline saved or the  
 10 amount determined in an analysis of the external costs  
 11 of petroleum use that considers—

12 “(A) value to consumers;

13 “(B) economic security;

14 “(C) national security;

15 “(D) foreign policy;

16 “(E) the impact of oil use on—

17 “(i) sustained cartel rents paid to foreign  
 18 suppliers;

19 “(ii) long-run potential gross domestic  
 20 product due to higher normal-market oil price  
 21 levels, including inflationary impacts;

22 “(iii) import costs, wealth transfers, and  
 23 potential gross domestic product due to in-  
 24 creased trade imbalances;

1           “(iv) import costs and wealth transfers  
2 during oil shocks;

3           “(v) macroeconomic dislocation and adjust-  
4 ment costs during oil shocks;

5           “(vi) the cost of existing energy security  
6 policies, including the management of the Stra-  
7 tegic Petroleum Reserve;

8           “(vii) the timing and severity of the oil  
9 peaking problem;

10          “(viii) the risk, probability, size, and dura-  
11 tion of oil supply disruptions;

12          “(ix) OPEC strategic behavior and long-  
13 run oil pricing;

14          “(x) the short term elasticity of energy de-  
15 mand and the magnitude of price increases re-  
16 sulting from a supply shock;

17          “(xi) oil imports, military costs, and re-  
18 lated security costs, including intelligence,  
19 homeland security, sea lane security and infra-  
20 structure, and other military activities;

21          “(xii) oil imports, diplomatic and foreign  
22 policy flexibility, and connections to geopolitical  
23 strife, terrorism, and international development  
24 activities;



1           “(xiii) all relevant environmental hazards  
2           under the jurisdiction of the Environmental  
3           Protection Agency; and

4           “(xiv) well-to-wheels urban and local air  
5           emissions of ‘pollutants’ and their  
6           uninternalized costs;

7           “(F) the impact of the oil or energy intensity  
8           of the United States economy on the sensitivity of  
9           the economy to oil price changes, including the mag-  
10          nitude of gross domestic product losses in response  
11          to short-term price shocks or long-term price in-  
12          creases;

13          “(G) the impact of United States payments for  
14          oil imports on political, economic, and military devel-  
15          opments in unstable or unfriendly oil exporting  
16          countries;

17          “(H) the uninternalized costs of pipeline and  
18          storage oil seepage, and for risk of oil spills from  
19          production, handling, transport, and related land-  
20          scape damage; and

21          “(I) additional relevant factors, as determined  
22          by the Secretary in consultation with the Secretary  
23          of Energy, the Administrator of the Environmental  
24          Protection Agency, the Secretary of State, the Sec-

1       retary of Defense, the Secretary of Homeland Secu-  
2       rity, and the Director of National Intelligence.

3       “(3) In considering the value to consumers of a gallon  
4 of gasoline saved, the Secretary of Transportation may not  
5 use a value that is less than the greatest of—

6               “(A) the average national cost of a gallon of  
7 gasoline sold in the United States during the 12-  
8 month period ending on the date on which the new  
9 fuel economy standard is proposed;

10              “(B) the most recent weekly estimate by the  
11 Energy Information Administration of the Depart-  
12 ment of Energy of the average national cost of a  
13 gallon of gasoline (all grades) sold in the United  
14 States; or

15              “(C) the gasoline prices projected by the En-  
16 ergy Information Administration for the 20-year pe-  
17 riod beginning in the year following the year in  
18 which the standards are established.”.

19       (b) STANDARDS FOR MEDIUM- AND HEAVY-DUTY  
20 VEHICLES.—Section 32902(k) of title 49, United States  
21 Code, is amended—

22              (1) in paragraph (1)—

23                      (A) in subparagraph (C), by striking

24                      “and” at the end;

1 (B) in subparagraph (D), by striking the  
2 period at the end and inserting “; and”; and

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

4 “(E) greatest achievable fuel efficiency im-  
5 provement targets for rules pertaining to com-  
6 mercial medium- and heavy-duty vehicles and  
7 work trucks, taking into consideration the na-  
8 tional security and economic benefits of reduced  
9 petroleum consumption and relevant factors in  
10 the manufacture and work accomplished of such  
11 vehicles.”;

12 (2) in paragraph (2)—

13 (A) by striking “Not later” and inserting  
14 the following:

15 “(A) IMPLEMENTATION.—Not later”;

16 (B) by striking “fuel economy standards”  
17 and inserting “fuel efficiency standards (taking  
18 into consideration the national security and eco-  
19 nomic benefits of reduced petroleum consump-  
20 tion)”;

21 (C) by striking “The Secretary may” and  
22 inserting the following:

23 “(B) SEPARATE STANDARDS.—The Sec-  
24 retary may”;

(D) in subparagraph (B), as designated by subparagraph (C) of this paragraph, by adding at the end the following: “Recognizing the differentiated level of technological development and data available between classes, as identified by the National Academy of Sciences report ‘Technologies and Approaches to Reducing the Fuel Consumption of Medium- and Heavy-Duty Vehicles,’ the Secretary may implement regulations for certain vehicle classes and vehicle components authorized under this subsection, as designated by the Secretary, on an accelerated basis.”; and

(E) by adding at the end the following:

“(C) APPLICABILITY; ADJUSTMENTS.—  
Standards issued under this subsection—

“(i) may apply to—

“(I) vehicle components;

“(II) whole vehicles based on 1

or more attributes; or

“(III) any combination of (I) and

(II);

“(ii) shall, subject to paragraph (3)—

“(I) be implemented for vehicles

manufactured for sale in the United

1 States during or before model year  
2 2017; and

3 “(II) allow for fuel efficiency reg-  
4 ulation of vehicle components or whole  
5 vehicles before such model year; and

6 “(iii) shall periodically, but not less  
7 frequently than every 4 model years, be ad-  
8 justed to achieve the maximum techno-  
9 logically feasible fuel efficiency improve-  
10 ments (taking into account considerations  
11 of oil import dependence) which do not  
12 materially affect vehicle safety and that  
13 are cost effective.

14 “(D) COST EFFECTIVE CRITERIA.—As  
15 used in subparagraph (C)(iii), the term ‘cost ef-  
16 fective’ shall be subject to considerations estab-  
17 lished under subsection (f) and other criteria  
18 determined by the Secretary;

19 “(E) WAIVER; NOTIFICATION; REVIEW.—  
20 The Secretary may waive adjustments to the  
21 standards issued under this subsection if the  
22 Secretary determines that any such adjustment  
23 is not necessary to achieve the maximum tech-  
24 nologically feasible fuel efficiency improvements.  
25 If such a determination is made, the Secretary

1           shall provide written notification to the Com-  
 2           mittee on Energy and Commerce of the House  
 3           of Representatives, the Committee on Com-  
 4           merce, Science, and Transportation of the Sen-  
 5           ate, and the Committee on Energy and Natural  
 6           Resources of the Senate, not later than 180  
 7           days before the day that is 4 years after the  
 8           day on which the most recent standards came  
 9           into effect. The Secretary shall review any de-  
 10          termination made under this subparagraph  
 11          every 2 years.”; and

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

13          “(4) UNIFIED REGULATORY REQUIREMENTS.—  
 14          Regulations issued pursuant to paragraph (2) shall,  
 15          to the maximum extent practicable, be established  
 16          (including through joint rulemaking), coordinated,  
 17          and implemented in conjunction with pollutant regu-  
 18          lations administered by the Environmental Protec-  
 19          tion Agency.”.

20   **SEC. 102. REVENUE NEUTRAL FUEL PERFORMANCE PRO-**  
 21                           **GRAM FOR MOTOR VEHICLES.**

22          (a) AMENDMENT OF 1986 CODE.—Except as other-  
 23          wise expressly provided, whenever in this section or section  
 24          103 an amendment or repeal is expressed in terms of an  
 25          amendment to, or repeal of, a section or other provision,

1 the reference shall be considered to be made to a section  
 2 or other provision of the Internal Revenue Code of 1986.

3 (b) **FUEL PERFORMANCE REBATE.**—Subpart B of  
 4 part IV of subchapter A of chapter 1 (relating to other  
 5 credits) is amended by inserting after section 30D the fol-  
 6 lowing new section:

7 **“SEC. 30E. FUEL PERFORMANCE REBATE.**

8 “(a) **ALLOWANCE OF CREDIT.**—

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

15 “(2) **CREDIT AMOUNT.**—With respect to each  
 16 new qualified fuel-efficient motor vehicle, the amount  
 17 determined under this paragraph shall be equal to  
 18 the product of—

19 “(A) the absolute value of the difference  
 20 between the fuel-economy rating and the ref-  
 21 erence fuel-economy rating for such motor vehi-  
 22 cle for the model year, and

23 “(B) 100, and

24 “(C) the applicable amount.

1           “(3) APPLICABLE AMOUNT.—For purposes of  
2 paragraph (2)(C), the applicable amount is equal  
3 to—

4           “(A) in the case of model year 2011—

5           “(i) \$1,000, or

6           “(ii) \$2,000, if the fuel-economy rat-  
7 ing for such motor vehicle is at least 50  
8 percent more efficient than the reference  
9 fuel-economy rating for such motor vehicle  
10 as determined under paragraph (2)(A),  
11 and

12           “(B) in the case of any succeeding model  
13 year—

14           “(i) \$1,500, or

15           “(ii) \$2,500, if the fuel-economy rat-  
16 ing for such motor vehicle is at least 50  
17 percent more efficient than the reference  
18 fuel-economy rating for such motor vehicle  
19 as determined under paragraph (2)(A), or

20           “(iii) \$3,500, if the fuel-economy rat-  
21 ing for such motor vehicle is at least 75  
22 percent more efficient than the reference  
23 fuel-economy rating for such motor vehicle  
24 as determined under paragraph (2)(A).



1       “(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VE-  
 2       HICLE.—For purposes of this section, the term ‘new quali-  
 3       fied fuel-efficient motor vehicle’ means a passenger auto-  
 4       mobile or light truck—

5               “(1) which is treated as a motor vehicle for  
 6       purposes of title II of the Clean Air Act,

7               “(2) which achieves a fuel-economy rating that  
 8       is more efficient than the reference fuel-economy  
 9       rating for such motor vehicle for the model year,

10              “(3) for which standards are prescribed pursu-  
 11       ant to section 32902 of title 49, United States Code,

12              “(4) the original use of which commences with  
 13       the taxpayer,

14              “(5) which is acquired for use or lease by the  
 15       taxpayer and not for resale,

16              “(6) the purchase price of which, less the  
 17       amount allowable under subsection (a) with respect  
 18       to such vehicle, does not exceed \$50,000, and

19              “(7) which is made by a manufacturer begin-  
 20       ning with model year 2013.

21       “(c) APPLICATION WITH OTHER CREDITS.—

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

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

5 “(2) REFUNDABLE PERSONAL CREDIT.—

6 “(A) IN GENERAL.—For purposes of this  
 7 title, the credit allowed under subsection (a) for  
 8 any taxable year (determined after application  
 9 of paragraph (1)) shall be treated as a credit  
 10 allowable under subpart C for such taxable year  
 11 (and not allowed under subsection (a)).

12 “(B) REFUNDABLE CREDIT MAY BE  
 13 TRANSFERRED.—

14 “(i) IN GENERAL.—A taxpayer may,  
 15 in connection with the purchase of a new  
 16 qualified fuel-efficient motor vehicle, trans-  
 17 fer any refundable credit described in sub-  
 18 paragraph (A) to any person who is in the  
 19 trade or business of selling new qualified  
 20 fuel-efficient motor vehicles and who sold  
 21 such vehicle to the taxpayer, but only if  
 22 such person clearly discloses to such tax-  
 23 payer, through the use of a window sticker  
 24 attached to the new qualified fuel-efficient  
 25 vehicle—

1           “(I) the amount of the refund-  
2           able credit described in subparagraph  
3           (A) with respect to such vehicle, and

4           “(II) a notification that the tax-  
5           payer will not be eligible for any cred-  
6           it under section 30, 30B, or 30D with  
7           respect to such vehicle unless the tax-  
8           payer elects not to have this section  
9           apply with respect to such vehicle.

10          “(ii) CERTIFICATION.—A transferee  
11          of a refundable credit described in sub-  
12          paragraph (A) may not claim such credit  
13          unless such claim is accompanied by a cer-  
14          tification to the Secretary that the trans-  
15          feree reduced the price the taxpayer paid  
16          for the new qualified fuel-efficient motor  
17          vehicle by the entire amount of such re-  
18          fundable credit.

19          “(iii) CONSENT REQUIRED FOR REV-  
20          OCATION.—Any transfer under clause (i)  
21          may be revoked only with the consent of  
22          the Secretary.

23          “(iv) REGULATIONS.—The Secretary  
24          may prescribe such regulations as nec-  
25          essary to ensure that any refundable credit

1                   described in clause (i) is claimed once and  
2                   not retransferred by a transferee.

3           “(d) OTHER DEFINITIONS.—For purposes of this  
4 section—

5                   “(1) FUEL-ECONOMY RATING.—The term ‘fuel-  
6 economy rating’ means, with respect to any motor  
7 vehicle, the combined fuel-economy rating for such  
8 motor vehicle, expressed in gallons per mile, deter-  
9 mined in accordance with section 32904 of title 49,  
10 United States Code.

11                   “(2) MODEL YEAR.—The term ‘model year’ has  
12 the meaning given such term under section 32901(a)  
13 of such title 49.

14                   “(3) MOTOR VEHICLE.—The term ‘motor vehi-  
15 cle’ means any vehicle which is manufactured pri-  
16 marily for use on public streets, roads, and highways  
17 (not including a vehicle operated exclusively on a rail  
18 or rails) and which has at least 4 wheels.

19                   “(4) REFERENCE FUEL-ECONOMY RATING.—  
20 The term ‘reference fuel-economy rating’ means,  
21 with respect to any motor vehicle, the fuel economy  
22 standard for such motor vehicle, expressed in gallons  
23 per mile, calculated by applying the relevant vehicle  
24 attributes to the mathematical function published

1       pursuant to section 32902(b)(3)(A) of title 49,  
2       United States Code.

3               “(5) OTHER TERMS.—The terms ‘automobile’,  
4       ‘passenger automobile’, ‘light truck’, and ‘manufac-  
5       turer’ have the meanings given such terms in regula-  
6       tions prescribed by the Administrator of the Envi-  
7       ronmental Protection Agency for purposes of the ad-  
8       ministration of title II of the Clean Air Act (42  
9       U.S.C. 7521 et seq.).

10       “(e) SPECIAL RULES.—

11               “(1) BASIS REDUCTION.—For purposes of this  
12       subtitle, the basis of any property for which a credit  
13       is allowable under subsection (a) shall be reduced by  
14       the amount of such credit so allowed (determined  
15       without regard to subsection (c)).

16               “(2) NO DOUBLE BENEFIT.—No other credit  
17       shall be allowable under this chapter for a new  
18       qualified fuel-efficient motor vehicle with respect to  
19       which a credit is allowed under this section.

20               “(3) PROPERTY USED BY TAX-EXEMPT ENTI-  
21       TY.—In the case of a vehicle whose use is described  
22       in paragraph (3) or (4) of section 50(b) and which  
23       is not subject to a lease, the person who sold such  
24       vehicle to the person or entity using such vehicle  
25       shall be treated as the taxpayer that placed such ve-

1        hicle in service, but only if such person clearly dis-  
2        closes to such person or entity in a document the  
3        amount of any credit allowable under subsection (a)  
4        with respect to such vehicle (determined without re-  
5        gard to subsection (c)). For purposes of subsection  
6        (c), property to which this paragraph applies shall  
7        be treated as of a character subject to an allowance  
8        for depreciation.

9            “(4)    PROPERTY    USED    OUTSIDE    UNITED  
10        STATES, ETC., NOT QUALIFIED.—No credit shall be  
11        allowable under subsection (a) with respect to any  
12        property referred to in section 50(b)(1) or with re-  
13        spect to the portion of the cost of any property  
14        taken into account under section 179.

15            “(5) RECAPTURE.—The Secretary shall, by reg-  
16        ulations, provide for recapturing the benefit of any  
17        credit allowable under subsection (a) with respect to  
18        any property which ceases to be property eligible for  
19        such credit (including recapture in the case of a  
20        lease period of less than the economic life of a vehi-  
21        cle).

22            “(6) ELECTION NOT TO TAKE CREDIT.—No  
23        credit shall be allowed under subsection (a) for any  
24        vehicle if the taxpayer elects to not have this section  
25        apply to such vehicle.

1           “(7) INTERACTION WITH AIR QUALITY AND  
 2           MOTOR VEHICLE SAFETY STANDARDS.—A motor ve-  
 3           hicle shall not be considered eligible for a credit  
 4           under this section unless such vehicle is in compli-  
 5           ance with—

6                   “(A) the applicable provisions of the Clean  
 7           Air Act for the applicable make and model year  
 8           of the vehicle (or applicable air quality provi-  
 9           sions of State law in the case of a State which  
 10          has adopted such provisions under a waiver  
 11          under section 209(b) of the Clean Air Act), and

12                   “(B) the motor vehicle safety provisions of  
 13          sections 30101 through 30169 of title 49,  
 14          United States Code.

15           “(8) INFLATION ADJUSTMENT.—In the case of  
 16          any model year beginning in a calendar year after  
 17          2011, each dollar amount in subsection (a)(3)(B)  
 18          shall be increased by an amount equal to—

19                   “(A) such dollar amount, multiplied by

20                   “(B) the cost-of-living adjustment deter-  
 21          mined under section 1(f)(3) for the calendar  
 22          year in which the model year begins, deter-  
 23          mined by substituting ‘2010’ for ‘1992’ in sub-  
 24          paragraph (B) thereof.

1 Any increase determined under the preceding sen-  
 2 tence shall be rounded to the nearest multiple of  
 3 \$100.

4 “(f) REGULATIONS.—

5 “(1) IN GENERAL.—Except as provided in para-  
 6 graph (2), the Secretary shall promulgate such regu-  
 7 lations as necessary to carry out the provisions of  
 8 this section.

9 “(2) COORDINATION IN PRESCRIPTION OF CER-  
 10 TAIN REGULATIONS.—The Secretary of the Treas-  
 11 ury, in coordination with the Secretary of Transpor-  
 12 tation and the Administrator of the Environmental  
 13 Protection Agency, shall prescribe such regulations  
 14 as necessary to determine whether a motor vehicle  
 15 meets the requirements to be eligible for a credit  
 16 under this section.”.

17 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
 18 IMUM TAX.—

19 (1) BUSINESS CREDIT.—Section 38(c)(4)(B) is  
 20 amended—

21 (A) by redesignating clauses (i) through  
 22 (viii) as clauses (ii) through (ix), respectively;  
 23 and

24 (B) by inserting before clause (ii) (as so  
 25 redesignated) the following new clause:



1 “(i) the credit determined under sec-  
 2 tion 30E.”.

3 (2) PERSONAL CREDIT.—

4 (A) Section 24(b)(3)(B) is amended by  
 5 striking “and 30D” and inserting “30D, and  
 6 30E”.

7 (B) Section 25(e)(1)(C)(ii) is amended by  
 8 inserting “30E,” after “30D,”.

9 (C) Section 25B(g)(2) is amended by strik-  
 10 ing “and 30D” and inserting “30D, and 30E”.

11 (D) Section 26(a)(1) is amended by strik-  
 12 ing “and 30D” and inserting “30D, and 30E”.

13 (E) Section 904(i) is amended by striking  
 14 “and 30D” and inserting “30D, and 30E”.

15 (d) DISPLAY OF CREDIT.—Section 32908(b)(1) of  
 16 title 49, United States Code, is amended—

17 (1) by redesignating subparagraphs (E) and  
 18 (F) as subparagraphs (F) and (G); and

19 (2) by inserting after subparagraph (D) the fol-  
 20 lowing new subparagraph:

21 “(E) the amount of the fuel-efficient motor  
 22 vehicle credit allowable with respect to the sale  
 23 of the automobile under section 30E of the In-  
 24 ternal Revenue Code of 1986 (26 U.S.C.  
 25 30E).”.

1 (e) CONFORMING AMENDMENTS.—

2 (1) Section 38(a) is amended—

3 (A) in paragraph (34), by striking “plus”  
4 at the end;

5 (B) in paragraph (35), by striking the pe-  
6 riod at the end and inserting “, plus”; and

7 (C) by adding at the end the following new  
8 paragraph:

9 “(36) the portion of the fuel performance re-  
10 bate to which section 30E(c)(1) applies.”.

11 (2) Section 1016(a) is amended—

12 (A) in paragraph (36), by striking “and”  
13 at the end;

14 (B) in paragraph (37), by striking the pe-  
15 riod at the end and inserting “, and”; and

16 (C) by adding at the end the following new  
17 paragraph:

18 “(38) to the extent provided in section  
19 30E(e)(1).”.

20 (3) Section 6501(m) is amended by inserting  
21 “30E(e)(6),” after “30D(e)(4),”.

22 (4) The table of section for subpart C of part  
23 IV of subchapter A of chapter 1 is amended by in-  
24 serting after the item relating to section 30D the  
25 following new item:

“Sec. 30E. Fuel performance rebate.”.

1 (f) REVENUE NEUTRALITY PROVISIONS FOR FUEL  
 2 PERFORMANCE CREDIT.—Section 4064 is amended to  
 3 read as follows:

4 **“SEC. 4064. FISCAL OFFSET PROVISIONS FOR FUEL PER-**  
 5 **FORMANCE CREDIT.**

6 “(a) IMPOSITION OF TAX.—

7 “(1) IN GENERAL.—There is hereby imposed on  
 8 the sale by the manufacturer of each fuel guzzler  
 9 motor vehicle a tax equal to the product of—

10 “(A) the absolute value of the difference  
 11 between the fuel-economy rating and the ref-  
 12 erence fuel-economy rating for such motor vehi-  
 13 cle for the model year, and

14 “(B) 100, and

15 “(C) the applicable amount.

16 “(2) APPLICABLE AMOUNT.—For purposes of  
 17 paragraph (1)(C), the applicable amount is equal  
 18 to—

19 “(A) \$1,500, or

20 “(B) \$2,500, if the fuel-economy rating for  
 21 such motor vehicle is more than 50 percent less  
 22 efficient than the reference fuel-economy rating  
 23 for such motor vehicle as determined under  
 24 paragraph (1)(A), or

1           “(C) \$3,500, if the fuel-economy rating for  
 2           such motor vehicle is more than 75 percent less  
 3           efficient than the reference fuel-economy rating  
 4           for such motor vehicle as determined under  
 5           paragraph (1)(A).

6           “(b) FUEL GUZZLER MOTOR VEHICLE.—For pur-  
 7           poses of this section—

8           “(1) IN GENERAL.—The term ‘fuel guzzler  
 9           motor vehicle’ means a passenger automobile or light  
 10          truck—

11           “(A) which is treated as a motor vehicle  
 12          for purposes of title II of the Clean Air Act,

13           “(B) which achieves a fuel-economy rating  
 14          that is less efficient than the reference fuel-  
 15          economy rating for such motor vehicle for the  
 16          model year,

17           “(C) which has a gross vehicle weight rat-  
 18          ing of not more than 8,500 pounds, and

19           “(D) which is made by a manufacturer be-  
 20          ginning with model year 2013.

21           “(2) EXCEPTION FOR EMERGENCY VEHICLES.—  
 22          The term ‘fuel guzzler motor vehicle’ does not in-  
 23          clude any vehicle sold for use and used—

24           “(A) as an ambulance or combination am-  
 25          bulance-hearse,

1                   “(B) by the United States or by a State or  
 2                   local government for police or other law en-  
 3                   forcement purposes, or

4                   “(C) for other emergency uses prescribed  
 5                   by the Secretary by regulations.

6           “(c) OTHER DEFINITIONS.—For purposes of this  
 7 section—

8                   “(1) FUEL-ECONOMY RATING.—The term ‘fuel-  
 9                   economy rating’ means, with respect to any motor  
 10                  vehicle, the combined fuel-economy rating for such  
 11                  motor vehicle, expressed in gallons per mile, deter-  
 12                  mined in accordance with section 32904 of title 49,  
 13                  United States Code.

14                  “(2) MODEL YEAR.—The term ‘model year’ has  
 15                  the meaning given such term under section 32901(a)  
 16                  of such title 49.

17                  “(3) MOTOR VEHICLE.—The term ‘motor vehi-  
 18                  cle’ means any vehicle which is manufactured pri-  
 19                  marily for use on public streets, roads, and highways  
 20                  (not including a vehicle operated exclusively on a rail  
 21                  or rails) and which has at least 4 wheels.

22                  “(4) REFERENCE FUEL-ECONOMY RATING.—  
 23                  The term ‘reference fuel-economy rating’ means,  
 24                  with respect to any motor vehicle, the fuel economy  
 25                  standard for such motor vehicle, expressed in gallons

1 per mile, calculated by applying the relevant vehicle  
 2 attributes to the mathematical function published  
 3 pursuant to section 32902(b)(3)(A) of title 49,  
 4 United States Code.

5 “(5) OTHER TERMS.—The terms ‘automobile’,  
 6 ‘passenger automobile’, ‘light truck’, and ‘manufac-  
 7 turer’ have the meanings given such terms in regula-  
 8 tions prescribed by the Administrator of the Envi-  
 9 ronmental Protection Agency for purposes of the ad-  
 10 ministration of title II of the Clean Air Act (42  
 11 U.S.C. 7521 et seq.).

12 “(d) INFLATION ADJUSTMENT.—In the case of any  
 13 model year beginning in a calendar year after 2010, each  
 14 dollar amount in subsection (a)(2) shall be increased by  
 15 an amount equal to—

16 “(1) such dollar amount, multiplied by

17 “(2) the cost-of-living adjustment determined  
 18 under section 1(f)(3) for the calendar year in which  
 19 the model year begins, determined by substituting  
 20 ‘2009’ for ‘1992’ in subparagraph (B) thereof.

21 Any increase determined under the preceding sentence  
 22 shall be rounded to the nearest multiple of \$100.”.

23 (g) CONFORMING AMENDMENTS.—

1           (1) The heading for part I of subchapter A of  
2 chapter 32 is amended by striking “**GAS**” and in-  
3 serting “**FUEL**”.

4           (2) The table of parts for subchapter A of chap-  
5 ter 32 is amended by striking “Gas” in the item re-  
6 lating to part I and inserting “Fuel”.

7           (3) The table of sections for part I of sub-  
8 chapter A of chapter 32 is amended by striking  
9 “Gas” in the item relating to section 4064 and in-  
10 serting “Fuel”.

11          (4) The heading for subsection (d) of section  
12 1016 is amended by striking “GAS GUZZLER TAX”  
13 and inserting “FUEL PERFORMANCE FEE”.

14          (5) The heading for subsection (e) of section  
15 4217 is amended by striking “GAS GUZZLER TAX”  
16 and inserting “FUEL PERFORMANCE FEE”.

17          (6) The heading for subparagraph (B) of sec-  
18 tion 4217(e)(3) is amended by striking “GAS GUZ-  
19 ZLER TAX” and inserting “FUEL PERFORMANCE  
20 FEE”.

21          (7) Section 4217(e) is amended by striking  
22 “gas guzzler tax” each place it appears and insert-  
23 ing “fuel performance fee”.

24          (h) EFFECTIVE DATE.—The amendments made by  
25 subsections (a) through (e) shall apply to property placed

1 in service after the date of the enactment of this Act. The  
 2 amendments made by subsections (f) and (g) shall apply  
 3 to sales of vehicles beginning with model year 2013.

## 4 **Subtitle B—Fuel Choice**

### 5 **SEC. 111. PRODUCTION INCENTIVES FOR RENEWABLE** 6 **FUELS.**

7 Section 942 of the Energy Policy Act of 2005 (42  
 8 U.S.C. 16251) is amended—

9 (1) in the section heading, by striking “**CELLU-**  
 10 **LOSIC BIOFUELS**” and inserting “**RENEWABLE**  
 11 **FUELS**”;

12 (2) by striking “cellulosic biofuels” each place  
 13 it appears (other than subsection (b)(1)) and insert-  
 14 ing “renewable fuels”;

15 (3) in subsection (a), by striking “biofuels”  
 16 each place it appears and inserting “renewable  
 17 fuels”;

18 (4) in subsection (b)—

19 (A) by striking paragraph (1);

20 (B) by redesignating paragraph (2) as  
 21 paragraph (1); and

22 (C) by inserting after paragraph (1) (as so  
 23 redesignated) the following:

24 “(2) RENEWABLE FUEL.—



1           “(A) IN GENERAL.—The term ‘renewable  
2           fuel’ has the meaning given the term in section  
3           211(o)(1) of the Clean Air Act (42 U.S.C.  
4           7545(o)(1)).

5           “(B) INCLUSION.—The term ‘renewable  
6           fuel’ includes algae.

7           “(C) EXCLUSION.—The term ‘renewable  
8           fuel’ does not include grain.”; and  
9           (5) in subsection (f), by inserting “for each of  
10          fiscal years 2011 through 2015” before the period at  
11          the end.

12 **SEC. 112. ENSURING THE AVAILABILITY OF DUAL FUELED**  
13 **AUTOMOBILES AND LIGHT DUTY TRUCKS.**

14          (a) IN GENERAL.—Chapter 329 of title 49, United  
15          States Code, is amended by inserting after section 32902  
16          the following:

17 **“§ 32902A. Requirement to manufacture dual fueled**  
18 **automobiles and light duty trucks**

19          “(a) IN GENERAL.—For each model year listed in the  
20          following table, each manufacturer shall ensure that the  
21          percentage of automobiles and light duty trucks manufac-  
22          tured by the manufacturer for sale in the United States  
23          that are dual fueled automobiles and light duty trucks is  
24          not less than the percentage set forth for that model year  
25          in the following table:

“Model Year	Percentage
Model years 2013 and 2014 .....	50 percent
Model year 2015 and each subsequent model year.	90 percent.

1       “(b) EXCEPTION.—Subsection (a) shall not apply to  
2 automobiles or light duty trucks that operate only on elec-  
3 tricity or other non-petroleum based energy sources.”.

4       (b) CLERICAL AMENDMENT.—The table of sections  
5 for chapter 329 of title 49, United States Code, is amend-  
6 ed by inserting after the item relating to section 32902  
7 the following:

“32902A. Requirement to manufacture dual fueled automobiles and light duty  
trucks.”.

8       (c) RULEMAKING.—Not later than 1 year after the  
9 date of the enactment of this Act, the Secretary of Trans-  
10 portation shall prescribe regulations to carry out the  
11 amendments made by this Act.

12       **TITLE II—ENERGY EFFICIENCY**  
13       **Subtitle A—National Building**  
14       **Energy Performance Standards**

15       **SEC. 201. GREATER ENERGY EFFICIENCY IN BUILDING**  
16       **CODES.**

17       (a) IN GENERAL.—Section 304 of the Energy Con-  
18 servation and Production Act (42 U.S.C. 6833) is amend-  
19 ed to read as follows:

1 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**  
 2 **CIENCY CODES.**

3 “(a) UPDATING NATIONAL MODEL BUILDING EN-  
 4 ERGY CODES.—

5 “(1) TARGETS.—

6 “(A) IN GENERAL.—The Secretary shall  
 7 support updating the national model building  
 8 energy codes and standards at least every 3  
 9 years to achieve overall energy savings, com-  
 10 pared to the 2006 IECC for residential build-  
 11 ings and ASHRAE Standard 90.1–2004 for  
 12 commercial buildings.

13 “(B) MINIMUM REQUIREMENTS.—The tar-  
 14 gets for overall energy savings shall be at least  
 15 a—

16 “(i) 30 percent reduction in energy  
 17 use relative to a comparable building con-  
 18 structed in compliance with the 2006  
 19 IECC by January 1, 2012;

20 “(ii) 30 percent reduction in energy  
 21 use relative to a comparable building con-  
 22 structed in compliance with the ASHRAE  
 23 Standard 90.1–2004 by May 1, 2012;

24 “(iii) 50 percent reduction in energy  
 25 use relative to a comparable building con-

1           structured in compliance with the 2006  
2           IECC by January 1, 2015; and

3           “(iv) 50 percent reduction in energy  
4           use relative to a comparable building con-  
5           structed in compliance with the ASHRAE  
6           Standard 90.1–2004 by January 1, 2017.

7           “(C) SPECIFIC YEARS.—

8           “(i) IN GENERAL.—Targets for spe-  
9           cific dates subsequent to the dates estab-  
10          lished under clauses (i) and (ii) of sub-  
11          paragraph (B) shall be set by the Sec-  
12          retary at least 3 years in advance of each  
13          target date, coordinated with the IECC  
14          and ASHRAE Standard 90.1 cycles, at a  
15          level of energy efficiency that is techno-  
16          logically feasible and life-cycle cost effec-  
17          tive and on a path to achieving net-zero-  
18          energy buildings.

19          “(ii) DIFFERENT TARGET YEARS.—

20          “(I) IN GENERAL.—Subject to  
21          paragraph (2)(D), not later than 3  
22          years prior to implementation of  
23          clauses (iii) and (iv) of subparagraph  
24          (B), the Secretary may set a different  
25          target date for the targets established

1 under those clauses if the Secretary  
 2 determines that a 50 percent target  
 3 cannot be met by the target date.

4 “(II) NOTICE.—Not later than  
 5 15 days prior to a determination  
 6 made under subclause (I), the Sec-  
 7 retary shall inform the Committee on  
 8 Energy and Natural Resources of the  
 9 Senate and the Committee on Energy  
 10 and Commerce of the House of Rep-  
 11 resentatives of the determination.

12 “(D) TECHNICAL ASSISTANCE TO MODEL  
 13 CODE-SETTING AND STANDARD DEVELOPMENT  
 14 ORGANIZATIONS.—

15 “(i) IN GENERAL.—The Secretary  
 16 shall, on a timely basis, provide technical  
 17 assistance to model code-setting and stand-  
 18 ard development organizations.

19 “(ii) ASSISTANCE.—The assistance  
 20 shall, to the maximum extent practicable,  
 21 include technical assistance identified by  
 22 the organizations such as for—

23 “(I) evaluating codes or stand-  
 24 ards proposals or revisions;

1 “(II) building energy analysis  
 2 and design tools;  
 3 “(III) building demonstrations;  
 4 and  
 5 “(IV) design assistance and  
 6 training.

7 “(E) AMENDMENT PROPOSALS.—The Sec-  
 8 retary shall submit codes and standards amend-  
 9 ment proposals to the model code-setting and  
 10 standards development organizations, with sup-  
 11 porting evidence, sufficient to enable the na-  
 12 tional model building energy codes and stand-  
 13 ards to meet the targets established under sub-  
 14 paragraph (B).

15 “(2) REVISION OF BUILDING ENERGY USE  
 16 STANDARDS.—

17 “(A) IN GENERAL.—If the provisions of  
 18 the IECC or ASHRAE Standard 90.1 regard-  
 19 ing building energy use are revised, the Sec-  
 20 retary shall make a determination not later  
 21 than 180 days after the date of the revision, on  
 22 whether the revision will—

23 “(i) improve energy efficiency in  
 24 buildings; and

1 “(ii) meet the targets under para-  
2 graph (1).

3 “(B) CODES OR STANDARDS NOT MEETING  
4 TARGETS.—

5 “(i) IN GENERAL.—If the Secretary  
6 makes a determination under subpara-  
7 graph (A)(ii) that a code or standard does  
8 not meet the targets established under  
9 paragraph (1), not later than 1 year after  
10 the date of the determination, the Sec-  
11 retary shall provide the model code or  
12 standard developer with proposed changes  
13 that would result in a model code or stand-  
14 ard that meets the targets.

15 “(ii) INCORPORATION OF CHANGES.—  
16 On receipt of the proposed changes, the  
17 model code or standard developer shall  
18 have an additional 180 days to incorporate  
19 the proposed changes into the model code  
20 or standard.

21 “(iii) ESTABLISHMENT BY SEC-  
22 RETARY.—If the proposed changes are not  
23 incorporated into the model code or stand-  
24 ard, the Secretary shall establish a modi-

1           fied code or standard that meets the estab-  
 2           lished targets.

3           “(iv) ADMINISTRATION.—Any code or  
 4           standard modified under this subparagraph  
 5           shall—

6                       “(I) achieve a level of energy sav-  
 7                       ings that is technologically feasible  
 8                       and life-cycle cost-effective;

9                       “(II) be based on the latest edi-  
 10                      tion of the IECC or ASHRAE Stand-  
 11                      ard 90.1, including any subsequent  
 12                      amendments, addenda, or additions,  
 13                      but may also consider other model  
 14                      codes or standards; and

15                     “(III) serve as the baseline for  
 16                     the next determination under sub-  
 17                     paragraph (A)(i).

18           “(C) CODES OR STANDARDS NOT UPDATED  
 19           FOR 3 YEARS.—

20                     “(i) IN GENERAL.—If the model code  
 21                     or standard is not revised by a target date  
 22                     under paragraph (1)(B), the Secretary  
 23                     shall, not later than 1 year after the target  
 24                     date, establish a modified code or standard



1 that meets the targets under paragraph  
2 (1)(B).

3 “(ii) REQUIREMENTS.—Any modified  
4 code or standard shall—

5 “(I) achieve a level of energy sav-  
6 ings that is technologically feasible  
7 and life-cycle cost-effective;

8 “(II) be based on the latest revi-  
9 sion of the IECC or ASHRAE Stand-  
10 ard 90.1, including any amendments  
11 or additions to the code or standard,  
12 but may also consider other model  
13 codes or standards; and

14 “(III) serve as the baseline for  
15 the next determination under sub-  
16 paragraph (A)(i).

17 “(D) ADMINISTRATION.—The Secretary  
18 shall—

19 “(i) provide an opportunity for public  
20 comment on targets, determinations, and  
21 modified codes and standards under this  
22 subsection; and

23 “(ii) publish in the Federal Register  
24 notice of targets, determinations, and

1 modified codes and standards under this  
 2 subsection.

3 “(b) ESTABLISHING MINIMUM BUILDING EFFI-  
 4 CIENCY STANDARD.—

5 “(1) DETERMINATION OF MINIMUM BUILDING  
 6 EFFICIENCY STANDARD.—

7 “(A) IN GENERAL.—If the Secretary  
 8 makes an affirmative determination or estab-  
 9 lishes a modified code or standard under para-  
 10 graph (2), the Secretary shall establish the  
 11 modified code or standard as the Minimum  
 12 Building Efficiency Standard.

13 “(B) STATE NOTIFICATION.—The Sec-  
 14 retary shall notify each State of the determina-  
 15 tion of the Minimum Building Efficiency Stand-  
 16 ard not later than 30 days after establishing or  
 17 modifying the standard.

18 “(2) INITIAL MINIMUM BUILDING EFFICIENCY  
 19 STANDARD.—As of the date of enactment of the  
 20 Practical Energy and Climate Plan Act of 2010, the  
 21 Minimum Building Efficiency Standard shall be—

22 “(A) the 2009 IECC for residential build-  
 23 ings; and

24 “(B) the ASHRAE Standard 90.1–2007  
 25 for commercial buildings.

1       “(c) STATE CERTIFICATION OF BUILDING ENERGY  
2 CODE UPDATES.—

3               “(1) REVIEW AND UPDATING OF CODES BY  
4 EACH STATE.—

5               “(A) IN GENERAL.—Not later than 2 years  
6 after the date on which the Minimum Building  
7 Efficiency Standard is established under sub-  
8 section (b), each State shall certify to the Sec-  
9 retary whether or not the State has reviewed  
10 and updated the provisions of the residential  
11 and commercial building codes of the State re-  
12 garding energy efficiency.

13               “(B) DEMONSTRATION.—For a State to be  
14 in compliance with this section, the certification  
15 under subparagraph (A) shall include a dem-  
16 onstration that the code provisions that are in  
17 effect throughout the State—

18                       “(i) meet or exceed the Minimum  
19 Building Efficiency Standard; or

20                       “(ii) achieve equivalent or greater en-  
21 ergy savings.

22       “(d) STATE CERTIFICATION OF COMPLIANCE WITH  
23 BUILDING CODES.—

24               “(1) REQUIREMENT.—

1           “(A) IN GENERAL.—Not later than 3 years  
 2           after the date of a certification under sub-  
 3           section (c), each State shall certify whether or  
 4           not the State has—

5                   “(i) achieved compliance under para-  
 6                   graph (3) with the certified State building  
 7                   energy code or the Minimum Building Effi-  
 8                   ciency Standard; or

9                   “(ii) made significant progress under  
 10                  paragraph (4) toward achieving compliance  
 11                  with the certified State building energy  
 12                  code or the Minimum Building Efficiency  
 13                  Standard.

14           “(B) REPEAT CERTIFICATIONS.—If a  
 15           State certifies progress toward achieving com-  
 16           pliance, the State shall repeat the certification  
 17           each year until the State certifies that the State  
 18           has achieved compliance.

19           “(2) MEASUREMENT OF COMPLIANCE.—A cer-  
 20           tification under paragraph (1) shall include docu-  
 21           mentation of the rate of compliance based on—

22                   “(A) independent inspections of a random  
 23                   sample of the new and renovated buildings cov-  
 24                   ered by the code in the preceding year; or

1           “(B) an alternative method that yields an  
2 accurate measure of compliance.

3           “(3) ACHIEVEMENT OF COMPLIANCE.—A State  
4 shall be considered to achieve compliance under  
5 paragraph (1) if—

6           “(A) at least 90 percent of new building  
7 space covered by the code in the preceding year  
8 substantially meets all the requirements of the  
9 code regarding energy efficiency, or achieves  
10 equivalent or greater energy savings; or

11           “(B) the estimated excess energy use of  
12 new and renovated buildings that did not meet  
13 the code in the preceding year, compared to a  
14 baseline of comparable buildings that meet the  
15 code, is not more than 5 percent of the esti-  
16 mated energy use of all new and renovated  
17 buildings covered by the code during the pre-  
18 ceding year.

19           “(4) SIGNIFICANT PROGRESS TOWARD  
20 ACHIEVEMENT OF COMPLIANCE.—

21           “(A) IN GENERAL.—For purposes of para-  
22 graph (1), a State shall be considered to have  
23 made significant progress toward achieving  
24 compliance if the State—

1           “(i) has developed and is imple-  
2           menting a plan for achieving compliance  
3           not later than 8 years after the date of en-  
4           actment of the Practical Energy and Cli-  
5           mate Plan Act of 2010, assuming contin-  
6           ued adequate funding, including active  
7           training and enforcement programs;

8           “(ii) after 1 or more years of ade-  
9           quate funding, has demonstrated progress,  
10          in conformance with the plan described in  
11          clause (i), toward compliance;

12          “(iii) after 5 or more years of ade-  
13          quate funding, meets the requirements of  
14          paragraph (3) if ‘80 percent’ is substituted  
15          for ‘90 percent’ or ‘10 percent’ is sub-  
16          stituted for ‘5 percent’; and

17          “(iv) has not had more than 8 years  
18          of adequate funding.

19          “(B) ADEQUATE FUNDING.—For purposes  
20          of this paragraph, funding shall be considered  
21          adequate if the Federal Government provides to  
22          the States at least \$50,000,000 for a fiscal year  
23          in funding and support for development and im-  
24          plementation of State building energy codes, in-  
25          cluding for training and enforcement.

1                   “(C)     TECHNICAL     ASSISTANCE     TO  
 2                   STATES.—The Secretary shall make available  
 3                   technical assistance to States to implement this  
 4                   section, including procedures and technical  
 5                   analysis for States—

6                   “(i) to demonstrate that the code pro-  
 7                   visions of the States achieve equivalent or  
 8                   greater energy savings than the Minimum  
 9                   Building Efficiency Standard;

10                  “(ii) to document the rate of compli-  
 11                  ance with a building energy code; and

12                  “(iii) to improve and implement State  
 13                  residential and commercial building energy  
 14                  efficiency codes.

15                  “(D) VOLUNTARY ADVANCED CODES AND  
 16                  STANDARDS.—

17                  “(i) IN GENERAL.—The Secretary  
 18                  shall support the development of voluntary  
 19                  advanced model codes and standards for  
 20                  residential and commercial buildings that  
 21                  achieve energy savings of at least 30 per-  
 22                  cent compared to the Minimum Building  
 23                  Efficiency Standard, for use in—

24                  “(I) building design;

1 “(II) voluntary and market  
2 transformation programs;

3 “(III) incentive criteria; and

4 “(IV) voluntary adoption by  
5 States.

6 “(ii) UPDATES.—The voluntary ad-  
7 vanced model codes and standards shall be  
8 updated at least once every 3 years.

9 “(e) COMPLIANCE.—

10 “(1) VALIDATION OF CERTIFICATION.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (B), not later than 60 days after the date  
13 of receipt of certification required by subsection  
14 (c), the Secretary shall inform the submitting  
15 State in writing of whether the Secretary vali-  
16 dates the certification and, if not validated, the  
17 reasons for not validating the certification as  
18 submitted.

19 “(B) DEFERRAL.—On the request of the  
20 State, the Secretary may defer the validation  
21 decision for an additional 90 days.

22 “(C) NONCOMPLIANCE.—Any State for  
23 which the Secretary has not accepted a certifi-  
24 cation by a deadline under subsection (c) or (d)



1           shall be considered out of compliance with this  
2           section.

3           “(2) LOCAL GOVERNMENT.—In any State that  
4           is out of compliance with this section, a local govern-  
5           ment may be considered in compliance with this sec-  
6           tion by meeting the certification requirements under  
7           subsections (c) and (d).

8           “(3) ANNUAL REPORTS BY SECRETARY.—

9           “(A) IN GENERAL.—The Secretary shall  
10          annually submit to Congress, and publish in the  
11          Federal Register, a report that describes—

12                 “(i) the status of Minimum Building  
13                 Efficiency Standards;

14                 “(ii) the status of code adoption and  
15                 compliance in the States; and

16                 “(iii) implementation of this section.

17          “(B) IMPACTS.—The report shall include  
18          estimates of impacts of past action under this  
19          section, and potential impacts of further action,  
20          on lifetime energy use by buildings and result-  
21          ing energy costs to individuals and businesses.

22          “(4) CONSIDERATION IN GRANT PROCESS.—  
23          The Secretary shall consider as a factor of any  
24          grants to be awarded by the Department to States  
25          whether or not the State has achieved compliance or

1 is making significant progress towards achieving  
 2 compliance under paragraphs (3) and (4) of sub-  
 3 section (d).

4 “(f) AVAILABILITY OF IMPLEMENTATION ASSIST-  
 5 ANCE FUNDING.—

6 “(1) IN GENERAL.—

7 “(A) REQUIREMENT.—The Secretary shall  
 8 provide implementation assistance funding to  
 9 States and local governments to implement this  
 10 section, and to improve and implement State  
 11 residential and commercial building energy effi-  
 12 ciency codes, including increasing and verifying  
 13 compliance with the codes and training of State  
 14 and local building code officials.

15 “(B) STATE ACTIONS.—In determining  
 16 whether, and in what amount, to provide imple-  
 17 mentation assistance funding under this sub-  
 18 section, the Secretary shall consider the actions  
 19 proposed by the State—

20 “(i) to implement this section;

21 “(ii) to improve and implement resi-  
 22 dential and commercial building energy ef-  
 23 ficiency codes; and

24 “(iii) to promote building energy effi-  
 25 ciency through the use of the codes.

1           “(2) ADDITIONAL FUNDING.—Additional fund-  
2           ing shall be provided under this subsection for im-  
3           plementation of a plan to achieve and document at  
4           least a 90-percent rate of compliance with residential  
5           and commercial building energy efficiency codes,  
6           based on energy performance—

7                   “(A) to a State that has adopted and is  
8           implementing, on a statewide basis—

9                           “(i) a residential building energy effi-  
10                          ciency code that meets or exceeds the re-  
11                          quirements of the 2009 IECC, or any suc-  
12                          ceeding version of that code that has re-  
13                          ceived an affirmative determination from  
14                          the Secretary under subsection  
15                          (a)(2)(A)(i); and

16                           “(ii) a commercial building energy ef-  
17                          ficiency code that meets or exceeds the re-  
18                          quirements of the ASHRAE Standard  
19                          90.1–2007, or any succeeding version of  
20                          that standard that has received an affirma-  
21                          tive determination from the Secretary  
22                          under subsection (a)(2)(A)(i); or

23                          “(B) in a State in which there is no state-  
24                          wide energy code for either residential buildings  
25                          or commercial buildings, or in which State

1 codes fail to comply with subparagraph (A), to  
 2 a local government that has adopted and is im-  
 3 plementing residential and commercial building  
 4 energy efficiency codes, as described in subpara-  
 5 graph (A).

6 “(3) TRAINING.—Of the amounts made avail-  
 7 able under this subsection, the State may use  
 8 amounts required, but not to exceed \$500,000 per  
 9 State, to train State and local building code officials  
 10 to implement and enforce codes described in para-  
 11 graph (2).

12 “(4) AUTHORIZATION OF APPROPRIATIONS.—  
 13 There are authorized to be appropriated to carry out  
 14 this subsection—

15 “(A) \$300,000,000 for each of fiscal years  
 16 2011 through 2015; and

17 “(B) such sums as are necessary for fiscal  
 18 year 2016 and each fiscal year thereafter.”.

19 (b) DEFINITION OF IECC.—Section 303 of the En-  
 20 ergy Conservation and Production Act (42 U.S.C. 6832)  
 21 is amended by adding at the end the following:

22 “(17) IECC.—The term ‘IECC’ means the  
 23 International Energy Conservation Code.”.

## 1       **Subtitle B—Federal Buildings**

### 2       **SEC. 211. ENERGY EFFICIENT FEDERAL BUILDINGS.**

3       Section 543 of the National Energy Conservation  
4 Policy Act (42 U.S.C. 8253) is amended—

5               (1) by redesignating the second subsection (f)  
6       (relating to large capital energy investments) as sub-  
7       section (g); and

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

9       “(h) ENERGY EFFICIENT FEDERAL BUILDINGS.—

10              “(1) IN GENERAL.—To the maximum extent  
11       practicable, each Federal agency shall ensure that  
12       any new Federal building is designed in a manner  
13       to enhance energy efficiency, including—

14                      “(A) by complying with paragraphs (2)  
15       and (3); and

16                      “(B) by identifying and analyzing impacts  
17       from energy usage and alternative energy  
18       sources in all environmental impact statements  
19       or similar analyses required under the National  
20       Environmental Policy Act of 1969 (42 U.S.C.  
21       4321 et seq.) for proposals covering new or ex-  
22       panded Federal facilities.

23              “(2) FIRST STAGE.—To the maximum extent  
24       practicable, each Federal agency shall ensure that

any Federal building that enters the design phase on  
or after January 1, 2012—

“(A) is designed to exceed national building performance standards;

“(B) makes appropriate use of cost-effective, innovative technologies and strategies to minimize consumption of energy, water, and materials; and

“(C) is located in accordance with a process that considers sites with convenient access to public transportation alternatives.

“(3) SECOND STAGE.—To the maximum extent practicable, each Federal agency shall ensure that any Federal building that enters the design phase on or after January 1, 2020, is designed to achieve net-zero energy use by January 1, 2030.”.

## **Subtitle C—Homes and Buildings Energy Retrofits Program**

### **SEC. 221. DEFINITIONS.**

In this subtitle:

(1) **COST.**—The term “cost” has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

1           (2) DIRECT LOAN.—The term “direct loan” has  
2           the meaning given the term in section 502 of the  
3           Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

4           (3) LOAN GUARANTEE.—The term “loan guar-  
5           antee” has the meaning given the term in section  
6           502 of the Federal Credit Reform Act of 1990 (2  
7           U.S.C. 661a).

8           (4) PROGRAM.—The term “Program” means  
9           the Homes and Buildings Energy Retrofits Program  
10          established by section 242.

11          (5) SECRETARY.—The term “Secretary” means  
12          the Secretary of Energy.

13          (6) SECURITY.—The term “security” has the  
14          meaning given the term in section 2 of the Securities  
15          Act of 1933 (15 U.S.C. 77b).

16          (7) STATE.—The term “State” means—

17                 (A) a State;

18                 (B) the District of Columbia;

19                 (C) the Commonwealth of Puerto Rico;

20                 and

21                 (D) any other territory or possession of the

22                 United States.

1 **SEC. 222. HOMES AND BUILDINGS ENERGY RETROFITS**  
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—There is established in the  
4 Department of Energy a program to be known as the  
5 Homes and Buildings Energy Retrofits Program, which  
6 shall have annual target energy efficiency retrofit rates  
7 of—

- 8 (1) 5 percent for homes; and  
9 (2) 2 percent for commercial buildings.

10 (b) ELIGIBILITY CRITERIA.—

11 (1) IN GENERAL.—In administering the Pro-  
12 gram, the Secretary shall establish eligibility criteria  
13 for applicants for financial assistance under sub-  
14 section (c) who can offer financial products and pro-  
15 grams consistent with the purposes of this subtitle.

16 (2) CRITERIA.—Criteria for applicants shall—

17 (A) take into account—

- 18 (i) expected energy savings;  
19 (ii) percentage electricity rate in-  
20 creases in areas to be served by the appli-  
21 cant that are attributable to implementa-  
22 tion of the Federal diverse energy stand-  
23 ard;  
24 (iii) the number and type of buildings  
25 that can be served by the applicant, the  
26 size of the potential market, and the scope



1 of the program (in terms of measures or  
2 technologies to be used);

3 (iv) the ability of the applicant to suc-  
4 cessfully execute the proposed program  
5 and maintain the performance of the pro-  
6 posed projects and investments;

7 (v) financial criteria, as applicable, in-  
8 cluding the ability of the applicant to raise  
9 private capital or other sources of funds  
10 for the proposed program;

11 (vi) criteria that enable the Secretary  
12 to determine sound program design, in-  
13 cluding—

14 (I) an assurance of credible en-  
15 ergy efficiency or renewable energy  
16 generation performance; and

17 (II) financial product or program  
18 design that effectively reduces barriers  
19 posed by traditional financing pro-  
20 grams;

21 (vii) such criteria, standards, guide-  
22 lines, and mechanisms as will enable the  
23 Secretary, to the maximum extent prac-  
24 ticable, to communicate to program spon-  
25 sors and originators, servicers, and sellers

1 of financial obligations the eligibility of  
2 loans for resale;

3 (viii) the ability of the applicant to re-  
4 port relevant data on program perform-  
5 ance; and

6 (ix) the ability of the applicant to use  
7 incentives or marketing techniques that are  
8 likely to result in successful market pene-  
9 tration; and

10 (B) encourage—

11 (i) use of technologies that are either  
12 well-established or new, but demonstrated  
13 to be reliable;

14 (ii) applicants that can offer building  
15 owners or lessees payment plans generally  
16 designed to permit the combination of en-  
17 ergy payments and assessments or charges  
18 from the installation or payments associ-  
19 ated with financing to be lower than the  
20 energy payments prior to installing energy  
21 efficiency measures or on-site renewable  
22 energy technologies;

23 (iii) applicants that will use repay-  
24 ment mechanisms convenient for building  
25 owners, such as tax-increment financing,

1 special tax districts, on-utility-bill repay-  
2 ment, or other mechanisms;

3 (iv) applicants that can provide con-  
4 venience for building owners by combining  
5 participation in the lending program  
6 with—

7 (I) processing for tax credits and  
8 other incentives; and

9 (II) technical assistance in select-  
10 ing and working with vendors to pro-  
11 vide energy efficiency measures or on-  
12 site renewable energy generation sys-  
13 tems;

14 (v) applicants the projects of which  
15 will use contractors that hire within a 50-  
16 mile radius of the project, or as close as is  
17 practicable;

18 (vi) applicants that will use materials  
19 and technologies manufactured in the  
20 United States;

21 (vii) partnerships with or other in-  
22 volvement of State workforce investment  
23 boards, labor organizations, community-  
24 based organizations, State-approved ap-

1                   prenticeship programs, and other job train-  
 2                   ing entities; and

3                   (viii) applicants that can provide fi-  
 4                   nancing programs or financial products  
 5                   that mitigate barriers other than the initial  
 6                   expense of installing measures or tech-  
 7                   nologies, such as unfavorable lease terms.

8                   (3) DIVERSE PORTFOLIO.—In establishing cri-  
 9                   teria and selecting applicants to receive financial as-  
 10                  sistance under subsection (c), the Secretary shall se-  
 11                  lect a portfolio of investments that reaches a diver-  
 12                  sity of building owners and lessees, including—

13                   (A) individual homeowners or lessees;

14                   (B) multifamily apartment building owners  
 15                  or lessees;

16                   (C) condominium owners associations;

17                   (D) commercial building owners or lessees,  
 18                  including multi-tenant commercial properties;

19                   (E) industrial building owners or lessees;

20                  and

21                   (F) schools, hospitals, and other buildings  
 22                  designated by the Secretary.

23                  (c) FINANCIAL ASSISTANCE.—

24                   (1) IN GENERAL.—For applicants determined  
 25                  to be eligible under criteria established under sub-

1       section (b), the Secretary may provide financial as-  
2       sistance in the form of direct loans, letters of credit,  
3       loan guarantees, insurance products, other credit en-  
4       hancements or debt instruments (including  
5       securitization or indirect credit support), or other fi-  
6       nancial products to promote the widespread deploy-  
7       ment of, and mobilize private sector support of cred-  
8       it and investment institutions for, energy efficiency  
9       measures and on-site renewable energy generation  
10      systems in buildings.

11           (2) FINANCIAL PRODUCTS.—The Secretary—

12                   (A) in cooperation with Federal, State,  
13                   local, and private sector entities, shall develop  
14                   debt instruments that provide for the aggrega-  
15                   tion of, or directly aggregate, programs for the  
16                   deployment of energy efficiency measures and  
17                   on-site renewable energy generation systems on  
18                   a scale appropriate for residential, commercial,  
19                   or industrial applications; and

20                   (B) may insure, guarantee, purchase, and  
21                   make commitments to purchase any debt in-  
22                   strument associated with the deployment of  
23                   clean energy technologies (including subordi-  
24                   nated securities) for the purpose of enhancing  
25                   the availability of private financing for the de-

1           ployment of energy efficiency measures and on-  
2           site renewable energy generation systems.

3           (3) APPLICATION REVIEW.—

4                   (A) IN GENERAL.—To the maximum ex-  
5           tent practicable and consistent with sound busi-  
6           ness practices, the Secretary shall seek to expe-  
7           dite reviews of applications for credit support  
8           under this subtitle in order to communicate to  
9           applicants in a timely manner the likelihood of  
10          support so that the applicants can seek private  
11          capital in order to receive final approval.

12                  (B) MECHANISMS.—In carrying out this  
13          paragraph, the Secretary shall consider using  
14          mechanisms such as—

15                   (i) a system for conditional pre-ap-  
16                  proval that informs applicants that final  
17                  applicants will be approved, if established  
18                  conditions are met;

19                   (ii) clear guidelines that communicate  
20                  to applicants what level of performance on  
21                  eligibility criteria will ensure approval for  
22                  credit support or resale;

23                   (iii) in the case of an applicant port-  
24                  folio of more than 300 loans or other fi-  
25                  nancial arrangement, an expedited review

1 based on statistical sampling to ensure  
2 that the loan or other financial arrange-  
3 ment meets the eligibility criteria; and

4 (iv) in the case of an applicant with a  
5 demonstrated track record with respect to  
6 successfully originating eligible loans or  
7 other financial arrangements and who  
8 meets appropriate other criteria deter-  
9 mined by the Secretary, a system for dele-  
10 gating responsibility for meeting eligibility  
11 criteria that includes appropriate protec-  
12 tions such as buy-back mechanisms in the  
13 event criteria are determined not to have  
14 been met.

15 (C) DISPOSITION OF DEBT OR INTER-  
16 EST.—The Secretary may acquire, hold, and  
17 sell or otherwise dispose of, pursuant to com-  
18 mitments or otherwise, any debt associated with  
19 the deployment of clean energy technologies or  
20 interest in the debt.

21 (D) PRICING.—

22 (i) IN GENERAL.—The Secretary may  
23 establish requirements, and impose charges  
24 or fees, which may be regarded as elements  
25 of pricing, for different classes of appli-

cants, originators, sellers, servicers, or services.

(ii) CLASSIFICATION OF APPLICANTS, ORIGINATORS, SELLERS AND SERVICERS.—For the purpose of clause (i), the Secretary may classify applicants, originators, sellers and servicers as necessary to promote transparency and liquidity and properly characterize the risk of default.

(E) SECONDARY MARKET SUPPORT.—

(i) IN GENERAL.—The Secretary may lend on the security of, and make commitments to lend on the security of, any debt that the Secretary has insured, guaranteed, issued or is authorized to purchase under this section.

(ii) AUTHORIZED ACTIONS.—On such terms and conditions as the Secretary may prescribe, the Secretary may—

(I) give security;

(II) insure;

(III) guarantee;

(IV) purchase;

(V) sell;



1 (VI) pay interest or other return;

2 and

3 (VII) issue notes, debentures,

4 bonds, or other obligations or securi-

5 ties.

6 (F) LENDING ACTIVITIES.—

7 (i) IN GENERAL.—The Secretary shall

8 determine—

9 (I) the volume of the lending ac-

10 tivities of the Program; and

11 (II) the types of loan ratios, risk

12 profiles, interest rates, maturities, and

13 charges or fees in the secondary mar-

14 ket operations of the Program.

15 (ii) OBJECTIVES.—Determinations

16 under clause (i) shall be consistent with

17 the objectives of—

18 (I) providing an attractive invest-

19 ment environment for programs that

20 install energy efficiency measures or

21 on-site renewable energy generation

22 technologies;

23 (II) making the operations of the

24 Program self-supporting over a rea-

25 sonable time frame;

1 (III) encouraging, and not crowd-  
2 ing out, reasonably priced private fi-  
3 nancing mechanisms and institutions;  
4 and

5 (IV) advancing the goals estab-  
6 lished under this subtitle.

7 (G) EXEMPT SECURITIES.—All securities  
8 issued, insured, or guaranteed by the Secretary  
9 shall, to the same extent as securities that are  
10 direct obligations of or obligations guaranteed  
11 as to principal or interest by the United States,  
12 be considered to be exempt securities within the  
13 meaning of the laws administered by the Secu-  
14 rities and Exchange Commission.

15 **SEC. 223. GENERAL PROVISIONS.**

16 (a) PERIODIC REPORTS.—Not later than 1 year after  
17 commencement of operation of the Program and at least  
18 biannually thereafter, the Secretary shall submit to the  
19 Committee on Energy and Natural Resources of the Sen-  
20 ate and the Committee on Energy and Commerce of the  
21 House of Representatives a report that includes a descrip-  
22 tion of the Program in meeting the purpose and goals es-  
23 tablished by or pursuant to this subtitle.

24 (b) AUDITS BY THE COMPTROLLER GENERAL.—

1           (1) IN GENERAL.—The programs, activities, re-  
2           ceipts, expenditures, and financial transactions of  
3           the Program shall be subject to audit by the Comp-  
4           troller General of the United States under such rules  
5           and regulations as may be prescribed by the Comp-  
6           troller General.

7           (2) ACCESS.—The representatives of the Gov-  
8           ernment Accountability Office shall—

9                   (A) have access to the personnel and to all  
10                 books, accounts, documents, records (including  
11                 electronic records), reports, files, and all other  
12                 papers, automated data, things, or property be-  
13                 longing to, under the control of, or in use by  
14                 the Program, or any agent, representative, at-  
15                 torney, advisor, or consultant retained by the  
16                 Program, and necessary to facilitate the audit;

17                 (B) be afforded full facilities for verifying  
18                 transactions with the balances or securities held  
19                 by depositories, fiscal agents, and custodians;

20                 (C) be authorized to obtain and duplicate  
21                 any such books, accounts, documents, records,  
22                 working papers, automated data and files, or  
23                 other information relevant to the audit without  
24                 cost to the Comptroller General; and

(D) have the right of access of the Comptroller General to such information pursuant to section 716(c) of title 31, United States Code.

(3) ASSISTANCE AND COST.—

(A) IN GENERAL.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—On the request of the Comptroller General, the Secretary shall reimburse the General Accountability Office for the full cost of any audit conducted by the Comptroller General under this subsection.

(ii) CREDITING.—Such reimbursements shall—

(I) be credited to the appropriation account entitled “Salaries and Expenses, Government Accountability

1 Office” at the time at which the pay-  
 2 ment is received; and

3 (II) remain available until ex-  
 4 pended.

5 **SEC. 224. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated to carry out  
 7 this subtitle \$2,000,000,000.

8 **Subtitle D—Rural Energy Savings**  
 9 **Program**

10 **SEC. 231. RURAL ENERGY SAVINGS PROGRAM.**

11 Title VI of the Farm Security and Rural Investment  
 12 Act of 2002 (7 U.S.C. 7901 note et seq.) is amended by  
 13 adding at the end the following:

14 **“SEC. 6407. RURAL ENERGY SAVINGS PROGRAM.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
 17 tity’ means—

18 “(A) any public power district, public util-  
 19 ity district, or similar entity, or any electric co-  
 20 operative described in sections 501(c)(12) or  
 21 1381(a)(2)(C) of the Internal Revenue Code of  
 22 1986, that borrowed and repaid, prepaid, or is  
 23 paying an electric loan made or guaranteed by  
 24 the Rural Utilities Service (or any predecessor  
 25 agency); or

1           “(B) any entity primarily owned or con-  
2           trolled by an entity or entities described in sub-  
3           paragraph (A).

4           “(2) ENERGY EFFICIENCY MEASURES.—The  
5           term ‘energy efficiency measures’ means, for or at  
6           property served by an eligible entity, structural im-  
7           provements and investments in cost-effective, com-  
8           mercial off-the-shelf technologies to reduce home,  
9           barn, and permanent farm structure energy use.

10          “(3) QUALIFIED CONSUMER.—The term ‘quali-  
11          fied consumer’ means a consumer served by an eligi-  
12          ble entity that has the ability to repay a loan made  
13          under subsection (c), as determined by an eligible  
14          entity.

15          “(4) SECRETARY.—The term ‘Secretary’ means  
16          the Secretary of Agriculture, acting through the  
17          Rural Utilities Service.

18          “(b) LOANS AND GRANTS TO ELIGIBLE ENTITIES.—

19               “(1) LOANS AUTHORIZED.—Subject to para-  
20               graph (2), the Secretary shall make loans to eligible  
21               entities that agree to use the loan funds to make  
22               loans to qualified consumers as described in sub-  
23               section (c) for the purpose of implementing energy  
24               efficiency measures.

1           “(2) LIST, PLAN, AND MEASUREMENT AND  
2 VERIFICATION REQUIRED.—

3           “(A) IN GENERAL.—As a condition to re-  
4 ceiving a loan or grant under this subsection,  
5 an eligible entity shall—

6           “(i) establish a list of energy effi-  
7 ciency measures that is expected to de-  
8 crease energy use or costs of qualified con-  
9 sumers;

10          “(ii) prepare an implementation plan  
11 for use of the loan funds; and

12          “(iii) provide for appropriate measure-  
13 ment and verification to ensure the effec-  
14 tiveness of the energy efficiency loans  
15 made by the eligible entity and that there  
16 is no conflict of interest in the carrying out  
17 of this section.

18          “(B) REVISION OF LIST OF ENERGY EFFI-  
19 CIENCY MEASURES.—An eligible entity may up-  
20 date the list required under subparagraph  
21 (A)(i) to account for newly available efficiency  
22 technologies, subject to the approval of the Sec-  
23 retary.

24          “(C) EXISTING ENERGY EFFICIENCY PRO-  
25 GRAMS.—An eligible entity that, on or before

1           the date of the enactment of this section or  
2           within 60 days after such date, has already es-  
3           tablished an energy efficiency program for  
4           qualified consumers may use an existing list of  
5           energy efficiency measures, implementation  
6           plan, or measurement and verification system of  
7           that program to satisfy the requirements of  
8           subparagraph (A) if the Secretary determines  
9           the list, plans, or systems are consistent with  
10          the purposes of this section.

11          “(3) NO INTEREST.—A loan under this sub-  
12          section shall bear no interest.

13          “(4) REPAYMENT.—A loan under this sub-  
14          section shall be repaid not more than 10 years from  
15          the date on which an advance on the loan is first  
16          made to the eligible entity.

17          “(5) LOAN FUND ADVANCES.—The Secretary  
18          may provide eligible entities with a schedule of not  
19          more than 10 years for advances of loan funds, ex-  
20          cept that any advance of loan funds to an eligible  
21          entity in any single year shall not exceed 50 percent  
22          of the approved loan amount.

23          “(6) JUMP-START GRANTS.—The Secretary may  
24          make grants available to eligible entities selected to  
25          receive a loan under this subsection in order to as-



1       sist an eligible entity to defray costs, including costs  
 2       of contractors for equipment and labor, except that  
 3       no eligible entity may receive a grant amount that  
 4       is greater than four percent of the loan amount.

5       “(c) LOANS TO QUALIFIED CONSUMERS.—

6               “(1) TERMS OF LOANS.—Loans made by an eli-  
 7       gible entity to qualified consumers using loan funds  
 8       provided by the Secretary under subsection (b)—

9               “(A) may bear interest, not to exceed 3  
 10       percent, to be used for purposes that include es-  
 11       tablishing a loan loss reserve and to offset per-  
 12       sonnel and program costs of eligible entities to  
 13       provide the loans;

14              “(B) shall finance energy efficiency meas-  
 15       ures for the purpose of decreasing energy usage  
 16       or costs of the qualified consumer by an  
 17       amount such that a loan term of not more than  
 18       10 years will not pose an undue financial bur-  
 19       den on the qualified consumer, as determined  
 20       by the eligible entity;

21              “(C) shall not be used to fund energy effi-  
 22       ciency measures made to personal property un-  
 23       less the personal property—

24                   “(i) is or becomes attached to real  
 25       property as a fixture; or

1 “(ii) is a manufactured home;

2 “(D) shall be repaid through charges  
3 added to the electric bill of the qualified con-  
4 sumer; and

5 “(E) shall require an energy audit by an  
6 eligible entity to determine the impact of pro-  
7 posed energy efficiency measures on the energy  
8 costs and consumption of the qualified con-  
9 sumer.

10 “(2) CONTRACTORS.—In addition to any other  
11 qualified general contractor, eligible entities may  
12 serve as general contractors.

13 “(d) MEASUREMENT AND VERIFICATION, TRAINING,  
14 AND TECHNICAL ASSISTANCE.—

15 “(1) CONTRACT AUTHORIZED.—Not later than  
16 90 days after the date of enactment of this section,  
17 the Secretary—

18 “(A) shall establish a plan for measure-  
19 ment and verification, training, and technical  
20 assistance of the program; and

21 “(B) may enter into 1 or more contracts  
22 for the purposes of—

23 “(i) providing measurement and  
24 verification activities; and

1 “(ii) developing a program to provide  
2 technical assistance and training to the  
3 employees of eligible entities to carry out  
4 this section.

5 “(2) USE OF SUBCONTRACTORS AUTHOR-  
6 IZED.—A qualified entity that enters into a contract  
7 under paragraph (1) may use subcontractors to as-  
8 sist the qualified entity in performing the contract.

9 “(e) FAST START DEMONSTRATION PROJECTS.—

10 “(1) DEMONSTRATION PROJECTS REQUIRED.—  
11 The Secretary shall enter into agreements with eligi-  
12 ble entities (or groups of eligible entities) that have  
13 energy efficiency programs described in subsection  
14 (b)(2)(C) to establish energy efficiency loan dem-  
15 onstration projects consistent with the purposes of  
16 this section.

17 “(2) EVALUATION CRITERIA.—In determining  
18 which eligible entities to award loans under this sec-  
19 tion, the Secretary shall take into consideration enti-  
20 ties that—

21 “(A) implement approaches to energy au-  
22 dits or investments in energy efficiency meas-  
23 ures that yield measurable and predictable sav-  
24 ings;

1           “(B) use measurement and verification  
2 processes to determine the effectiveness of en-  
3 ergy efficiency loans made by eligible entities;

4           “(C) include training for employees of eli-  
5 gible entities, including any contractors of such  
6 entities, to implement or oversee the activities  
7 described in subparagraphs (A) and (B);

8           “(D) provide for the participation of a ma-  
9 jority of eligible entities in a State;

10          “(E) reduce the need for generating capac-  
11 ity;

12          “(F) provide efficiency loans to—

13               “(i) not fewer than 20,000 consumers,  
14 in the case of a single eligible entity; or

15               “(ii) not fewer than 80,000 con-  
16 sumers, in the case of a group of eligible  
17 entities; and

18          “(G) serve areas where a large percentage  
19 of consumers reside—

20               “(i) in manufactured homes; or

21               “(ii) in housing units that are more  
22 than 50 years old.

23          “(3) DEADLINE FOR IMPLEMENTATION.—The  
24 agreements required by paragraph (1) shall be en-

1       tered into not later than 90 days after the date of  
2       enactment of this section.

3               “(4) EFFECT ON AVAILABILITY OF LOANS NA-  
4       TIONALLY.—Nothing in this subsection shall delay  
5       the availability of loans to eligible entities on a na-  
6       tional basis beginning not later than 180 days after  
7       the date of enactment of this section.

8               “(5) ADDITIONAL DEMONSTRATION PROJECT  
9       AUTHORITY.—

10              “(A) IN GENERAL.—The Secretary may  
11       conduct demonstration projects in addition to  
12       the project required by paragraph (1).

13              “(B) INAPPLICABILITY OF CERTAIN CRI-  
14       TERIA.—The additional demonstration projects  
15       may be carried out without regard to subpara-  
16       graphs (D), (F), or (G) of paragraph (2).

17       “(f) ADDITIONAL AUTHORITY.—The authority pro-  
18       vided in this section is in addition to any authority of the  
19       Secretary to offer loans or grants under any other law.

20       “(g) AUTHORIZATION OF APPROPRIATIONS.—

21              “(1) IN GENERAL.—There is authorized to be  
22       appropriated to the Secretary for fiscal year 2010  
23       \$993,000,000 to carry out this section, to remain  
24       available until expended.

1           “(2) AMOUNTS FOR LOANS, GRANTS, STAFF-  
 2           ING.—Of the amounts appropriated pursuant to the  
 3           authorization of appropriations in paragraph (1), the  
 4           Secretary shall make available—

5                   “(A) \$755,000,000 for the purpose of cov-  
 6           ering the cost of direct loans to eligible entities  
 7           under subsection (b) to subsidize gross obliga-  
 8           tions in the principal amount of not to exceed  
 9           \$4,900,000,000;

10                   “(B) \$27,000,000 for activities under sub-  
 11           section (d);

12                   “(C) \$200,000,000 for jump-start grants  
 13           authorized by subsection (b)(6); and

14                   “(D) \$1,100,000 for each of fiscal years  
 15           2010 through 2019 for 10 additional employees  
 16           of the Rural Utilities Service to carry out this  
 17           section.

18           “(h) EFFECTIVE PERIOD.—Subject to subsection  
 19           (h)(1) and except as otherwise provided in this section,  
 20           the loans, grants, and other expenditures required to be  
 21           made under this section are authorized to be made during  
 22           each of fiscal years 2010 through 2015.

23           “(i) REGULATIONS.—

24                   “(1) IN GENERAL.—Except as otherwise pro-  
 25           vided in this subsection, not later than 180 days

1 after the date of enactment of this section, the Sec-  
2 retary shall promulgate such regulations as are nec-  
3 essary to implement this section.

4 “(2) PROCEDURE.—The promulgation of the  
5 regulations and administration of this section shall  
6 be made without regard to—

7 “(A) chapter 35 of title 44, United States  
8 Code (commonly known as the ‘Paperwork Re-  
9 duction Act’); and

10 “(B) the Statement of Policy of the Sec-  
11 retary of Agriculture effective July 24, 1971  
12 (36 Fed. Reg. 13804), relating to notices of  
13 proposed rulemaking and public participation in  
14 rulemaking.

15 “(3) CONGRESSIONAL REVIEW OF AGENCY  
16 RULEMAKING.—In carrying out this section, the Sec-  
17 retary shall use the authority provided under section  
18 808 of title 5, United States Code.

19 “(4) INTERIM REGULATIONS.—Notwithstanding  
20 paragraphs (1) and (2), to the extent regulations are  
21 necessary to carry out any provision of this section,  
22 the Secretary shall implement such regulations  
23 through the promulgation of an interim rule.”.

## **Subtitle E—Industrial Energy Efficiency**

### **SEC. 241. STATE PARTNERSHIP INDUSTRIAL ENERGY EFFI- CIENCY REVOLVING LOAN PROGRAM.**

Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1) is amended—

(1) in the section heading, by inserting “**AND INDUSTRY**” before the period at the end;

(2) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (g) the following:

“(h) STATE PARTNERSHIP INDUSTRIAL ENERGY EFFICIENCY REVOLVING LOAN PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall provide grants to eligible lenders to pay the Federal share of creating a revolving loan program under which loans are provided to commercial and industrial manufacturers to implement commercially available technologies or processes that significantly—

“(A) reduce systems energy intensity, including the use of energy intensive feedstocks; and



1           “(B) improve the industrial competitive-  
2           ness of the United States.

3           “(2) ELIGIBLE LENDERS.—To be eligible to re-  
4           ceive cost-matched Federal funds under this sub-  
5           section, a lender shall—

6           “(A) be a community and economic devel-  
7           opment lender that the Secretary certifies meets  
8           the requirements of this subsection;

9           “(B) lead a partnership that includes par-  
10          ticipation by, at a minimum—

11           “(i) a State government agency; and

12           “(ii) a private financial institution or  
13          other provider of loan capital;

14          “(C) submit an application to the Sec-  
15          retary, and receive the approval of the Sec-  
16          retary, for cost-matched Federal funds to carry  
17          out a loan program described in paragraph (1);  
18          and

19          “(D) ensure that non-Federal funds are  
20          provided to match, on at least a dollar-for-dol-  
21          lar basis, the amount of Federal funds that are  
22          provided to carry out a revolving loan program  
23          described in paragraph (1).

1           “(3) AWARD.—The amount of cost-matched  
2       Federal funds provided to an eligible lender shall not  
3       exceed \$100,000,000 for any fiscal year.

4           “(4) RECAPTURE OF AWARDS.—

5           “(A) IN GENERAL.—An eligible lender that  
6       receives an award under paragraph (1) shall be  
7       required to repay to the Secretary an amount  
8       of cost-match Federal funds, as determined by  
9       the Secretary under subparagraph (B), if the  
10      eligible lender is unable or unwilling to operate  
11      a program described in this subsection for a pe-  
12      riod of not less than 10 years beginning on the  
13      date on which the eligible lender first receives  
14      funds made available through the award.

15          “(B) DETERMINATION BY SECRETARY.—

16      The Secretary shall determine the amount of  
17      cost-match Federal funds that an eligible lender  
18      shall be required to repay to the Secretary  
19      under subparagraph (A) based on the consider-  
20      ation by the Secretary of—

21           “(i) the amount of non-Federal funds  
22           matched by the eligible lender;

23           “(ii) the amount of loan losses in-  
24           curred by the revolving loan program de-  
25           scribed in paragraph (1); and

1 “(iii) any other appropriate factor, as  
2 determined by the Secretary.

3 “(C) USE OF RECAPTURED COST-MATCH  
4 FEDERAL FUNDS.—The Secretary may dis-  
5 tribute to eligible lenders under this subsection  
6 each amount received by the Secretary under  
7 this paragraph.

8 “(5) ELIGIBLE PROJECTS.—A program for  
9 which cost-matched Federal funds are provided  
10 under this subsection shall be designed to accelerate  
11 the implementation of industrial and commercial ap-  
12 plications of technologies or processes that—

13 “(A) improve energy efficiency;

14 “(B) enhance the industrial competitive-  
15 ness of the United States; and

16 “(C) achieve such other goals as the Sec-  
17 retary determines to be appropriate.

18 “(6) EVALUATION.—The Secretary shall, to the  
19 maximum extent practicable, evaluate applications  
20 for cost-matched Federal funds under this sub-  
21 section taking into consideration—

22 “(A) the description of the program to be  
23 carried out with the cost-matched Federal  
24 funds;

1           “(B) the commitment to provide non-Fed-  
2           eral funds in accordance with paragraph  
3           (2)(D);

4           “(C) program sustainability;

5           “(D) the capability of the applicant;

6           “(E) the quantity of energy savings or en-  
7           ergy feedstock minimization;

8           “(F) percentage electricity rate increases  
9           in areas to be served by the applicant that are  
10          attributable to implementation of the Federal  
11          diverse energy standard established under sec-  
12          tion 610 of the Public Utility Regulatory Poli-  
13          cies Act of 1978;

14          “(G) the ability to fund energy efficient  
15          projects on a timely basis after the date of the  
16          grant award; and

17          “(H) such other factors as the Secretary  
18          determines appropriate.

19          “(7) AUTHORIZATION OF APPROPRIATIONS.—

20          There is authorized to be appropriated to carry out  
21          this subsection \$500,000,000 for each of fiscal years  
22          2010 through 2014.”.

# 1           **Subtitle F—Appliance and** 2           **Equipment Efficiency Standards**

## 3   **SEC. 251. APPLIANCE AND EQUIPMENT EFFICIENCY.**

4           (a) **COVERAGE.**—Section 322(a) of the Energy Policy  
 5 and Conservation Act (42 U.S.C. 6292(a)) is amended—

6                   (1) by designating paragraph (20) as paragraph  
 7                   (21); and

8                   (2) by inserting after paragraph (19) the fol-  
 9           lowing:

10                   “(20) Computer monitors and displays.”.

11           (b) **ENERGY CONSERVATION STANDARDS.**—Section  
 12 325(l) of the Energy Policy and Conservation Act (42  
 13 U.S.C. 6295(l)) is amended—

14                   (1) by striking “paragraph (19)” each place it  
 15                   appears and inserting “paragraph (21)”;

16                   (2) in paragraph (1), in the matter preceding  
 17                   subparagraph (A), by striking “may” and inserting  
 18                   “shall”; and

19                   (3) in paragraph (3), insert “and computer  
 20                   monitors and displays” after “television sets”.

21           (c) **DEFINITION OF INDUSTRIAL EQUIPMENT.**—Sec-  
 22           tion 340(2)(B) of the Energy Policy and Conservation Act  
 23           (42 U.S.C. 6311(2)(B)) is amended—

24                   (1) in clause (xi), by striking “and” at the end;

1           (2) in clause (xii), by striking the period at the  
2           end and inserting “; and”; and

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

4                   “(xiii) other equipment.”.

5           (d) COVERED EQUIPMENT.—Section 342 of the En-  
6   ergy Policy and Conservation Act (42 U.S.C. 6313) is  
7   amended by adding at the end the following:

8           “(g) COVERED EQUIPMENT.—The Secretary shall es-  
9   tablish an energy conservation standard for each type or  
10   class of covered equipment.”.

11          (e) REPORT ON EFFICIENCY STANDARDS FOR ADDI-  
12   TIONAL CONSUMER PRODUCTS AND COMMERCIAL AND IN-  
13   DUSTRIAL EQUIPMENT.—Not later than 1 year after the  
14   date of enactment of this Act, the Secretary of Energy  
15   shall submit to the Committee on Energy and Commerce  
16   of the House of Representatives and the Committee on  
17   Energy and Natural Resources of the Senate a report that  
18   identifies—

19           (1) consumer products and commercial and in-  
20   dustrial equipment not covered by efficiency stand-  
21   ards (as of the date of enactment of this Act) that  
22   have significant national energy savings potential, as  
23   determined by the Secretary;

24           (2) levels of potential energy savings for prod-  
25   ucts and equipment identified under paragraph (1);

1           (3) which of the products and equipment identi-  
2           fied under paragraph (1) are likely, prima facie, to  
3           qualify as covered under authority of the Secretary  
4           in existence on the date of enactment of this Act,  
5           and a plan for formal review of those products and  
6           equipment under existing authority; and

7           (4) which of the products identified under para-  
8           graph (1) require additional authority for the Sec-  
9           retary to be covered.

10 **SEC. 252. FEDERAL PROCUREMENT OF ENERGY EFFICIENT**  
11 **PRODUCTS.**

12           Section 553(b) of the National Energy Conservation  
13 Policy Act (42 U.S.C. 8259b(b)) is amended—

14           (1) by striking paragraph (1) and inserting the  
15           following:

16           “(1) REQUIREMENT.—Except as provided in  
17           paragraph (2), beginning on the date of enactment  
18           of the Practical Energy and Climate Plan Act of  
19           2010, the head of an agency shall procure, for not  
20           less than 95 percent of the new contract actions,  
21           task orders, and delivery orders for products and  
22           services (other than for weapon systems) for the  
23           agency—

1           “(A) an Energy Star rated product or  
2           product with better energy efficiency than an  
3           Energy Star rated product;

4           “(B) a FEMP designated product;

5           “(C) if neither an Energy Star product nor  
6           a FEMP designated product exist, a similarly  
7           designated product, as determined by the head  
8           of the agency; or

9           “(D) a designated innovative product to  
10          enhance energy savings or production of on-site  
11          energy in furtherance of technology demonstra-  
12          tion and commercialization, as determined by  
13          the head of the agency.”; and

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

15          “(4) BEST MANAGEMENT PRACTICES.—The  
16          head of an agency shall implement best management  
17          practices for the energy-efficient management of  
18          servers and Federal data centers of the agency.”.

## 19       **TITLE III—DIVERSE DOMESTIC** 20       **POWER**

### 21       **SEC. 301. FEDERAL DIVERSE ENERGY STANDARD.**

22          (a) IN GENERAL.—Title VI of the Public Utility Reg-  
23          ulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is  
24          amended by adding at the end the following:



1 **“SEC. 610. FEDERAL DIVERSE ENERGY STANDARD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADVANCED COAL GENERATION.—The term  
4 ‘advanced coal generation’ means the generation of  
5 electricity produced from coal by a new or existing  
6 coal generating facility that captures and perma-  
7 nently sequesters, stores (including for enhanced oil  
8 recovery), or reuses (in a manner so that reuse pro-  
9 vides equivalent long-term sequestration as from se-  
10 questration or storage) at least 80 percent of green-  
11 house gases produced by the facility.

12 “(2) BASE QUANTITY OF ELECTRICITY.—

13 “(A) IN GENERAL.—The term ‘base quan-  
14 tity of electricity’ means the total quantity of  
15 electricity sold by an electric utility to electric  
16 consumers in a calendar year.

17 “(B) EXCLUSION.—The term ‘base quan-  
18 tity of electricity’ does not include electricity  
19 generated by a hydroelectric facility (but ex-  
20 cluding qualified hydropower) owned by an elec-  
21 tric utility or sold under contract or rate order  
22 to an electric utility to meet the needs of the re-  
23 tail customers of the utility.

24 “(3) DISTRIBUTED GENERATION FACILITY.—

25 The term ‘distributed generation facility’ means a  
26 facility at or near a customer site that provides elec-

1       tric energy to 1 or more customers for purposes  
 2       other than resale other than to a utility through a  
 3       net metering arrangement.

4               “(4) DIVERSE ENERGY.—The term ‘diverse en-  
 5       ergy’ means electric energy generated at a facility  
 6       (including a distributed generation facility) from—

7               “(A) advanced coal generation;

8               “(B) biomass;

9               “(C) coal mine methane;

10              “(D) end-user efficiency savings;

11              “(E) efficiency savings in power genera-  
 12       tion;

13              “(F) geothermal energy;

14              “(G) landfill and biogas;

15              “(H) marine and hydrokinetic renewable  
 16       energy (as defined in section 632 of the Energy  
 17       Independence and Security Act of 2007 (42  
 18       U.S.C. 17211));

19              “(I) qualified hydropower;

20              “(J) qualified nuclear energy;

21              “(K) solar energy;

22              “(L) waste-to-energy;

23              “(M) wind energy; and

24              “(N) any other energy source that will re-  
 25       sult in at least a 80-percent reduction in green-

1 house gas emissions compared to average emis-  
2 sions of freely emitting sources in the calendar  
3 year prior to certification of the Secretary, as  
4 determined by the Secretary through rule-  
5 making.

6 “(5) END-USER EFFICIENCY SAVINGS.—

7 “(A) IN GENERAL.—The term ‘end-user ef-  
8 ficiency savings’ means—

9 “(i) the quantity of electricity con-  
10 sumption avoided at a facility of an end-  
11 use consumer of electricity served by an  
12 electric utility that results from energy  
13 savings programs implemented by the elec-  
14 tric utility; as compared to

15 “(ii) the average electricity consump-  
16 tion during the preceding 5-year period.

17 “(B) REGULATIONS.—Not later than 180  
18 days after the date of enactment of this section,  
19 the Secretary shall issue regulations to estab-  
20 lish—

21 “(i) procedures and standards for de-  
22 fining and measuring electricity savings  
23 that will be eligible for meeting require-  
24 ments of the Federal diverse energy stand-  
25 ard established under this subsection;

1                   “(ii) procedures to exclude erroneous  
 2                   attribution of energy savings, such as sav-  
 3                   ings primarily due to factors exogenous to  
 4                   electric utility programs; and

5                   “(iii) procedures for independent mon-  
 6                   itoring and verification of energy efficiency  
 7                   savings.

8                   “(C) RETROFIT PROGRAMS.—The Sec-  
 9                   retary shall, to the maximum extent practicable,  
 10                  consider actions taken to obtain end-user effi-  
 11                  ciency savings as actions for which assistance  
 12                  may be provided under the programs estab-  
 13                  lished under sections 222 and 231 of the Prac-  
 14                  tical Energy and Climate Plan Act of 2010.

15                  “(D) MEASUREMENT, VERIFICATION, AND  
 16                  CERTIFICATION.—Efficiency improvements de-  
 17                  scribed in subparagraph (A) shall be certified  
 18                  by the Secretary and subject to measurement  
 19                  and verification procedures established under  
 20                  subparagraph (B).

21                  “(6) EFFICIENCY SAVINGS IN POWER GENERA-  
 22                  TION.—

23                  “(A) IN GENERAL.—The term ‘energy sav-  
 24                  ings in power generation’ means the quantity of  
 25                  electricity generated for sale at an existing fos-

1 sil fuel generation facility that is greater than  
2 the average quantity of electricity generated at  
3 the facility during the preceding 5-year period  
4 that is attributable to permanent efficiency im-  
5 provements (such as the increment of electricity  
6 output of permanent facility upgrades to im-  
7 prove heat rate and resulting from a new com-  
8 bined heat and power system that is attrib-  
9 utable to the facility improvements) made on or  
10 after the date of enactment of this section, if  
11 there is no increase in greenhouse gas emissions  
12 associated with the operation of the efficiency  
13 improvements as compared to the average  
14 greenhouse gas emissions during the preceding  
15 3-year period.

16 “(B) MEASUREMENT AND CERTIFI-  
17 CATION.—Efficiency improvements described in  
18 subparagraph (A) shall be certified by the Sec-  
19 retary or the Commission.

20 “(7) QUALIFIED HYDROPOWER.—

21 “(A) IN GENERAL.—The term ‘qualified  
22 hydropower’ means—

23 “(i) additional energy generated as a  
24 result of permanent efficiency improve-  
25 ments or capacity additions made during

1 the preceding 3-year period beginning on  
 2 or after the date of enactment of this sec-  
 3 tion;

4 “(ii) additions of capacity made to ex-  
 5 isting nonhydroelectric dams; and

6 “(iii) new hydroelectric dams.

7 “(B) EXCLUSION.—The term ‘qualified hy-  
 8 dropower’ does not include additional energy  
 9 generated as a result of operational changes not  
 10 directly associated with efficiency improvements  
 11 or capacity additions.

12 “(C) MEASUREMENT AND CERTIFI-  
 13 CATION.—Efficiency improvements and capacity  
 14 additions described in subparagraph (A) shall  
 15 be—

16 “(i) in the case of existing hydro-  
 17 electric facilities, measured on the basis of  
 18 the same water flow information used to  
 19 determine a historic average annual gen-  
 20 eration baseline; and

21 “(ii) in the case of existing hydro-  
 22 electric and nonhydroelectric facilities, cer-  
 23 tified by the Secretary or the Commission.

24 “(8) QUALIFIED NUCLEAR ENERGY.—The term  
 25 ‘qualified nuclear energy’ means energy from a nu-

clear generating unit placed in service on or after  
the date of enactment of this section.

“(b) DIVERSE ENERGY REQUIREMENT.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), each electric utility that sells electricity to electric consumers for a purpose other than resale shall obtain a percentage of the base quantity of electricity the electric utility sells to electric consumers in any calendar year from diverse energy.

“(B) PERCENTAGE.—Except as provided in section 611, the percentage obtained in a calendar year under subparagraph (A) shall not be less than the amount specified in the following table:

“Calendar year:	Minimum annual percentage:
2015 through 2019 .....	15
2020 through 2024 .....	20
2025 through 2029 .....	25
2030 through 2049 .....	30
2050 .....	50.

“(C) INTERIM REPORTS.—The Secretary shall make periodic interim reports on deployment of diverse energy sources, including recommendations to utilities.

1           “(2) MEANS OF COMPLIANCE.—An electric util-  
 2       ity shall meet the requirements of paragraph (1)  
 3       by—

4                   “(A) submitting to the Secretary diverse  
 5       energy credits issued under subsection (c);

6                   “(B) making alternative compliance pay-  
 7       ments to the Secretary at a rate determined by  
 8       the Secretary but not less than 5.0 cents per  
 9       kilowatt hour (as adjusted for inflation under  
 10      subsection (f)) if the electric utility does not  
 11      elect to petition the Secretary to waive the re-  
 12      quirements under subsection (d)(3)(C); or

13                   “(C) a combination of activities described  
 14      in subparagraphs (A) and (B).

15           “(3) PHASE-IN.—The Secretary shall prescribe,  
 16      by regulation, a reasonable phase-in of the require-  
 17      ments of paragraph (1) as the requirements apply to  
 18      an electric utility that becomes subject to this sec-  
 19      tion on or after January 1, 2013.

20           “(c) FEDERAL DIVERSE ENERGY CREDIT TRADING  
 21      PROGRAM.—

22                   “(1) IN GENERAL.—Not later than January 1,  
 23      2011, the Secretary shall establish a Federal diverse  
 24      energy credit trading program under which electric  
 25      utilities shall submit to the Secretary Federal di-



1       verse energy credits to certify the compliance of the  
2       electric utilities with subsection (b)(1).

3               “(2) ADMINISTRATION.—As part of the pro-  
4       gram, the Secretary shall—

5                       “(A) issue diverse energy credits to genera-  
6       tors of electric energy from diverse energy;

7                       “(B) to the extent that diverse sources of  
8       electricity are used in combination with other  
9       sources of energy, issue credits only to the ex-  
10      tent that the electricity generated is from di-  
11      verse energy resources;

12                      “(C) issue diverse energy credits to electric  
13      utilities associated with substantially similar  
14      State diverse energy standard compliance mech-  
15      anisms pursuant to subsection (g);

16                      “(D) ensure that a kilowatt hour, including  
17      the associated diverse energy credit shall be  
18      used only once for purposes of compliance with  
19      this Act;

20                      “(E) ensure that, with respect to a pur-  
21      chaser that, as of the date of enactment of this  
22      section, has a purchase agreement from a di-  
23      verse energy facility placed in service before  
24      that date, the credit associated with the genera-  
25      tion of diverse energy under the contract is

1 issued to the purchaser of the electric energy to  
2 the extent that the contract does not already  
3 provide for the allocation of the Federal credit;  
4 and

5 “(F) during any of calendar years 2015  
6 through 2029, issue credits per kilowatt hour  
7 for demonstration coal generation of electricity  
8 produced from coal by a new or existing coal  
9 generating facility that captures and perma-  
10 nently sequesters, stores, or reuses at least 65  
11 percent of greenhouse gases produced by the fa-  
12 cility, which shall be equal to the product ob-  
13 tained by multiplying—

14 “(i) the kilowatt hours of electricity  
15 generated by a facility and supplied to the  
16 grid during the prior year; by

17 “(ii) during the same year, the ratio  
18 of—

19 “(I) the quantity of carbon diox-  
20 ide captured from the facility and se-  
21 questered; bears to

22 “(II) the sum of—

23 “(aa) the quantity of carbon  
24 dioxide captured from the facility  
25 and sequestered; and

1 “(bb) the quantity of carbon  
2 dioxide emitted from the facility.

3 “(G) TEMPORARY WAIVER.—Subject to ap-  
4 proval by the Secretary, grant deferrals for a  
5 maximum of 3 years for submission of diverse  
6 energy credits to comply with subsection (b)  
7 upon approval of a plan—

8 “(i) submitted by the Governor of a  
9 State that demonstrates a State program  
10 will achieve equivalent levels of diverse en-  
11 ergy deployment and usage by the end of  
12 the deferral period; or

13 “(ii) submitted by a utility that dem-  
14 onstrates, as a consequence of having fa-  
15 cilities under construction at the time the  
16 plan is submitted, will achieve required lev-  
17 els of diverse energy deployment by the  
18 end of the deferral period.

19 “(3) CREDIT TRADING.—

20 “(A) IN GENERAL.—Subject to subpara-  
21 graph (B), an electric utility that holds clean  
22 diverse credits in excess of the quantity of cred-  
23 its needed to comply with subsection (b) may  
24 transfer or sell the credits to another electric

1 utility in the same utility holding company sys-  
 2 tem or another electric utility.

3 “(B) LIMITATIONS.—

4 “(i) END-USER ENERGY SAVINGS.—  
 5 Credits issued for end-user energy savings  
 6 may not be transferred or sold outside the  
 7 State in which qualified electricity savings  
 8 occur.

9 “(ii) EFFICIENCY SAVINGS IN POWER  
 10 GENERATION.—Credits issued for effi-  
 11 ciency savings in power generation may not  
 12 be transferred or sold outside the State in  
 13 which the electricity is generated or the  
 14 State in which the electricity is sold.

15 “(iii) INTRASTATE TRADING.—Noth-  
 16 ing in this subparagraph prohibits the  
 17 trading or sale of credits within the juris-  
 18 diction of a State.

19 “(4) DELEGATION OF MARKET FUNCTION.—

20 “(A) IN GENERAL.—The Secretary may  
 21 delegate to—

22 “(i) an appropriate market-making  
 23 entity the administration of a national di-  
 24 verse energy credit market for purposes of  
 25 creating a transparent national market for

1 the sale or trade of diverse energy credits;  
2 and

3 “(ii) regional entities the tracking of  
4 dispatch of diverse energy generation.

5 “(B) ADMINISTRATION.—Any delegation  
6 under subparagraph (A) shall ensure that the  
7 tracking and reporting of information con-  
8 cerning the dispatch of diverse energy genera-  
9 tion is transparent, verifiable, and independent  
10 of any generation or load interests with obliga-  
11 tions under this section.

12 “(d) ENFORCEMENT.—

13 “(1) CIVIL PENALTIES.—Any electric utility  
14 that fails to meet the requirements of subsection (b)  
15 shall be subject to a civil penalty.

16 “(2) AMOUNT OF PENALTY.—The amount of  
17 the civil penalty shall be equal to the product ob-  
18 tained by multiplying—

19 “(A) the number of kilowatt-hours of elec-  
20 tric energy sold to electric consumers in viola-  
21 tion of subsection (b); by

22 “(B) 200 percent of the value of the alter-  
23 native compliance payment, as adjusted for in-  
24 flation under subsection (f).

25 “(3) MITIGATION OR WAIVER.—

1 “(A) PENALTY.—

2 “(i) IN GENERAL.—The Secretary  
3 may mitigate or waive a civil penalty under  
4 this subsection if the electric utility is un-  
5 able to comply with subsection (b) due to  
6 a reason outside of the reasonable control  
7 of the electric utility.

8 “(ii) AMOUNT.—The Secretary shall  
9 reduce the amount of any penalty deter-  
10 mined under paragraph (2) by the amount  
11 paid by the electric utility to a State for  
12 failure to comply with the requirement of  
13 a State clean or renewable energy program  
14 if the State requirement is greater than  
15 the applicable requirement of subsection  
16 (b).

17 “(B) REQUIREMENT.—The Secretary may  
18 waive the requirements of subsection (b) for a  
19 period of up to 5 years with respect to an elec-  
20 tric utility if the Secretary determines that the  
21 electric utility cannot meet the requirements  
22 due to a hurricane, tornado, fire, flood, earth-  
23 quake, ice storm, or other natural disaster or  
24 act of God beyond the reasonable control of the  
25 utility.

1           “(4) PROCEDURE FOR ASSESSING PENALTY.—

2           The Secretary shall assess a civil penalty under this  
3           subsection in accordance with the procedures pre-  
4           scribed by section 333(d) of the Energy Policy and  
5           Conservation Act (42 U.S.C. 6303(d)).

6           “(e) ALTERNATIVE COMPLIANCE PAYMENTS.—

7           “(1) IN GENERAL.—An electric utility may sat-  
8           isfy the requirements of subsection (b), in whole or  
9           in part, by submitting in accordance with this sub-  
10          section, in lieu of each Federal diverse energy credit  
11          or megawatt hour of demonstrated total annual elec-  
12          tricity savings that would otherwise be due, a pay-  
13          ment equal to the amount required under subsection  
14          (b) in accordance with such regulations as the Sec-  
15          retary may promulgate.

16          “(2) PAYMENT TO STATE FUNDS.—Payments  
17          made under this subsection shall be made directly to  
18          the State in which the electric utility is located, if  
19          the payments are deposited directly into a fund with-  
20          in the treasury of the State for use in accordance  
21          with paragraph (3).

22          “(3) USE OF GRANTS.—The Governor of any  
23          State may expend amounts in a State diverse energy  
24          escrow account solely for purposes of—

1           “(A) increasing the quantity of electric en-  
2           ergy produced from a diverse energy source in  
3           the State; and

4           “(B) offsetting the costs of carrying out  
5           this section paid by electric consumers in the  
6           State through energy efficiency investments.

7           “(4) INFORMATION AND REPORTS.—As a condi-  
8           tion of providing payments to a State under this  
9           subsection, the Secretary may require the Governor  
10          to keep such accounts or records, and furnish such  
11          information and reports, as the Secretary determines  
12          are necessary and appropriate for determining com-  
13          pliance with this subsection.

14          “(f) INFLATION ADJUSTMENT.—Not later than De-  
15          cember 31 of each year beginning in 2011, the Secretary  
16          shall adjust for inflation the rate of the alternative compli-  
17          ance payment under subsection (b)(2)(B).

18          “(g) STATE PROGRAMS.—

19                 “(1) IN GENERAL.—Subject to paragraph (2),  
20          nothing in this section diminishes any authority of  
21          a State or political subdivision of a State to adopt  
22          or enforce any law or regulation respecting diverse  
23          energy or energy efficiency, or the regulation of elec-  
24          tric utilities.



1           “(2) COMPLIANCE.—Except as provided in sub-  
 2           section (d)(3), no such law or regulation shall relieve  
 3           any person of any requirement otherwise applicable  
 4           under this section.

5           “(3) COORDINATION.—The Secretary, in con-  
 6           sultation with States having such diverse energy pro-  
 7           grams, shall, to the maximum extent practicable, fa-  
 8           cilitate coordination between the Federal program  
 9           and State programs.

10          “(4) REGULATIONS.—

11               “(A) IN GENERAL.—The Secretary, in con-  
 12               sultation with States, shall promulgate regula-  
 13               tions to ensure that an electric utility that is  
 14               subject to the requirements of this section and  
 15               is subject to a State renewable energy or di-  
 16               verse energy standard receives diverse energy  
 17               credits if—

18                       “(i) the electric utility complies with  
 19                       the State standard by generating or pur-  
 20                       chasing diverse energy or renewable energy  
 21                       certificates or credits representing diverse  
 22                       energy; or

23                       “(ii) the State imposes or allows other  
 24                       mechanisms for achieving the State stand-

1           ard, including the payment of taxes, fees,  
2           surcharges, or other financial obligations.

3           “(B) AMOUNT OF CREDITS.—The amount  
4           of credits received by an electric utility under  
5           this subsection shall equal—

6                   “(i) in the case of subparagraph  
7                   (A)(i), the quantity of diverse energy re-  
8                   sulting from the generation or purchase by  
9                   the electric utility of diverse energy; and

10                   “(ii) in the case of subparagraph  
11                   (A)(ii), the pro rata share of the electric  
12                   utility, based on the contributions to the  
13                   mechanism made by the electric utility or  
14                   customers of the electric utility, in the  
15                   State, of the quantity of diverse energy re-  
16                   sulting from those mechanisms.

17           “(C) PROHIBITION ON DOUBLE COUNT-  
18           ING.—The regulations promulgated under this  
19           paragraph shall ensure that a kilowatt-hour as-  
20           sociated with a diverse energy credit issued pur-  
21           suant to this subsection shall not be used for  
22           compliance with this section more than once.

23           “(h) RECONSIDERATION.—Not later than January  
24           15, 2017, and every 5 years thereafter, the Secretary shall

1 review and make recommendations to Congress on the  
2 program established under this section.

3 “(i) REGULATIONS.—Not later than 1 year after the  
4 date of enactment of this section, the Secretary shall pro-  
5 mulgate regulations implementing this section.

6 “(j) TERMINATION OF AUTHORITY.—This section  
7 and the authority provided by this section terminate on  
8 December 31, 2051.”.

9 (b) TABLE OF CONTENTS AMENDMENT.—The table  
10 of contents of the Public Utility Regulatory Policies Act  
11 of 1978 (16 U.S.C. prec. 2601) is amended by adding at  
12 the end of the items relating to title VI the following:

“Sec. 610. Federal diverse energy standard.”.

13 **SEC. 302. FOSSIL FUEL GENERATING FACILITY RETIRE-**  
14 **MENT PROGRAM.**

15 (a) IN GENERAL.—The Administrator of the Envi-  
16 ronmental Protection Agency (referred to in this section  
17 as the “Administrator”), in consultation with the Sec-  
18 retary of Energy, shall establish an incentive program to  
19 permanently retire conventional coal plants with the larg-  
20 est pollution-related liabilities.

21 (b) RETIREMENT AGREEMENT.—

22 (1) IN GENERAL.—Any electric generating unit  
23 that voluntarily enters into a binding retirement  
24 agreement with the Administrator to permanently  
25 retire the unit not later than December 31, 2018,

1 shall be eligible for regulatory relief described in  
2 subsection (c).

3 (2) REQUIREMENTS.—The Administrator shall  
4 establish such requirements as are necessary to en-  
5 sure that a retirement agreement described in para-  
6 graph (1) establishes a legally binding requirement  
7 that the electric generating unit subject to the agree-  
8 ment does not operate after January 1, 2019.

9 (3) PROHIBITIONS.—It shall be unlawful for  
10 any person to operate an electric generating unit  
11 subject to a retirement agreement under this sec-  
12 tion—

13 (A) after January 1, 2019; or

14 (B) in excess of the average annual elec-  
15 trical production of the electric generating unit  
16 during the 3-year period ending on the date of  
17 enactment of this Act.

18 (4) WAIVER.—The Administrator may tempo-  
19 rarily waive any provision of this subsection if the  
20 Administrator determines that national or regional  
21 energy disruptions will occur if a waiver is not pro-  
22 vided.

23 (c) REGULATORY RELIEF.—The early retirement in-  
24 centive program established under this section shall au-

1 authorize an alternative compliance mechanism for any regu-  
2 lation of electric generating units pursuant to—

3 (1) new source review requirements under the  
4 Clean Air Act (42 U.S.C. 7401 et seq.);

5 (2) existing unit performance standards for  
6 greenhouse gas emissions under section 111(d) of  
7 the Clean Air Act (42 U.S.C. 7411(d));

8 (3) regulation of hazardous air pollutants under  
9 section 112 of the Clean Air Act (42 U.S.C. 7412);

10 (4) the final rule entitled “Regional Haze Regu-  
11 lations and Guidelines for Best Available Retrofit  
12 Technology (BART) Determinations” (70 Fed. Reg.  
13 39104 (July 6, 2005));

14 (5) regulation of coal combustion waste water  
15 discharges from thermal generating units under title  
16 III of the Federal Water Pollution Control Act (33  
17 U.S.C. 1311 et seq.); and

18 (6) regulation of cooling water intake structures  
19 under section 316(b) of the Federal Water Pollution  
20 Control Act (33 U.S.C. 1326(b)).

21 **SEC. 303. FUNDING FOR LOAN GUARANTEES FOR AD-**  
22 **VANCED NUCLEAR ENERGY FACILITIES.**

23 (a) IN GENERAL.—Section 1704 of the Energy Policy  
24 Act of 2005 (42 U.S.C. 16514) is amended—

1 (1) in the section heading, by striking “**AU-**  
 2 **THORIZATION OF APPROPRIATIONS**” and insert-  
 3 ing “**FUNDING**”;

4 (2) in subsection (a), in the subsection heading,  
 5 by striking “IN GENERAL” and inserting “AUTHOR-  
 6 IZATION OF APPROPRIATIONS”; and

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

8 “(c) FUNDING FOR LOAN GUARANTEES FOR AD-  
 9 VANCED NUCLEAR ENERGY FACILITIES.—

10 “(1) IN GENERAL.—On October 1, 2010, out of  
 11 any funds in the Treasury not otherwise appro-  
 12 priated, the Secretary of the Treasury shall transfer  
 13 to the Secretary for the cost of loan guarantees to  
 14 promote the development of advanced nuclear energy  
 15 facilities described in section 1703(b)(4)  
 16 \$360,000,000, to remain available until expended.

17 “(2) ADDITIONALITY.—Funds provided under  
 18 this subsection are in addition to authorities pro-  
 19 vided in any other Act.

20 “(3) RECEIPT AND ACCEPTANCE.—The Sec-  
 21 retary shall be entitled to receive, shall accept, and  
 22 shall use for the cost of the loan guarantees de-  
 23 scribed in paragraph (1) the funds transferred under  
 24 that paragraph, without further appropriation.”.

1 (b) CONFORMING AMENDMENT.—The table of con-  
 2 tents in section 1(b) of the Energy Policy Act of 2005  
 3 (Public Law 109–58; 119 Stat. 594) is amended by strik-  
 4 ing the item relating to section 1704 and inserting the  
 5 following:

“Sec. 1704. Funding.”.

6 **TITLE IV—MEASUREMENT AND**  
 7 **REVIEW OF ENERGY AND CLI-**  
 8 **MATE PROGRAMS**

9 **SEC. 401. MEASUREMENT AND REVIEW OF ENERGY AND**  
 10 **CLIMATE CHANGE PROGRAMS.**

11 (a) IN GENERAL.—Not later than 90 days after the  
 12 date of enactment of this Act, the Secretary of Energy,  
 13 in consultation with the Administrator of the Environ-  
 14 mental Protection Agency and the Secretary of Transpor-  
 15 tation, shall submit to the appropriate committees of Con-  
 16 gress a list of Federal programs for which the Comptroller  
 17 General of the United States shall carry out a study that  
 18 monitors the progress of the programs in meeting the en-  
 19 ergy security and greenhouse gas reduction goals under  
 20 this Act.

21 (b) STUDY.—

22 (1) IN GENERAL.—Not later than 2 years after  
 23 the date of enactment of this Act and every 2 years  
 24 thereafter, the Comptroller General of the United  
 25 States shall—

1 (A) carry out a study that monitors the  
2 progress of the programs described in sub-  
3 section (a); and

4 (B) submit to the appropriate committees  
5 of Congress a report containing the findings of  
6 the study carried out under this subsection.

7 (2) CONTENTS.—A study and report carried  
8 out under paragraph (1) shall include—

9 (A) an examination of the effects the pro-  
10 grams described in subsection (a) have had  
11 on—

12 (i) the consumption, production, and  
13 import of oil and petroleum products;

14 (ii) national energy production and  
15 demand;

16 (iii) greenhouse gas emissions; and

17 (iv) the advancement and deployment  
18 of technology; and

19 (B) any recommendations of the Comp-  
20 troller General on improving the performance of  
21 the programs.

○