

safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4137) entitled "An Act to amend and extend the Higher Education Act of 1965, and for other purposes."

The SPEAKER pro tempore. The committee will resume its sitting.

#### MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2009

The committee resumed its sitting.

Mr. MCCARTHY of California. Mr. Chairman, I move to strike the last word.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. MCCARTHY of California. I rise today to enter into a colloquy with my colleagues, the chairman of the Military Construction Subcommittee, Mr. EDWARDS, and Ranking Member WAMP, about an issue of significant importance to my constituents in Ridgecrest, California.

China Lake, the large naval installation in Ridgecrest, was slated to become the Navy's Center of Excellence for weapons development as part of the 2005 round of Base Realignment and Closure. This news confirmed what those of us familiar with China Lake have always known; China Lake's location, access to airspace, 350 days of flying a year and exceptional personnel make it an excellent place for the military to develop the tools for the men and women serving on the front line.

Unfortunately, since the recommendation was made, I have had concerns that it is not being implemented as consistently with the original recommendation as it should be. I am concerned that the number of jobs slated to move and overall construction plan has decreased more than would be expected.

For these reasons, I come to the floor today to ask the chairman that he work with me to ensure that Congress continues its oversight of the BRAC implementation process.

I would yield to the subcommittee chairman.

Mr. EDWARDS of Texas. I want to thank Mr. MCCARTHY for mentioning this issue. I was one of those several years ago who raised serious questions about whether BRAC was adequately funded or not. We were told it was. It turns out construction costs have skyrocketed in fact above original estimates.

I would look forward to working with the gentleman to see that our subcommittee, working with Mr. WAMP in good faith, exercises the oversight that we have a responsibility to carry out to see that BRAC dollars are spent, spent wisely, spent efficiently, and that we

do everything humanly possible to keep the BRAC process on time.

Mr. WAMP. If the gentleman will yield, I thank the gentleman from California for raising this issue before the House tonight. As the gentleman has seen firsthand, dealing with this multiyear, multibillion-dollar BRAC process, some of the business plans that were initially adopted have changed. He is doing everything he can to make sure that the Department of Defense sticks as close as possible to those plans. I join Chairman EDWARDS and commit to working to ensure that we conduct proper oversight of the BRAC process.

I want to thank the chairman for this commitment to fully fund the BRAC process, which was a major point of discussion throughout our 100 hours and 19 hearings this year, to make sure BRAC is fully funded on time.

I am grateful the gentleman from California has taken this initiative tonight.

Mr. MCCARTHY of California. I want to thank Chairman EDWARDS and Ranking Member WAMP for their leadership on this issue, and I yield back the balance of my time.

AMENDMENT NO. 24 OFFERED BY MR. BISHOP OF UTAH

Mr. BISHOP of Utah. Mr. Chairman, I would ask unanimous consent to offer the amendment of Mr. BOEHNER, the minority leader, at this point in the reading.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Utah?

Mr. OBEY. Reserving the right to object, Mr. Chairman, it is 9:15 at night. We don't know how long it is going to take us to complete this bill tonight. And what we are being asked to do, as I understand it, is to give unanimous consent so that the gentleman may be able to offer an amendment which he otherwise would not be able to offer because we have already moved past that point in the bill. That is my understanding.

Mr. BISHOP of Utah. Would the gentleman yield to a question?

Mr. OBEY. Go ahead.

Mr. BISHOP of Utah. It was our understanding as I was waiting for the proper time to offer this amendment that the body would take the two colloquies first, and then we would have the opportunity of presenting this in this form. So I think actually going through this form in the long run was probably more timesaving than doing other kinds of actions if this was not allowed.

Mr. OBEY. Mr. Chairman, continuing under my reservation, I am not interested in the reason why the gentleman's request is tardy. I simply want to repeat, it is my understanding that what the gentleman is asking us to do is to allow him to offer an amendment which we have already passed in the reading of the bill.

I will not object to that request, provided we have certain understandings

about how long we are going to drone on on these issues. Since this is already a non-germane amendment, I want to make sure I understand what the full request is going to be.

My understanding is that Mr. BURGESS also has an amendment which he wants to offer which has also been passed in the reading; is that correct?

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Mr. BISHOP of Utah. I don't know that one.

The Acting CHAIRMAN. I believe the gentleman is correct.

Mr. OBEY. If that is the correct understanding, then I simply want to make certain that if we grant this request, that there will be only one speaker on that side on the subject of the amendment that the gentleman from Utah wants to offer and one speaker on that side of the aisle on the amendment that Mr. BURGESS desires to offer.

Mr. BISHOP of Utah. If the gentleman will yield on that issue? That was always our intent. I think I am enough.

Mr. OBEY. But is that the understanding?

Mr. BISHOP of Utah. That is my understanding.

Mr. WAMP. If the chairman would yield.

Mr. OBEY. I will be happy to yield.

Mr. WAMP. I just want to say, in all fairness, Mr. Chairman, the Chair allowed the reader to read past this point with people on their feet for the colloquy, with an understanding on both sides that the colloquy would go first and then we would start this point in the bill.

The reading was an accidental reading, not that someone wasn't here ready to offer the amendments. Mr. BURGESS was sitting right here. And points of order are going to be raised against both. So, with all due respect, Mr. Chairman, if we can get on with it, we will dispose of it quickly.

Mr. OBEY. If I can take back the time. I know Mr. BURGESS was here. I saw him sitting here for a considerable length of time, and I am not trying to pin a tail on anybody. My point is simply that this has not been a day noted for its courtesy across the aisle. And I am perfectly willing to grant courtesy, provided that we have a clear understanding that the House is not going to be abused, in terms of its time, in the process.

With that, Mr. Chairman, I withdraw my reservation.

The Acting CHAIRMAN. Without objection, the gentleman from Utah is the designee of the gentleman from Ohio and may offer his amendment at this time.

There was no objection.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. BISHOP of Utah:

Before title I, insert the following:

### **DIVISION A**

At the end of the bill, before the short title, insert the following:

### **DIVISION B**

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

(a) **SHORT TITLE.**—This division may be cited as the “American Energy Act”.

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

Sec. 1. Short title; table of contents.

#### **TITLE I—AMERICAN ENERGY**

##### **Subtitle A—OCS**

- Sec. 101. Short title.
- Sec. 102. Policy.
- Sec. 103. Definitions under the Submerged Lands Act.
- Sec. 104. Seaward boundaries of States.
- Sec. 105. Exceptions from confirmation and establishment of States’ title, power, and rights.
- Sec. 106. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 107. Determination of adjacent zones and planning areas.
- Sec. 108. Administration of leasing.
- Sec. 109. Grant of leases by Secretary.
- Sec. 110. Disposition of receipts.
- Sec. 111. Reservation of lands and rights.
- Sec. 112. Outer Continental Shelf leasing program.
- Sec. 113. Coordination with adjacent States.
- Sec. 114. Environmental studies.
- Sec. 115. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.
- Sec. 116. Outer Continental Shelf incompatible use.
- Sec. 117. Repurchase of certain leases.
- Sec. 118. Offsite environmental mitigation.
- Sec. 119. OCS regional headquarters.
- Sec. 120. Leases for areas located within 100 miles of California or Florida.
- Sec. 121. Coastal impact assistance.
- Sec. 122. Repeal of the Gulf of Mexico Energy Security Act of 2006.

##### **Subtitle B—ANWR**

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

##### **Subtitle C—Oil Shale**

- Sec. 161. Repeal.
- #### **TITLE II—CONSERVATION AND EFFICIENCY**

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

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

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

- Sec. 211. Definitions.
- Sec. 212. Statement of policy.
- Sec. 213. Prize authority.
- Sec. 214. Eligibility.
- Sec. 215. Intellectual property.

- Sec. 216. Waiver of liability.
- Sec. 217. Authorization of appropriations.
- Sec. 218. Next generation automobile prize program.
- Sec. 219. Advanced battery manufacturing incentive program.

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

- Sec. 221. Extension of credit for energy efficient appliances.
- Sec. 222. Extension of credit for nonbusiness energy property.
- Sec. 223. Extension of credit for residential energy efficient property.
- Sec. 224. Extension of new energy efficient home credit.
- Sec. 225. Extension of energy efficient commercial buildings deduction.
- Sec. 226. Extension of special rule to implement FERC and State electric restructuring policy.
- Sec. 227. Home energy audits.
- Sec. 228. Accelerated recovery period for depreciation of smart meters.

##### **Subtitle D—Refinery Permit Process Schedule**

- Sec. 231. Short title.
- Sec. 232. Definitions.
- Sec. 233. State assistance.
- Sec. 234. Refinery process coordination and procedures.
- Sec. 235. Designation of closed military bases.
- Sec. 236. Savings clause.
- Sec. 237. Refinery revitalization repeal.

#### **TITLE III—NEW AND EXPANDING TECHNOLOGIES**

##### **Subtitle A—Alternative Fuels**

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

##### **Subtitle B—Tax Provisions**

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

##### **Subtitle C—Nuclear**

- Sec. 321. Use of funds for recycling.
- Sec. 322. Rulemaking for licensing of spent nuclear fuel recycling facilities.
- Sec. 323. Nuclear waste fund budget status.
- Sec. 324. Waste Confidence.
- Sec. 325. ASME Nuclear Certification credit.

##### **Subtitle D—American Renewable and Alternative Energy Trust Fund**

- Sec. 331. American Renewable and Alternative Energy Trust Fund.

#### **TITLE I—AMERICAN ENERGY**

##### **Subtitle A—OCS**

#### **SEC. 101. SHORT TITLE.**

This subtitle may be cited as the “Deep Ocean Energy Resources Act of 2008”.

#### **SEC. 102. POLICY.**

It is the policy of the United States that—

(1) the United States is blessed with abundant energy resources on the outer Continental Shelf and has developed a comprehensive framework of environmental laws and regulations and fostered the development of state-of-the-art technology that allows for the responsible development of these resources for the benefit of its citizenry;

(2) Adjacent States are required by the circumstances to commit significant resources

in support of exploration, development, and production activities for mineral resources on the outer Continental Shelf, and it is fair and proper for a portion of the receipts from such activities to be shared with Adjacent States and their local coastal governments;

(3) the existing laws governing the leasing and production of the mineral resources of the outer Continental Shelf have reduced the production of mineral resources, have preempted Adjacent States from being sufficiently involved in the decisions regarding the allowance of mineral resource development, and have been harmful to the national interest;

(4) the national interest is served by granting the Adjacent States more options related to whether or not mineral leasing should occur in the outer Continental Shelf within their Adjacent Zones;

(5) it is not reasonably foreseeable that exploration of a leased tract located more than 25 miles seaward of the coastline, development and production of a natural gas discovery located more than 25 miles seaward of the coastline, or development and production of an oil discovery located more than 50 miles seaward of the coastline will adversely affect resources near the coastline;

(6) transportation of oil from a leased tract might reasonably be foreseen, under limited circumstances, to have the potential to adversely affect resources near the coastline if the oil is within 50 miles of the coastline, but such potential to adversely affect such resources is likely no greater, and probably less, than the potential impacts from tanker transportation because tanker spills usually involve large releases of oil over a brief period of time; and

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

#### **SEC. 103. DEFINITIONS UNDER THE SUBMERGED LANDS ACT.**

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

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

(2) by striking out paragraph (b) and redesignating the subsequent paragraphs in order as paragraphs (b) through (g);

(3) by striking the period at the end of paragraph (g) (as so redesignated) and inserting “; and”;

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

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

#### **SEC. 104. SEAWARD BOUNDARIES OF STATES.**

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

(1) in the first sentence by striking “original”, and in the same sentence by striking “three geographical” and inserting “twelve nautical”; and

(2) by striking all after the first sentence and inserting the following: “Extension and delineation of lateral offshore State boundaries under the provisions of this Act shall follow the lines used to determine the Adjacent Zones of coastal States under the Outer Continental Shelf Lands Act to the extent such lines extend twelve nautical miles for the nearest coastline.”

**SEC. 105. EXCEPTIONS FROM CONFIRMATION AND ESTABLISHMENT OF STATES' TITLE, POWER, AND RIGHTS.**

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

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

(2) by inserting “(a)” before “There is excepted”; and

(3) by inserting at the end the following:

“(b) **EXCEPTION OF OIL AND GAS MINERAL RIGHTS.**—There is excepted from the operation of sections 3 and 4 all of the oil and gas mineral rights for lands beneath the navigable waters that are located within the expanded offshore State seaward boundaries established under this Act. These oil and gas mineral rights shall remain Federal property and shall be considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf. All existing Federal oil and gas leases within the expanded offshore State seaward boundaries shall continue unchanged by the provisions of this Act, except as otherwise provided herein. However, a State may exercise all of its sovereign powers of taxation within the entire extent of its expanded offshore State boundaries.”.

**SEC. 106. DEFINITIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.**

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

(1) by amending paragraph (f) to read as follows:

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

(2) by striking the semicolon at the end of each of paragraphs (a) through (o) and inserting a period;

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

(4) by adding at the end the following:

“(r) The term ‘Adjacent State’ means, with respect to any program, plan, lease sale, leased tract or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State the laws of which are declared, pursuant to section 4(a)(2), to be the law of the United States for the portion of the outer Continental Shelf on which such program, plan, lease sale, leased tract or activity appertains or is, or is proposed to be, conducted. For purposes of this paragraph, the term ‘State’ includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and the other Territories of the United States.

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

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

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

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

(5) in paragraph (a), by inserting after “control” the following: “or lying within the United States exclusive economic zone adjacent to the Territories of the United States”.

**SEC. 107. DETERMINATION OF ADJACENT ZONES AND PLANNING AREAS.**

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

amended in the first sentence by striking “, and the President” and all that follows through the end of the sentence and inserting the following: “. The lines extending seaward and defining each State’s Adjacent Zone, and each OCS Planning Area, are as indicated on the maps for each outer Continental Shelf region entitled ‘Alaska OCS Region State Adjacent Zone and OCS Planning Areas’, ‘Pacific OCS Region State Adjacent Zones and OCS Planning Areas’, ‘Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas’, and ‘Atlantic OCS Region State Adjacent Zones and OCS Planning Areas’, all of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.”.

**SEC. 108. ADMINISTRATION OF LEASING.**

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

“(k) **VOLUNTARY PARTIAL RELINQUISHMENT OF A LEASE.**—Any lessee of a producing lease may relinquish to the Secretary any portion of a lease that the lessee has no interest in producing and that the Secretary finds is geologically prospective. In return for any such relinquishment, the Secretary shall provide to the lessee a royalty incentive for the portion of the lease retained by the lessee, in accordance with regulations promulgated by the Secretary to carry out this subsection. The Secretary shall publish final regulations implementing this subsection within 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

“(1) **NATURAL GAS LEASE REGULATIONS.**—Not later than July 1, 2010, the Secretary shall publish a final regulation that shall—

“(1) establish procedures for entering into natural gas leases;

“(2) ensure that natural gas leases are only available for tracts on the outer Continental Shelf that are wholly within 100 miles of the coastline within an area withdrawn from disposition by leasing on the day after the date of enactment of the Deep Ocean Energy Resources Act of 2008;

“(3) provide that natural gas leases shall contain the same rights and obligations established for oil and gas leases, except as otherwise provided in the Deep Ocean Energy Resources Act of 2008;

“(4) provide that, in reviewing the adequacy of bids for natural gas leases, the value of any crude oil estimated to be contained within any tract shall be excluded;

“(5) provide that any crude oil produced from a well and reinjected into the leased tract shall not be subject to payment of royalty, and that the Secretary shall consider, in setting the royalty rates for a natural gas lease, the additional cost to the lessee of not producing any crude oil; and

“(6) provide that any Federal law that applies to an oil and gas lease on the outer Continental Shelf shall apply to a natural gas lease unless otherwise clearly inapplicable.”.

**SEC. 109. GRANT OF LEASES BY SECRETARY.**

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

(1) in subsection (a)(1) by inserting after the first sentence the following: “Further, the Secretary may grant natural gas leases in a manner similar to the granting of oil and gas leases and under the various bidding systems available for oil and gas leases.”;

(2) by adding at the end of subsection (b) the following:

“The Secretary may issue more than one lease for a given tract if each lease applies to a separate and distinct range of vertical depths, horizontal surface area, or a combination of the two. The Secretary may issue regulations that the Secretary determines

are necessary to manage such leases consistent with the purposes of this Act.”;

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

“(B) The Secretary shall provide for the payment to coastal States, and their local coastal governments, of 75 percent of Federal receipts from projects authorized under this section located partially or completely within the area extending seaward of State submerged lands out to 4 marine leagues from the coastline, and the payment to coastal States of 50 percent of the receipts from projects completely located in the area more than 4 marine leagues from the coastline. Payments shall be based on a formula established by the Secretary by rulemaking no later than 180 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 that provides for equitable distribution, based on proximity to the project, among coastal States that have coastline that is located within 200 miles of the geographic center of the project.”.

(4) by adding at the end the following:

“(q) **NATURAL GAS LEASES.**—

“(1) **RIGHT TO PRODUCE NATURAL GAS.**—A lessee of a natural gas lease shall have the right to produce the natural gas from a field on a natural gas leased tract if the Secretary estimates that the discovered field has at least 40 percent of the economically recoverable Btu content of the field contained within natural gas and such natural gas is economical to produce.

“(2) **CRUDE OIL.**—A lessee of a natural gas lease may not produce crude oil from the lease unless the Governor of the Adjacent State agrees to such production.

“(3) **ESTIMATES OF BTU CONTENT.**—The Secretary shall make estimates of the natural gas Btu content of discovered fields on a natural gas lease only after the completion of at least one exploration well, the data from which has been tied to the results of a three-dimensional seismic survey of the field. The Secretary may not require the lessee to further delineate any discovered field prior to making such estimates.

“(4) **DEFINITION OF NATURAL GAS.**—For purposes of a natural gas lease, natural gas means natural gas and all substances produced in association with gas, including, but not limited to, hydrocarbon liquids (other than crude oil) that are obtained by the condensation of hydrocarbon vapors and separate out in liquid form from the produced gas stream.

“(r) **REMOVAL OF RESTRICTIONS ON JOINT BIDDING IN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.**—Restrictions on joint bidders shall no longer apply to tracts located in the Alaska OCS Region. Such restrictions shall not apply to tracts in other OCS regions determined to be ‘frontier tracts’ or otherwise ‘high cost tracts’ under final regulations that shall be published by the Secretary by not later than 365 days after the date of the enactment of the Deep Ocean Energy Resources Act of 2008.

“(s) **ROYALTY SUSPENSION PROVISIONS.**—After the date of the enactment of the Deep Ocean Energy Resources Act of 2008, price thresholds shall apply to any royalty suspension volumes granted by the Secretary. Unless otherwise set by Secretary by regulation or for a particular lease sale, the price thresholds shall be \$40.50 for oil (January 1, 2006 dollars) and \$6.75 for natural gas (January 1, 2006 dollars).

“(t) **CONSERVATION OF RESOURCES FEES.**—Not later than one year after the date of the

enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary by regulation shall establish a conservation of resources fee for nonproducing leases that will apply to new and existing leases which shall be set at \$3.75 per acre per year. This fee shall apply from and after October 1, 2008, and shall be treated as offsetting receipts.”;

(5) by striking subsection (a)(3)(A) and redesignating the subsequent subparagraphs as subparagraphs (A) and (B), respectively;

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

(7) effective October 1, 2008, in subsection (g)—

(A) by striking all after “(g)”, except paragraph (3);

(B) by striking the last sentence of paragraph (3); and

(C) by striking “(3)”.

#### SEC. 110. DISPOSITION OF RECEIPTS.

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

(1) by designating the existing text as subsection (a);

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

(3) by adding the following:

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

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

“(2) PHASED-IN RECEIPTS SHARING.—

“(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

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

“(ii) Lease tracts in production prior to October 1, 2008, completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

“(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region completely beyond 4 marine leagues from any coastline and completely within 100 miles of the coastline.

“(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

“(i) For fiscal year 2009, 5 percent.

“(ii) For fiscal year 2010, 8 percent.

“(iii) For fiscal year 2011, 11 percent.

“(iv) For fiscal year 2012, 14 percent.

“(v) For fiscal year 2013, 17 percent.

“(vi) For fiscal year 2014, 20 percent.

“(vii) For fiscal year 2015, 23 percent.

“(viii) For fiscal year 2016, 26 percent.

“(ix) For fiscal year 2017, 29 percent.

“(x) For fiscal year 2018, 32 percent.

“(xi) For fiscal year 2019, 35 percent.

“(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

“(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 6(2) of the Deep Ocean Energy Resources Act of 2008.

“(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall

share 37.50 percent of OCS Receipts derived from all leases located completely beyond 4 marine leagues from any coastline and completely within 100 miles of any coastline not included within the provisions of paragraph (2), and 90 percent of the balance of such OCS Receipts shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331 of the American Energy Act.

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

“(A) AREAS DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, and continuing through September 30, 2010, the Secretary shall share 25 percent of OCS Receipts derived from all leases located within 4 marine leagues from any coastline within areas described in paragraph (2). For each fiscal year after September 30, 2010, the Secretary shall increase the percent shared in 5 percent increments each fiscal year until the sharing rate for all leases located within 4 marine leagues from any coastline within areas described in paragraph (2) becomes 75 percent.

“(B) AREAS NOT DESCRIBED IN PARAGRAPH (2).—Beginning October 1, 2008, the Secretary shall share 75 percent of OCS receipts derived from all leases located completely or partially within 4 marine leagues from any coastline within areas not described paragraph (2).

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

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

“(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone within 100 miles of its coastline that generated royalties during the fiscal year, if the other producing or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

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

“(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

“(C) TREATMENT OF OCS RECEIPTS FROM TRACTS PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE COASTLINE.—

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

“(2) PHASED-IN RECEIPTS SHARING.—

“(A) Beginning October 1, 2008, the Secretary shall share OCS Receipts derived from the following areas:

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

“(ii) Lease tracts in production prior to October 1, 2008, partially or completely beyond 100 miles of any coastline located on portions of the OCS that were not available for leasing under the 2002–2007 5-Year OCS Oil and Gas Leasing Program.

“(iii) Lease tracts for which leases are issued prior to October 1, 2008, located in the Alaska OCS Region partially or completely beyond 100 miles of the coastline.

“(B) The Secretary shall share the following percentages of OCS Receipts from the leases described in subparagraph (A) derived during the fiscal year indicated:

“(i) For fiscal year 2009, 5 percent.

“(ii) For fiscal year 2010, 8 percent.

“(iii) For fiscal year 2011, 11 percent.

“(iv) For fiscal year 2012, 14 percent.

“(v) For fiscal year 2013, 17 percent.

“(vi) For fiscal year 2014, 20 percent.

“(vii) For fiscal year 2015, 23 percent.

“(viii) For fiscal year 2016, 26 percent.

“(ix) For fiscal year 2017, 29 percent.

“(x) For fiscal year 2018, 32 percent.

“(xi) For fiscal year 2019, 35 percent.

“(xii) For fiscal year 2020 and each subsequent fiscal year, 37.5 percent.

“(C) The provisions of this paragraph shall not apply to leases that could not have been issued but for section 5(k) of this Act or section 106(2) of the Deep Ocean Energy Resources Act of 2008.

“(3) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2008, the Secretary shall share 37.5 percent of OCS Receipts derived on and after October 1, 2008, from all leases located partially or completely beyond 100 miles of any coastline not included within the provisions of paragraph (2), except that the Secretary shall only share 25 percent of such OCS Receipts derived from all such leases within a State's Adjacent Zone if no leasing is allowed within any portion of that State's Adjacent Zone located completely within 100 miles of any coastline.

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

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

“(B) ROYALTIES.—Deposits derived from royalties from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State and any other producing State or States with a leased tract within its Adjacent Zone partially or completely beyond 100 miles of its coastline that generated royalties during the fiscal year, if the other producing State or States have a coastline point within 300 miles of any portion of the leased tract, in which case the amount allocated for the leased tract shall be—

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

“(ii) two-thirds to each producing State, including the Adjacent State, inversely proportional to the distance between the nearest point on the coastline of the producing State and the geographic center of the leased tract.

“(d) TRANSMISSION OF ALLOCATIONS.—

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

“(A) to each State 60 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the immediate prior fiscal year;

“(B) to each coastal county-equivalent and municipal political subdivisions of such State a total of 40 percent of such State's allocations under subsections (b)(5)(A), (b)(5)(B), (c)(4)(A), and (c)(4)(B), together with all accrued interest thereon; and

“(C) the remaining allocations under subsections (b)(5) and (c)(4), together with all accrued interest thereon.

“(2) ALLOCATIONS TO COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall make an initial allocation of the OCS Receipts to be shared under paragraph (1)(B) as follows:

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

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

“(i) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's population to the coastal population of all coastal county-equivalent political subdivisions in the State.

“(ii) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's coastline miles to the coastline miles of all coastal county-equivalent political subdivisions in the State as calculated by the Secretary. In such calculations, coastal county-equivalent political subdivisions without a coastline shall be considered to have 50 percent of the average coastline miles of the coastal county-equivalent political subdivisions that do have coastlines.

“(iii) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on a formula that allocates the funds based on such coastal county-equivalent political subdivision's relative distance from the leased tract.

“(iv) 25 percent shall be allocated to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision compared to the level of outer Continental Shelf activities in all coastal political subdivisions in the State. The Secretary shall define the term ‘outer Continental Shelf oil and gas activities’ for purposes of this subparagraph to include, but not be limited to, construction of vessels, drillships, and platforms involved in exploration, production, and development on the outer Continental Shelf; support and supply bases, ports, and related activities; offices of geologists, geophysicists, engineers, and other professionals involved in support of exploration, production, and development of oil and gas on the outer Continental Shelf; pipelines and other means of transporting oil and gas production from the outer Continental Shelf; and processing and refining of oil and gas production from the outer Continental Shelf. For purposes of this subparagraph, if a coastal county-equivalent political subdivision does not have a coastline, its coastal point shall be the point on the coastline closest to it.

“(3) ALLOCATIONS TO COASTAL MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each coastal county-equivalent political subdivision under paragraph (2) shall be further allocated to the coastal county-equivalent political subdivision and any coastal municipal political subdivisions located partially or wholly within the boundaries of the coastal county-equivalent political subdivision as follows:

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

“(B) Two-thirds shall be allocated on a per capita basis to the municipal political subdivisions and the county-equivalent political subdivision, with the allocation to the latter

based upon its population not included within the boundaries of a municipal political subdivision.

“(e) INVESTMENT OF DEPOSITS.—Amounts deposited under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account in which they are deposited and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

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

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

“(2) To make transportation infrastructure improvements.

“(3) To reduce taxes.

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

“(A) coastal or environmental restoration;

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

“(C) waterways construction and maintenance;

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

“(E) marine and oceanographic education and research.

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

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

“(B) energy demonstration projects;

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

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

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

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

“(G) alternative energy development, including bio fuels, coal-to-liquids, oil shale, tar sands, geothermal, geopressure, wind, waves, currents, hydro, and other renewable energy;

“(H) energy efficiency and conservation programs; and

“(I) front-end engineering and design for facilities that produce liquid fuels from hydrocarbons and other biological matter.

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

“(A) historic preservation programs and projects;

“(B) natural disaster planning and response; and

“(C) hurricane and natural disaster insurance programs.

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

“(g) NO ACCOUNTING REQUIRED.—No recipient of funds under this section shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law. However, States may enact legislation providing for accounting for and auditing of such expenditures. Further, funds allocated under this section to States and political subdivisions may be used as matching funds for other Federal programs.

“(h) EFFECT OF FUTURE LAWS.—Enactment of any future Federal statute that has the effect, as determined by the Secretary, of restricting any Federal agency from spending appropriated funds, or otherwise preventing it from fulfilling its pre-existing responsibilities as of the date of enactment of the statute, unless such responsibilities have been reassigned to another Federal agency by the statute with no prevention of performance, to issue any permit or other approval impacting on the OCS oil and gas leasing pro-

gram, or any lease issued thereunder, or to implement any provision of this Act shall automatically prohibit any sharing of OCS Receipts under this section directly with the States, and their coastal political subdivisions, for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting effects within 30 days of a petition by any outer Continental Shelf lessee or producing State.

“(i) DEFINITIONS.—In this section:

“(1) COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term ‘coastal county-equivalent political subdivision’ means a political jurisdiction immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a coastal State, that lies within the coastal zone.

“(2) COASTAL MUNICIPAL POLITICAL SUBDIVISION.—The term ‘coastal municipal political subdivision’ means a municipality located within and part of a county, parish, borough in Alaska, or other equivalent subdivision of a State, all or part of which coastal municipal political subdivision lies within the coastal zone.

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

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

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

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

“(7) PRODUCING STATE.—The term ‘producing State’ means an Adjacent State having an Adjacent Zone containing leased tracts from which OCS Receipts were derived.

“(8) OCS RECEIPTS.—The term ‘OCS Receipts’ means bonus bids, royalties, and conservation of resources fees.”

#### SEC. 111. RESERVATION OF LANDS AND RIGHTS.

Section 12 of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended—

(1) in subsection (a) by adding at the end the following: “The President may partially or completely revise or revoke any prior withdrawal made by the President under the authority of this section. The President may not revise or revoke a withdrawal that is extended by a State under subsection (h), nor may the President withdraw from leasing any area for which a State failed to prohibit, or petition to prohibit, leasing under subsection (g). Further, in the area of the outer Continental Shelf more than 100 miles from any coastline, not more than 25 percent of the acreage of any OCS Planning Area may be withdrawn from leasing under this section at any point in time. A withdrawal by the President may be for a term not to exceed 10 years. When considering potential uses of the outer Continental Shelf, to the maximum extent possible, the President shall accommodate competing interests and potential uses.”;

(2) by adding at the end the following:

“(g) AVAILABILITY FOR LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—

“(1) PROHIBITION AGAINST LEASING.—

“(A) UNAVAILABLE FOR LEASING WITHOUT STATE REQUEST.—Except as otherwise provided in this subsection, from and after enactment of the Deep Ocean Energy Resources Act of 2008, the Secretary shall not offer for leasing for oil and gas, or natural gas, any area within 50 miles of the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region or the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the ‘Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition’, 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area within 50 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled ‘Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas’ or the Florida Straits Planning Area as indicated on the map entitled ‘Atlantic OCS Region State Adjacent Zones and OCS Planning Areas’, both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

“(B) AREAS BETWEEN 50 AND 100 MILES FROM THE COASTLINE.—Unless an Adjacent State petitions under subsection (h) within one year after the date of the enactment of the Deep Ocean Energy Resources Act of 2008 for natural gas leasing or by June 30, 2010, for oil and gas leasing, the Secretary shall offer for leasing any area more than 50 miles but less than 100 miles from the coastline that was withdrawn from disposition by leasing in the Atlantic OCS Region, the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the maps referred to in this subparagraph, under the ‘Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition’, 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, or any area more than 50 miles but less than 100 miles of the coastline not withdrawn under that Memorandum that is included within the Gulf of Mexico OCS Region Eastern Planning Area as indicated on the map entitled ‘Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas’ or within the Florida Straits Planning Area as indicated on the map entitled ‘Atlantic OCS Region State Adjacent Zones and OCS Planning Areas’, both of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

“(2) PETITION FOR LEASING.—

“(A) IN GENERAL.—The Governor of the State, upon concurrence of its legislature, may submit to the Secretary a petition requesting that the Secretary make available any area that is within the State’s Adjacent Zone, included within the provisions of paragraph (1), and that (i) is greater than 25 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to natural gas leasing; or (ii) is greater than 50 miles from any point on the coastline of a Neighboring State for the conduct of offshore leasing, pre-leasing, and related activities with respect to oil and gas leasing. The Adjacent State may also petition for leasing any other area within its Adjacent Zone if leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State, or if not allowed, if the Neighboring State, acting through its Governor, expresses its concurrence with the

petition. The Secretary shall only consider such a petition upon making a finding that leasing is allowed in the similar area of the Adjacent Zone of the applicable Neighboring State or upon receipt of the concurrence of the Neighboring State. The date of receipt by the Secretary of such concurrence by the Neighboring State shall constitute the date of receipt of the petition for that area for which the concurrence applies.

“(B) LIMITATIONS ON LEASING.—In its petition, a State with an Adjacent Zone that contains leased tracts may condition new leasing for oil and gas, or natural gas for tracts within 25 miles of the coastline by—

“(i) requiring a net reduction in the number of production platforms;

“(ii) requiring a net increase in the average distance of production platforms from the coastline;

“(iii) limiting permanent surface occupancy on new leases to areas that are more than 10 miles from the coastline;

“(iv) limiting some tracts to being produced from shore or from platforms located on other tracts; or

“(v) other conditions that the Adjacent State may deem appropriate as long as the Secretary does not determine that production is made economically or technically impracticable or otherwise impossible.

“(C) ACTION BY SECRETARY.—Not later than 90 days after receipt of a petition under subparagraph (A), the Secretary shall approve the petition, unless the Secretary determines that leasing the area would probably cause serious harm or damage to the marine resources of the State’s Adjacent Zone. Prior to approving the petition, the Secretary shall complete an environmental assessment that documents the anticipated environmental effects of leasing in the area included within the scope of the petition.

“(D) FAILURE TO ACT.—If the Secretary fails to approve or deny a petition in accordance with subparagraph (C) the petition shall be considered to be approved 90 days after receipt of the petition.

“(E) AMENDMENT OF THE 5-YEAR LEASING PROGRAM.—Notwithstanding section 18, within 180 days of the approval of a petition under subparagraph (C) or (D), after the expiration of the time limits in paragraph (1)(B), the Secretary shall amend the current 5-Year Outer Continental Shelf Oil and Gas Leasing Program to include a lease sale or sales for at least 75 percent of the associated areas, unless there are, from the date of approval, expiration of such time limits, as applicable, fewer than 12 months remaining in the current 5-Year Leasing Program in which case the Secretary shall include the associated areas within lease sales under the next 5-Year Leasing Program. For purposes of amending the 5-Year Program in accordance with this section, further consultations with States shall not be required. For purposes of this section, an environmental assessment performed under the provisions of the National Environmental Policy Act of 1969 to assess the effects of approving the petition shall be sufficient to amend the 5-Year Leasing Program.

“(h) OPTION TO EXTEND WITHDRAWAL FROM LEASING WITHIN CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—A State, through its Governor and upon the concurrence of its legislature, may extend for a period of time of up to 5 years for each extension the withdrawal from leasing for all or part of any area within the State’s Adjacent Zone located more than 50 miles, but less than 100 miles, from the coastline that is subject to subsection (g)(1)(B). A State may extend multiple times for any particular area but not more than once per calendar year for any particular area. A State must prepare separate extensions, with separate

votes by its legislature, for oil and gas leasing and for natural gas leasing. An extension by a State may affect some areas to be withdrawn from all leasing and some areas to be withdrawn only from one type of leasing.

“(i) EFFECT OF OTHER LAWS.—Adoption by any Adjacent State of any constitutional provision, or enactment of any State statute, that has the effect, as determined by the Secretary, of restricting either the Governor or the Legislature, or both, from exercising full discretion related to subsection (g) or (h), or both, shall automatically (1) prohibit any sharing of OCS Receipts under this Act with the Adjacent State, and its coastal political subdivisions, and (2) prohibit the Adjacent State from exercising any authority under subsection (h), for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting constitutional provision or State statute within 30 days of a petition by any outer Continental Shelf lessee or coastal State.

“(j) PROHIBITION ON LEASING EAST OF THE MILITARY MISSION LINE.—

“(1) Notwithstanding any other provision of law, from and after the enactment of the Deep Ocean Energy Resources Act of 2008, prior to January 1, 2022, no area of the outer Continental Shelf located in the Gulf of Mexico east of the military mission line may be offered for leasing for oil and gas or natural gas unless a waiver is issued by the Secretary of Defense. If such a waiver is granted, 62.5 percent of the OCS Receipts from a lease within such area issued because of such waiver shall be paid annually to the National Guards of all States having a point within 1000 miles of such a lease, allocated among the States on a per capita basis using the entire population of such States.

“(2) In this subsection, the term ‘military mission line’ means a line located at 86 degrees, 41 minutes West Longitude, and extending south from the coast of Florida to the outer boundary of United States territorial waters in the Gulf of Mexico.”.

#### SEC. 112. OUTER CONTINENTAL SHELF LEASING PROGRAM.

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

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

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

“(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall consider and analyze leasing throughout the entire outer Continental Shelf without regard to any other law affecting such leasing. During this preparation the Secretary shall invite and consider suggestions from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any coastal State. The Secretary may also invite or consider any suggestions from the executive of any local government in a coastal State that have been previously submitted to the Governor of such State, and from any other person. Further, the Secretary shall consult with the Secretary of Defense regarding military operational needs in the outer Continental Shelf. The Secretary shall work with the Secretary of Defense to resolve any conflicts that might arise regarding offering



any area of the outer Continental Shelf for oil and gas or natural gas leasing. If the Secretaries are not able to resolve all such conflicts, any unresolved issues shall be elevated to the President for resolution.

“(2) After the consideration and analysis required by paragraph (1), including the consideration of the suggestions received from any interested Federal agency, the Federal Trade Commission, the Governor of any coastal State, any local government of a coastal State, and any other person, the Secretary shall publish in the Federal Register a proposed leasing program accompanied by a draft environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. After the publishing of the proposed leasing program and during the comment period provided for on the draft environmental impact statement, the Secretary shall submit a copy of the proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in the Governor's State that the Governor, in the discretion of the Governor, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least 15 days prior to submission to the Congress pursuant to paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating the Secretary's reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.”; and

(3) by adding at the end the following:

“(i) **PROJECTION OF STATE ADJACENT ZONE RESOURCES AND STATE AND LOCAL GOVERNMENT SHARES OF OCS RECEIPTS.**—Concurrent with the publication of the scoping notice at the beginning of the development of each 5-Year Outer Continental Shelf Oil and Gas Leasing Program, or as soon thereafter as possible, the Secretary shall—

“(1) provide to each Adjacent State a current estimate of proven and potential oil and gas resources located within the State's Adjacent Zone; and

“(2) provide to each Adjacent State, and coastal political subdivisions thereof, a best-efforts projection of the OCS Receipts that the Secretary expects will be shared with each Adjacent State, and its coastal political subdivisions, using the assumption that the unleased tracts within the State's Adjacent Zone are fully made available for leasing, including long-term projected OCS Receipts. In addition, the Secretary shall include a macroeconomic estimate of the impact of such leasing on the national economy and each State's economy, including investment, jobs, revenues, personal income, and other categories.”.

#### **SEC. 113. COORDINATION WITH ADJACENT STATES.**

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

(1) in subsection (a) in the first sentence by inserting “, for any tract located within the Adjacent State's Adjacent Zone,” after “government”;

(2) by adding the following:

“(f)(1) No Federal agency may permit or otherwise approve, without the concurrence of the Adjacent State, the construction of a crude oil or petroleum products (or both) pipeline within the part of the Adjacent State's Adjacent Zone that is withdrawn from oil and gas or natural gas leasing, ex-

cept that such a pipeline may be approved, without such Adjacent State's concurrence, to pass through such Adjacent Zone if at least 50 percent of the production projected to be carried by the pipeline within its first 10 years of operation is from areas of the Adjacent State's Adjacent Zone.

“(2) No State may prohibit the construction within its Adjacent Zone or its State waters of a natural gas pipeline that will transport natural gas produced from the outer Continental Shelf. However, an Adjacent State may prevent a proposed natural gas pipeline landing location if it proposes two alternate landing locations in the Adjacent State, acceptable to the Adjacent State, located within 50 miles on either side of the proposed landing location.”.

#### **SEC. 114. ENVIRONMENTAL STUDIES.**

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

(1) by inserting “(1)” after “(d)”;

(2) by adding at the end the following:

“(2) For all programs, lease sales, leases, and actions under this Act, the following shall apply regarding the application of the National Environmental Policy Act of 1969:

“(A) Granting or directing lease suspensions and the conduct of all preliminary activities on outer Continental Shelf tracts, including seismic activities, are categorically excluded from the need to prepare either an environmental assessment or an environmental impact statement, and the Secretary shall not be required to analyze whether any exceptions to a categorical exclusion apply for activities conducted under the authority of this Act.

“(B) The environmental impact statement developed in support of each 5-Year Oil and Gas Leasing Program provides the environmental analysis for all lease sales to be conducted under the program and such sales shall not be subject to further environmental analysis.

“(C) Exploration plans shall not be subject to any requirement to prepare an environmental impact statement, and the Secretary may find that exploration plans are eligible for categorical exclusion due to the impacts already being considered within an environmental impact statement or due to mitigation measures included within the plan.

“(D) Within each OCS Planning Area, after the preparation of the first development and production plan environmental impact statement for a leased tract within the Area, future development and production plans for leased tracts within the Area shall only require the preparation of an environmental assessment unless the most recent development and production plan environmental impact statement within the Area was finalized more than 10 years prior to the date of the approval of the plan, in which case an environmental impact statement shall be required.”.

#### **SEC. 115. TERMINATION OF EFFECT OF LAWS PROHIBITING THE SPENDING OF APPROPRIATED FUNDS FOR CERTAIN PURPOSES.**

All provisions of existing Federal law prohibiting the spending of appropriated funds to conduct oil and natural gas leasing and preleasing activities, or to issue a lease to any person, for any area of the outer Continental Shelf shall have no force or effect.

#### **SEC. 116. OUTER CONTINENTAL SHELF INCOMPATIBLE USE.**

(a) **IN GENERAL.**—No Federal agency may permit construction or operation (or both) of any facility, or designate or maintain a restricted transportation corridor or operating area on the Federal outer Continental Shelf or in State waters, that will be incompatible with, as determined by the Secretary of the Interior, oil and gas or natural gas leasing

and substantially full exploration and production of tracts that are geologically prospective for oil or natural gas (or both).

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

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

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

(3) required in the national interest, as determined by the President.

#### **SEC. 117. REPURCHASE OF CERTAIN LEASES.**

(a) **AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.**—The Secretary of the Interior shall repurchase and cancel any Federal oil and gas, geothermal, coal, oil shale, tar sands, or other mineral lease, whether onshore or offshore, but not including any outer Continental Shelf oil and gas leases that were subject to litigation in the Court of Federal Claims on January 1, 2006, if the Secretary finds that such lease qualifies for repurchase and cancellation under the regulations authorized by this section.

(b) **REGULATIONS.**—Not later than 365 days after the date of the enactment of this Act, the Secretary shall publish a final regulation stating the conditions under which a lease referred to in subsection (a) would qualify for repurchase and cancellation, and the process to be followed regarding repurchase and cancellation. Such regulation shall include, but not be limited to, the following:

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

(A) a request by the lessee for a required permit or other approval complied with applicable law, except the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and terms of the lease and such permit or other approval was denied;

(B) a Federal agency failed to act on a request by the lessee for a required permit, other approval, or administrative appeal within a regulatory or statutory time-frame associated with the requested action, whether advisory or mandatory, or if none, within 180 days; or

(C) a Federal agency attached a condition of approval, without agreement by the lessee, to a required permit or other approval if such condition of approval was not mandated by Federal statute or regulation in effect on the date of lease issuance, or was not specifically allowed under the terms of the lease.

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

(3) The Secretary shall make a final agency decision on a request by a lessee under this section within 180 days of request.

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

(5) Compensation shall be in the form of a check or electronic transfer from the Department of the Treasury from funds deposited into miscellaneous receipts under the authority of the same Act that authorized the issuance of the lease being repurchased.

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

(c) NO PREJUDICE.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

#### SEC. 118. OFFSITE ENVIRONMENTAL MITIGATION.

Notwithstanding any other provision of law, any person conducting activities under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30 U.S.C. 1001 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16 U.S.C. 552 et seq.), the General Mining Act of 1872 (30 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C. 601 et seq.), or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), may in satisfying any mitigation requirements associated with such activities propose mitigation measures on a site away from the area impacted and the Secretary of the Interior shall accept these proposed measures if the Secretary finds that they generally achieve the purposes for which mitigation measures are maintained.

#### SEC. 119. OCS REGIONAL HEADQUARTERS.

Not later than July 1, 2010, the Secretary of the Interior shall establish the headquarters for the Atlantic OCS Region, the headquarters for the Gulf of Mexico OCS Region, and the headquarters for the Pacific OCS Region within a State bordering the Atlantic OCS Region, a State bordering the Gulf of Mexico OCS Region, and a State bordering the Pacific OCS Region, respectively, from among the States bordering those Regions, that petitions by no later than January 1, 2010, for leasing, for oil and gas or natural gas, covering at least 40 percent of the area of its Adjacent Zone within 100 miles of the coastline. Such Atlantic and Pacific OCS Regions headquarters shall be located within 25 miles of the coastline and each MMS OCS regional headquarters shall be the permanent duty station for all Minerals Management Service personnel that on a daily basis spend on average 60 percent or more of their time in performance of duties in support of the activities of the respective Region, except that the Minerals Management Service may house regional inspection staff in other locations. Each OCS Region shall each be led by a Regional Director who shall be an employee within the Senior Executive Service.

#### SEC. 120. LEASES FOR AREAS LOCATED WITHIN 100 MILES OF CALIFORNIA OR FLORIDA.

(a) AUTHORIZATION TO CANCEL AND EXCHANGE CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN LEASES PRIOR TO JUNE 30, 2012.—

(1) AUTHORITY.—Within 2 years after the date of enactment of this Act, the lessee of an existing oil and gas lease for an area located completely within 100 miles of the coastline within the California or Florida Adjacent Zones shall have the option, without compensation, of exchanging such lease for a new oil and gas lease having a primary term of 5 years. For the area subject to the new lease, the lessee may select any unleased tract on the outer Continental Shelf that is in an area available for leasing. Further, with the permission of the relevant Governor, such a lessee may convert its existing oil and gas lease into a natural gas lease having a primary term of 5 years and covering the same area as the existing lease or another area within the same State's Adjacent Zone within 100 miles of the coastline.

(2) ADMINISTRATIVE PROCESS.—The Secretary of the Interior shall establish a reasonable administrative process to implement paragraph (1). Exchanges and conversions under subsection (a), including the issuance of new leases, shall not be considered to be

major Federal actions for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Further, such actions conducted in accordance with this section are deemed to be in compliance all provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

(4) PRIORITY.—The Secretary shall give priority in the lease exchange process based on the amount of the original bonus bid paid for the issuance of each lease to be exchanged. The Secretary shall allow leases covering partial tracts to be exchanged for leases covering full tracts conditioned upon payment of additional bonus bids on a per-acre basis as determined by the average per acre of the original bonus bid per acre for the partial tract being exchanged.

(5) EXPLORATION PLANS.—Any exploration plan submitted to the Secretary of the Interior after the date of the enactment of this Act and before July 1, 2012, for an oil and gas lease for an area wholly within 100 miles of the coastline within the California Adjacent Zone or Florida Adjacent Zone shall not be treated as received by the Secretary until the earlier of July 1, 2012, or the date on which a petition by the Adjacent State for oil and gas leasing covering the area within which is located the area subject to the oil and gas lease was approved.

(b) FURTHER LEASE CANCELLATION AND EXCHANGE PROVISIONS.—

(1) CANCELLATION OF LEASE.—As part of the lease exchange process under this section, the Secretary shall cancel a lease that is exchanged under this section.

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

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

(4) PLUGGING AND ABANDONMENT.—The plugging and abandonment requirements for any wells located on any lease to be cancelled and exchanged under this section must be complied with by the lessees prior to the cancellation and exchange.

(c) AREA PARTIALLY WITHIN 100 MILES OF FLORIDA.—An existing oil and gas lease for an area located partially within 100 miles of the coastline within the Florida Adjacent Zone may only be developed and produced using wells drilled from well-head locations at least 100 miles from the coastline to any bottom-hole location on the area of the lease. This subsection shall not apply if Florida has petitioned for leasing closer to the coastline than 100 miles.

(d) EXISTING OIL AND GAS LEASE DEFINED.—In this section the term “existing oil and gas lease” means an oil and gas lease in effect on the date of the enactment of this Act.

#### SEC. 121. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is repealed.

#### SEC. 122. REPEAL OF THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

The Gulf of Mexico Energy Security Act of 2006 is repealed effective October 1, 2008.

#### Subtitle B—ANWR

#### SEC. 141. SHORT TITLE.

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

#### SEC. 142. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

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

#### SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

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

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

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this subtitle that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of



action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this subtitle shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) **RELATIONSHIP TO STATE AND LOCAL AUTHORITY.**—Nothing in this subtitle shall be considered to expand or limit State and local regulatory authority.

(e) **SPECIAL AREAS.**—

(1) **IN GENERAL.**—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

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

(3) **EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.**—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

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

(f) **LIMITATION ON CLOSED AREAS.**—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(g) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) **REVISION OF REGULATIONS.**—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

#### SEC. 144. LEASE SALES.

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

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

(1) receipt and consideration of sealed nominations for any area in the Coastal

Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

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

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

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

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

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

(1) conduct the first lease sale under this subtitle within 22 months after the date of the enactment of this Act;

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

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

#### SEC. 145. GRANT OF LEASES BY THE SECRETARY.

(a) **IN GENERAL.**—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 144 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) **SUBSEQUENT TRANSFERS.**—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

#### SEC. 146. LEASE TERMS AND CONDITIONS.

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

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

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

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

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

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

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environ-

ment as required pursuant to section 143(a)(2);

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

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

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

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

#### SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

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

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

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

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

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

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

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

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the

Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

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

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

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

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

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this subtitle, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

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

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

(9) Consolidation of facility siting.

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

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

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with ap-

plicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

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

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

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

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

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

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

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

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

(f) FACILITY CONSOLIDATION PLANNING.—

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

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

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

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

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

#### SEC. 148. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

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

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this subtitle, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this subtitle and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this subtitle shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

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

#### SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle—

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

(2) except as provided in section 152(d), 90 percent of the balance shall be deposited into the American Renewable and Alternative Energy Trust Fund established by section 331.

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

#### SEC. 150. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

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

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

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

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

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

#### SEC. 151. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in

paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

#### **SEC. 152. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

##### **(a) FINANCIAL ASSISTANCE AUTHORIZED.—**

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this subtitle.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, as determined by the Secretary, shall be eligible for financial assistance under this section.

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

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including fire-fighting, police, water, waste treatment, medivac, and medical services; and

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

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

(B) provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

##### **(c) APPLICATION.—**

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

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

##### **(d) ESTABLISHMENT OF FUND.—**

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

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

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

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

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund \$5,000,000 for each fiscal year.

#### **Subtitle C—Oil Shale**

##### **SEC. 161. REPEAL.**

Section 433 of the Consolidated Appropriations Act, 2008 is repealed.

### **TITLE II—CONSERVATION AND EFFICIENCY**

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

##### **SEC. 201. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

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

##### **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

“(b) PER VEHICLE DOLLAR LIMITATION.—

“(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

“(2) BASE AMOUNT.—The amount determined under this paragraph is \$3,000.

“(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is \$200, plus \$200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed \$2,000.

“(c) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—

“(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

“(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

“(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘new qualified plug-in electric drive motor vehicle’ means a motor vehicle (as defined in section 30(c)(2))—

“(A) the original use of which commences with the taxpayer,

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

“(C) which is made by a manufacturer,

“(D) which has a gross vehicle weight rating of less than 14,000 pounds,

“(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

“(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

“(i) has a capacity of not less than 4 kilowatt hours, and

“(ii) is capable of being recharged from an external source of electricity.

“(2) EXCEPTION.—The term ‘new qualified plug-in electric drive motor vehicle’ shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

“(3) OTHER TERMS.—The terms ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(4) BATTERY CAPACITY.—The term ‘capacity’ means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

“(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

“(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

“(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

“(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent for the first 2 calendar quarters of the phaseout period,

“(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

“(C) 0 percent for each calendar quarter thereafter.

“(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

“(f) SPECIAL RULES.—

“(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

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

“(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

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

“(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.”.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) of such Code is amended by adding at the end the following new subparagraph:

“(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.”.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended—

(1) by striking “and” each place it appears at the end of any paragraph,

(2) by striking “plus” each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (31) and inserting “, plus”, and

(4) by adding at the end the following new paragraph:

“(32) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.”.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B) of such Code is amended by striking “and 25D” and inserting “25D, and 30D”.

(B) Section 25(e)(1)(C)(ii) of such Code is amended by inserting “30D,” after “25D.”.

(C) Section 25B(g)(2) of such Code is amended by striking “and 25D” and inserting “, 25D, and 30D”.

(D) Section 26(a)(1) of such Code is amended by striking “and 25D” and inserting “25D, and 30D”.

(E) Section 1400C(d)(2) of such Code is amended by striking “and 25D” and inserting “25D, and 30D”.

(2) Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, and”, and by adding at the end the following new paragraph:

“(37) to the extent provided in section 30D(f)(1).”.

(3) Section 6501(m) of such Code is amended by inserting “30D(f)(4),” after “30C(e)(5).”.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 30D. New qualified plug-in electric drive motor vehicles.”.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) of such Code is amended to read as follows:

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) of such Code is amended by striking “sections 27, 30, and 30B” and inserting “sections 27 and 30”.

(B) Paragraph (3) of section 55(c) of such Code is amended by striking “30B(g)(2).”.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

## SEC. 202. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLES.

Paragraph (4) of section 30B(j) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2010” and inserting “December 31, 2014”.

## SEC. 203. EXTENSION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

Paragraph (1) of section 30C(g) of the Internal Revenue Code of 1986 is amended by striking “hydrogen,” inserting “hydrogen or alternative fuels (as defined in section 30B(e)(4)(B)).”.

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

### SEC. 211. DEFINITIONS.

In this subtitle:

(1) ADMINISTERING ENTITY.—The term “administering entity” means the entity with which the Secretary enters into an agreement under section 214(c).

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

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

### SEC. 212. STATEMENT OF POLICY.

It is the policy of the United States to provide incentives to encourage the development and implementation of innovative energy technologies and new energy sources that will reduce our reliance on foreign energy.

### SEC. 213. PRIZE AUTHORITY.

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

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation in the program carried out under subsection (a), including individuals, universities, communities, and large and small businesses.

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants

to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(c) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to the provisions of this subtitle. The administering entity shall perform the following functions:

(1) Advertise the competition and its results.

(2) Raise funds from private entities and individuals to pay for administrative costs and cash prizes.

(3) Develop, in consultation with and subject to the final approval of the Secretary, criteria to select winners based upon the goal of safely and adequately storing nuclear used fuel.

(4) Determine, in consultation with and subject to the final approval of the Secretary, the appropriate amount of the awards.

(5) Protect against the administering entity’s unauthorized use or disclosure of a registered participant’s intellectual property, trade secrets, and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subtitle may be withheld from public disclosure.

(6) Develop and promulgate sufficient rules to define the parameters of designing and proposing innovative energy technologies and new energy sources with input from industry, citizens, and corporations familiar with such activities.

(d) FUNDING SOURCES.—Prizes under this subtitle may consist of Federal appropriated funds, funds provided by the administering entity, or funds raised through grants or donations. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

(e) ANNOUNCEMENT OF PRIZES.—The Secretary may not publish a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated to the Department or the Department has received from the administering entity a written commitment to provide all necessary funds.

### SEC. 214. ELIGIBILITY.

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

(1) shall notify the administering entity of intent to submit ideas and intent to collect the prize upon selection;

(2) shall comply with all the requirements stated in the Federal Register notice required under section 213(b)(2);

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of the United States;

(4) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or an employee of a national laboratory acting within the scope of employment;

(5) shall not use Federal funding or other Federal resources to compete for the prize; and

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

**SEC. 215. INTELLECTUAL PROPERTY.**

The Federal Government shall not, by virtue of offering or awarding a prize under this subtitle, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a registered participant in a competition authorized by this subtitle. This section shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subtitle. The Federal Government may seek assurances that technologies for which prizes are awarded under this subtitle are offered for commercialization in the event an award recipient does not take, or is not expected to take within a reasonable time, effective steps to achieve practical application of the technology.

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

The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this subtitle. The Secretary shall give notice of any waiver required under this section in the notice required by section 213(b)(2). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's intellectual property, trade secrets, or confidential business information.

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

(a) **AWARDS.**—40 percent of amounts in the American Energy Trust Fund shall be available without further appropriation to carry out specified provisions of this section.

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

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

(d) **CARRYOVER OF FUNDS.**—Funds appropriated for prize awards under this subtitle shall remain available until expended and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 11 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subtitle permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

**SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PROGRAM.**

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

**SEC. 219. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.**

(a) **DEFINITIONS.**—In this section:

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

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

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

(B) design of tooling and equipment and developing manufacturing processes and mate-

rial suppliers for production facilities that produce qualifying components or advanced batteries.

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

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

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

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

(d) **DIRECT LOAN PROGRAM.**—

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

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

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

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

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

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

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

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

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

(ii) 25 years;

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

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

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

(f) **SET ASIDE FOR SMALL MANUFACTURERS.**—

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

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

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

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

**Subtitle C—Home and Business Tax Incentives****SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

(a) **IN GENERAL.**—Subsection (b) of section 45M of the Internal Revenue Code of 1986 (relating to applicable amount) is amended by striking “calendar year 2006 or 2007” each place it appears in paragraphs (1)(A)(i), (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting “calendar year 2006, 2007, 2008, 2009, 2010, 2011, 2012, or 2013”.

(b) **RESTART OF CREDIT LIMITATION.**—Paragraph (1) of section 45M(e) of such Code (relating to aggregate credit amount allowed) is amended by inserting “beginning after December 31, 2007” after “for all prior taxable years”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to appliances produced after December 31, 2007.

**SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

(a) **IN GENERAL.**—Section 25C(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2013”.

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

**SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

Section 25D(g) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

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

Subsection (g) of section 45L of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

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

Section 179D(h) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

**SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.**

(a) **IN GENERAL.**—Paragraph (3) of section 451(i) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2008” and inserting “January 1, 2014”.

(b) **EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.**—Clause (ii) of section 451(i)(4)(B) of such Code is amended by striking “December 31, 2007” and inserting “the date which is 4 years after the close of the taxable year in which the transaction occurs”.

(c) **EFFECTIVE DATES.**—

(1) **EXTENSION.**—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) **TRANSFERS OF OPERATIONAL CONTROL.**—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

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

(a) **IN GENERAL.**—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

**“SEC. 25E. HOME ENERGY AUDITS.**

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

“(b) **LIMITATIONS.**—

“(1) **DOLLAR LIMITATION.**—The amount allowed as a credit under subsection (a) with

respect to a residence of the taxpayer for a taxable year shall not exceed \$400.

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

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

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

“(c) QUALIFIED ENERGY AUDIT.—For purposes of this section, the term ‘qualified energy audit’ means an energy audit of the principal residence of the taxpayer performed by a qualified energy auditor through a comprehensive site visit. Such audit may include a blower door test, an infra-red camera test, and a furnace combustion efficiency test. In addition, such audit shall include such substitute tests for the tests specified in the preceding sentence, and such additional tests, as the Secretary may by regulation require. A principal residence shall not be taken into consideration under this subparagraph unless such residence is located in the United States.

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

“(e) QUALIFIED ENERGY AUDITOR.—

“(1) IN GENERAL.—The Secretary shall specify by regulations the qualifications required to be a qualified energy auditor for purposes of this section. Such regulations shall include rules prohibiting conflicts-of-interest, including the disallowance of commissions or other payments based on goods or non-audit services purchased by the taxpayer from the auditor.

“(2) CERTIFICATION.—The Secretary shall prescribe the procedures and methods for certifying that an auditor is a qualified energy auditor. To the maximum extent practicable, such procedures and methods shall provide for a variety of sources to obtain certifications.”

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) of the Internal Revenue Code of 1986 is amended by inserting “and section 25E” after “this section”.

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

(3) Section 24(b)(3)(B) of such Code is amended by striking “and 25B” and inserting “, 25B, and 25E”.

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

(5) Section 25B(g)(2) of such Code is amended by striking “section 23” and inserting “sections 23 and 25E”.

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

(7) Section 25D(c)(2) of such Code is amended by striking “and 25B” and inserting “25B, and 25E”.

(8) The table of sections for subpart A of part IV of subchapter A chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

“Sec. 25E. Home energy audits.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by paragraphs (1) and (3) of subsection (b) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as

the provisions of such Act to which such amendments relate.

## SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS.

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

“(vii) any qualified smart electric meter.”

(b) DEFINITION.—Section 168(i) of such Code is amended by inserting at the end the following new paragraph:

“(18) QUALIFIED SMART ELECTRIC METERS.—

“(A) IN GENERAL.—The term ‘qualified smart electric meter’ means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

“(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term ‘smart electric meter’ means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

“(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

“(ii) provides for the exchange of information between supplier or provider and the customer’s electric meter in support of time-based rates or other forms of demand response,

“(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

“(iv) provides net metering.”

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) of such Code is amended by striking “or” at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter, or”.

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

## Subtitle D—Refinery Permit Process Schedule

### SEC. 231. SHORT TITLE.

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

### SEC. 232. DEFINITIONS.

For purposes of this subtitle—

(1) the term “Administrator” means the Administrator of the Environmental Protection Agency;

(2) the term “applicant” means a person who (with the approval of the governor of the State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, where the proposed refinery would be located) is seeking a Federal refinery authorization;

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

(4) the term “Federal refinery authorization” —

(A) means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to siting, construction, expansion, or operation of a refinery; and

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

(5) the term “refinery” means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or distillate;

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline or diesel as its primary output; or

(C) a facility designed and operated to receive, load, unload, store, transport, process (including biochemical, photochemical, and biotechnology processes), and refine biomass in order to produce biofuel; and

(6) the term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

### SEC. 233. STATE ASSISTANCE.

(a) STATE ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, the Administrator is authorized to provide financial assistance to that State or tribe or tribal community to facilitate the hiring of additional personnel to assist the State or tribe or tribal community with expertise in fields relevant to consideration of Federal refinery authorizations.

(b) OTHER ASSISTANCE.—At the request of a governor of a State, or in the case of Native American tribes or tribal territories the designated leader of the tribe or tribal community, a Federal agency responsible for a Federal refinery authorization shall provide technical, legal, or other nonfinancial assistance to that State or tribe or tribal community to facilitate its consideration of Federal refinery authorizations.

### SEC. 234. REFINERY PROCESS COORDINATION AND PROCEDURES.

(a) APPOINTMENT OF FEDERAL COORDINATOR.—

(1) IN GENERAL.—The President shall appoint a Federal coordinator to perform the responsibilities assigned to the Federal coordinator under this subtitle.

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

(b) FEDERAL REFINERY AUTHORIZATIONS.—

(1) MEETING PARTICIPANTS.—Not later than 30 days after receiving a notification from an applicant that the applicant is seeking a Federal refinery authorization pursuant to Federal law, the Federal coordinator appointed under subsection (a) shall convene a meeting of representatives from all Federal and State agencies responsible for a Federal refinery authorization with respect to the refinery. The governor of a State shall identify each agency of that State that is responsible for a Federal refinery authorization with respect to that refinery.

(2) MEMORANDUM OF AGREEMENT.—(A) Not later than 90 days after receipt of a notification described in paragraph (1), the Federal coordinator and the other participants at a meeting convened under paragraph (1) shall establish a memorandum of agreement setting forth the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery, consistent with the full substantive and procedural review required by



Federal law. If a Federal or State agency responsible for a Federal refinery authorization with respect to the refinery is not represented at such meeting, the Federal coordinator shall ensure that the schedule accommodates those Federal refinery authorizations, consistent with Federal law. In the event of conflict among Federal refinery authorization scheduling requirements, the requirements of the Environmental Protection Agency shall be given priority.

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

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

(C) CONSOLIDATED RECORD.—The Federal coordinator shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Federal coordinator or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal refinery authorization. Such record shall be the record for judicial review under subsection (d) of decisions made or actions taken by Federal and State administrative agencies and officials, except that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Federal coordinator for further development of the consolidated record.

(d) REMEDIES.—

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

(2) STANDING.—If an applicant or a party to a memorandum of agreement alleges that a failure to act described in paragraph (1) has occurred and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, such applicant or other party may bring a cause of action under this subsection.

(3) COURT ACTION.—If an action is brought under paragraph (2), the Court shall review whether the parties to the memorandum of agreement have been acting in good faith, whether the applicant has been cooperating fully with the agencies that are responsible for issuing a Federal refinery authorization, and any other relevant materials in the consolidated record. Taking into consideration those factors, if the Court finds that a failure to act described in paragraph (1) has occurred, and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, the Court shall establish a new schedule that is the most expeditious coordinated schedule possible for completion of proceedings, consistent with the full substantive and procedural review required by Federal law. The court may issue orders to enforce any schedule it establishes under this paragraph.

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

(5) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

#### SEC. 235. DESIGNATION OF CLOSED MILITARY BASES.

(a) DESIGNATION REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall designate no less than 3 closed military installations, or portions thereof, as potentially suitable for the construction of a refinery. At least 1 such site shall be designated as potentially suitable for construction of a refinery to refine biomass in order to produce biofuel.

(b) REDEVELOPMENT AUTHORITY.—The redevelopment authority for each installation designated under subsection (a), in preparing or revising the redevelopment plan for the installation, shall consider the feasibility and practicability of siting a refinery on the installation.

(c) MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—The Secretary of Defense, in managing and disposing of real property at an installation designated under subsection (a) pursuant to the base closure law applicable to the installation, shall give substantial deference to the recommendations of the redevelopment authority, as contained in the redevelopment plan for the installation, regarding the siting of a refinery on the installation. The management and disposal of real property at a closed military installation or portion thereof found to be suitable for the siting of a refinery under subsection (a) shall be carried out in the manner provided by the base closure law applicable to the installation.

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

(1) the term “base closure law” means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); and

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

#### SEC. 236. SAVINGS CLAUSE.

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

#### SEC. 237. REFINERY REVITALIZATION REPEAL.

Subtitle H of title III of the Energy Policy Act of 2005 and the items relating thereto in the table of contents of such Act are repealed.

### TITLE III—NEW AND EXPANDING TECHNOLOGIES

#### Subtitle A—Alternative Fuels

##### SEC. 301. REPEAL.

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

##### SEC. 302. GOVERNMENT AUCTION OF LONG TERM PUT OPTION CONTRACTS ON COAL-TO-LIQUID FUEL PRODUCED BY QUALIFIED COAL-TO-LIQUID FACILITIES.

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

(b) CONSULTATION WITH SECRETARY OF ENERGY.—The Secretary shall consult with the Secretary of Energy regarding—

- (1) the frequency of the auctions;
- (2) the strike prices specified in the contracts;

(3) the number of contracts to be auctioned with a given strike price and expiration date; and

(4) the capacity of existing or planned facilities to produce coal-to-liquid fuel.

(c) DEFINITIONS.—In this section:

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

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

(A) gives the holder the right (but not the obligation) to sell to the Government of the United States a certain quantity of a specific type of coal-to-liquid fuel produced by a qualified coal-to-liquid facility specified in the contract, at a strike price specified in the contract, on or before an expiration date specified in the contract; and

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

(3) QUALIFIED COAL-TO-LIQUID FACILITY.—The term “qualified coal-to-liquid facility” means a manufacturing facility that has the capacity to produce at least 10,000 barrels per day of transportation grade liquid fuels from a feedstock that is primarily domestic coal (including peat and any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions).

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

(5) STRIKE PRICE.—The term “strike price” means, with respect to a put option contract, the price at which the holder of the contract has the right to sell the fuel which is the subject of the contract.

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

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

#### SEC. 303. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQUIDS PROJECTS.

Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

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

“(1) DEFINITIONS.—For purposes of this subsection:

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

“(B) FULL TERM.—The term ‘full term’ means the full term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 30 years or 90 percent of the projected useful life of the project (as determined by the Secretary).

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

“(D) MINIMUM PRICE.—The term ‘minimum price’ means a market price specified in the standby loan agreement below which the United States is obligated to make disbursements to the project.

“(E) OUTPUT.—The term ‘output’ means some or all of the liquid or gaseous transportation fuels produced from the project, as specified in the loan agreement.

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

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

“(i) a commercial-scale project that converts coal to one or more liquid or gaseous transportation fuels; or

“(ii) not more than one project at a facility that converts petroleum refinery waste products, including petroleum coke, into one or more liquids or gaseous transportation fuels,

that demonstrates the capture, and sequestration or disposal or use of, the carbon dioxide produced in the conversion process, and that, on the basis of a carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, as producing fuel with life cycle carbon dioxide emissions at or below the average life cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities.

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

“(2) STANDBY LOANS.—

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

“(i) shall provide that the Secretary will make a direct loan (within the meaning of section 502(1) of the Federal Credit Reform Act of 1990) to the qualifying CTL project; and

“(ii) shall set a cap price and a minimum price for the primary term of the agreement.

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

“(C) LOAN REPAYMENTS.—The Secretary shall establish terms and conditions, including interest rates and amortization schedules, for the repayment of such loan within the full term of the agreement, subject to the following limitations:

“(i) If in any calendar quarter during the primary term of the agreement the market price is less than the cap price, the project may elect to defer some or all of its repayment obligations due in that quarter. Any unpaid obligations will continue to accrue interest.

“(ii) If in any calendar quarter during the primary term of the agreement the market price is greater than the cap price, the project shall meet its scheduled repayment obligation plus deferred repayment obligations, but shall not be required to pay in that quarter an amount that is more than the excess of the market price over the cap price, times the output of the project.

“(iii) At the end of the primary term of the agreement, the cumulative amount of any deferred repayment obligations, together with accrued interest, shall be amortized (with interest) over the remainder of the full term of the agreement.

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

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

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

“(4) COMPLIANCE WITH FEDERAL CREDIT REFORM ACT.—

“(A) UPFRONT PAYMENT OF COST OF LOAN.—No standby loan agreement may be entered into under this subsection unless the project makes a payment to the United States that the Office of Management and Budget determines is equal to the cost of such loan (determined under 502(5)(B) of the Federal Credit Reform Act of 1990). Such payment shall be made at the time the standby loan agreement is executed.

“(B) MINIMIZATION OF RISK TO THE GOVERNMENT.—In making the determination of the cost of the loan for purposes of setting the payment for a standby loan under subparagraph (A), the Secretary and the Office of Management and Budget shall take into consideration the extent to which the minimum price and the cap price reflect historical patterns of volatility in actual oil prices relative to projections of future oil prices, based upon publicly available data from the Energy Information Administration, and employing statistical methods and analyses that are appropriate for the analysis of volatility in energy prices.

“(C) TREATMENT OF PAYMENTS.—The value to the United States of a payment under subparagraph (A) and any profit-sharing payments under paragraph (3) shall be taken into account for purposes of section 502(5)(B)(iii) of the Federal Credit Reform Act of 1990 in determining the cost to the Federal Government of a standby loan made under this subsection. If a standby loan has no cost to the Federal Government, the requirements of section 504(b) of such Act shall be deemed to be satisfied.

“(5) OTHER PROVISIONS.—

“(A) NO DOUBLE BENEFIT.—A project receiving a loan under this subsection may not, during the primary term of the loan agreement, receive a Federal loan guarantee under subsection (a) of this section, or under other laws.

“(B) SUBROGATION, ETC.—Subsections (g)(2) (relating to subrogation), (h) (relating to fees), and (j) (relating to full faith and credit) shall apply to standby loans under this subsection to the same extent they apply to loan guarantees.”

#### Subtitle B—Tax Provisions

### SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, REFINED COAL, AND INDIAN COAL PRODUCTION CREDIT.

(a) CREDIT MADE PERMANENT.—

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

(A) by striking “and before January 1, 2009” each place it occurs,

(B) by striking “, and before January 1, 2009” in paragraphs (1) and (2)(A)(i), and

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

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

“(A) IN GENERAL.—In the case of a facility using open-loop biomass to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after October 22, 2004.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity produced and sold after December 31, 2008, in taxable years ending after such date.

(b) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of

section 45(e) of such Code is amended by adding at the end the following new sentence: “The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.”

(c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

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

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 312. EXTENSION OF ENERGY CREDIT.

(a) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal Revenue Code of 1986 (relating to energy credit) are each amended by striking “but only with respect to periods ending before January 1, 2009”.

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

(c) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) of the Internal Revenue Code of 1986 (relating to qualified microturbine property) is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

(d) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4) of such Code (relating to specified credits) is amended by striking “and” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) the credit determined under section 48, and”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 313. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2013”.

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

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

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

(c) MODIFICATION OF RATABLE PRINCIPAL AMORTIZATION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (5) of section 54(l) of such Code is amended to read as follows:

“(5) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each 12-month period that the issue is outstanding (other than the first 12-month period).”

(2) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) of such Code is amended by striking “subsection (1)(6)” and inserting “subsection (1)(5)”.

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

**SEC. 314. EXTENSION OF CREDITS FOR BIO-DIESEL AND RENEWABLE DIESEL.**

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2008” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

**Subtitle C—Nuclear****SEC. 321. USE OF FUNDS FOR RECYCLING.**

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

(1) in subsection (d), by striking “The Secretary may” and inserting “Except as provided in subsection (f), the Secretary may”; and

(2) by adding at the end the following new subsection:

“(f) RECYCLING.—

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

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

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

“(B) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

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

**SEC. 322. RULEMAKING FOR LICENSING OF SPENT NUCLEAR FUEL RECYCLING FACILITIES.**

(a) REQUIREMENT.—The Nuclear Regulatory Commission shall, as expeditiously as possible, but in no event later than 2 years after the date of enactment of this Act, complete a rulemaking establishing a process for the licensing by the Nuclear Regulatory Commission, under the Atomic Energy Act of 1954, of facilities for the recycling of spent nuclear fuel.

(b) FUNDING.—Amounts in the Nuclear Waste Fund established under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be made available to the Nuclear Regulatory Commission to cover the costs of carrying out subsection (a) of this section.

**SEC. 323. NUCLEAR WASTE FUND BUDGET STATUS.**

Section 302(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(e)) is amended by adding at the end the following new paragraph:

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

“(A) the budget of the United States Government as submitted by the President;

“(B) the congressional budget; or

“(C) the Balanced Budget and Emergency Deficit Control Act of 1985.”.

**SEC. 324. WASTE CONFIDENCE.**

The Nuclear Regulatory Commission may not deny an application for a license, permit, or other authorization under the Atomic Energy Act of 1954 on the grounds that sufficient capacity does not exist, or will not become available on a timely basis, for disposal of spent nuclear fuel or high-level radioactive waste from the facility for which the license, permit, or other authorization is sought.

**SEC. 325. ASME NUCLEAR CERTIFICATION CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to busi-

ness related credits) is amended by adding at the end the following new section:

**“SEC. 450. ASME NUCLEAR CERTIFICATION CREDIT.**

“(a) IN GENERAL.—For purposes of section 38, the ASME Nuclear Certification credit determined under this section for any taxable year is an amount equal to 15 percent of the qualified nuclear expenditures paid or incurred by the taxpayer.

“(b) QUALIFIED NUCLEAR EXPENDITURES.—For purposes of this section, the term ‘qualified nuclear expenditures’ means any expenditure related to—

“(1) obtaining a certification under the American Society of Mechanical Engineers Nuclear Component Certification program, or

“(2) increasing the taxpayer’s capacity to construct, fabricate, assemble, or install components—

“(A) for any facility which uses nuclear energy to produce electricity, and

“(B) with respect to the construction, fabrication, assembly, or installation of which the taxpayer is certified under such program.

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

“(1) in the case of a qualified nuclear expenditure described in subsection (b)(1), for the taxable year of such certification, and

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

“(d) SPECIAL RULES.—

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

“(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

“(e) TERMINATION.—This section shall not apply to any expenditures paid or incurred in taxable years beginning after December 31, 2019.”.

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of section 38 is amended by striking “plus” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, plus”, and by adding at the end the following new paragraph:

“(32) the ASME Nuclear Certification credit determined under section 450(a).”.

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph:

“(38) to the extent provided in section 450(e)(1).”.

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

**Subtitle D—American Renewable and Alternative Energy Trust Fund****SEC. 331. AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.**

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “American Renewable and Alternative Energy Trust Fund”, consisting of such amounts as may be transferred to the American Renewable and Alternative Energy Trust Fund as provided in section 149 and the amendments made by section 110 of this Act.

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

(1) IN GENERAL.—Amounts in the American Renewable and Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109-58; in this section referred to as “EPAct2005”) and the Energy Independence and Security Act of 2007 (Public Law 110-140; in this section referred to as “EISAct2007”), as follows:

(A) Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes, section 210 of EPAct2005, 3 percent

(B) Hydroelectric production incentives, section 242 of EPAct2005, 2 percent.

(C) Oil shale, tar sands, and other strategic unconventional fuels, section 369 of EPAct2005, 3 percent.

(D) Clean Coal Power Initiative, section 401 of EPAct2005, 7 percent.

(E) Solar and wind technologies, section 812 of EPAct2005, 7 percent.

(F) Renewable Energy, section 931 of EPAct2005, 20 percent.

(G) Production incentives for cellulosic biofuels, section 942 of EPAct2005, 2.5 percent.

(H) Coal and related technologies program, section 962 of EPAct2005, 4 percent.

(I) Methane hydrate research, section 968 of EPAct2005, 2.5 percent.

(J) Incentives for Innovative Technologies, section 1704 of EPAct2005, 7 percent.

(K) Grants for production of advanced biofuels, section 207 of EISAct2007, 16 percent.

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

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

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

(O) Energy storage competitiveness, section 641 of EISAct2007, 10 percent.

(P) Smart grid technology research, development, and demonstration, section 1304 of EISAct2007, 7 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out such sections and subtitles, in proportion to the amounts authorized by law to be appropriated for such other sections and subtitles.

Mr. EDWARDS of Texas. Mr. Chairman, I reserve a point of order on the gentleman’s amendment.

The Acting CHAIRMAN. A point of order is reserved.

The gentleman from Utah is recognized for 5 minutes.

Mr. BISHOP of Utah. Thank you, Mr. Chairman. I appreciate the courtesies, real or unreal, that have been granted to this point so far.

If you go back to the movie *The Natural*, there is a wonderful scene where this mythical team, the New York Knights, are on a losing tradition, so they bring a sports psychologist down to try and talk to the team. And as the sports psychologist is droning on to them, he says, “You know, men, the mind is a strange thing. What is losing? Losing is a disease as contagious as the bubonic plague, attacking one

but infecting all. And consider yourself, if you are on a ship at sea gently rocking, gently rocking."

And at that point, Roy Hobbs can't take it anymore, so he bolts out of there because he realizes that if you are in a losing situation, talking about it doesn't help, only action on the field of play will help.

And when given the chance to go on the field and play, he pounded the ball and led them to victory after victory after victory.

And what we are talking about simply here tonight is what Americans want, which is for us to do something here on this playing field on the issue of energy and energy security.

We are fighting for the people of my district who will be faced with a 30 percent increase in heating costs this winter. We are fighting for the 1,100 people who lost their jobs with an airline because 100 planes were not able to be provided the fuel to fly. We are flying for an Ethiopian-born cab driver here in Washington, D.C. who, for the first time in his life since coming here, he cannot meet his kids at home because he has to drive two extra hours every night just to make up what he loses in these fees. We are fighting for a father in Virginia who can no longer go to his father-and-son outings because he can't afford the gasoline to drive there. We are talking about the Clark County School District which had an unexpected 62 percent of its budget all related to energy costs, and that all comes out of future salaries of the teachers of those poor areas.

If you are rich, this problem is simply an annoyance. Only 11 cents out of \$1 goes to energy. But if you are on the poverty line, 50 cents of every dollar goes to energy. And that 50 cents that comes out of the pocket of a poor person or somebody on a fixed income is money that cannot be spent on luxuries like tuna casseroles or Hamburger Helper.

We are a country that has the technology and the ability to solve this problem. We are a country with a proud history of solving our problems with technology. Since 1784 when we invented the bifocals, to 1867 when we changed the world by inventing the typewriter and changed the West by inventing barbed wire and changed our lives by inventing toilet paper in the same year, to 1945 with the microwave, to even soft contacts today. We have had the technology to be able to solve this energy problem. And before us is an amendment which will reward Americans for their efforts of conservation in a way that we have not done in a long time. It will increase production of our energy sources by recognizing that not only do we have to have the fossil fuels increased, but all the royalties that we will now make by increased production in oil and gas and oil shale and coal will be used to fund the improvements and the innovations and the research for alternative energy so that we can look forward to the future.

We recognize that we have to do something with our infrastructure. We do not have the refinery capacity that we need. We recognize that Washington is not the seat of all wisdom, that bringing an expert into a room here is not going to solve our problems; but what we need to do is unlock the brilliance within Americans and within what they have to offer to the American people. By offering prizes, we can find solutions that have been plaguing and missing us for years.

In 1714, the British didn't have a way of mapping their waters in the navigation, so they offered a \$20,000 prize and a clock maker came up with the system of longitude and latitude that we still use today.

In 1810, Napoleon needed a way to feed his troops. He gave a 12,000 franc prize to find somebody to use the vacuum-packed processes we still use today.

Lindbergh flew across the ocean to get a prize from a newspaper, and it spawned a \$32 billion industry.

We have that capability today. We have the Roy Hobbs who realizes that the only way you solve the problem is get on the playing field and do it.

We have the ability to solve our problem today if we just come to this playing field and do it, and to require a vote on this amendment so that we can fulfill the words of Daniel Webster that are looking at us every day we come here to inspire us, to tell us to take our resources and to build from that, and to do something that is worthy to be remembered.

This amendment would be worthy to be remembered, and I urge that we accept this amendment and I urge that we have a vote on this amendment. This may be the only chance we actually have to have an up or down vote on this particular amendment, which impacts the lives of everybody but especially the most vulnerable in our society.

Mr. Chairman, may I ask how much time remains?

The Acting CHAIRMAN. The gentleman has 15 seconds.

Mr. BISHOP of Utah. Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of Texas. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. EDWARDS of Texas. Mr. Chairman, this is a bill to provide health care and benefits for America's veterans and their families, America's service men and women and their families. This is not an energy bill. The speaker that just spoke knows it, I know it, and the veterans of America know it.

Let me read to you from the VFW Action Alert from 3 days ago.

"Some Members of Congress may try to attach unrelated items to the bill which would hold up or even defeat final passage. We ask you to contact your representatives today and urge them to pass a clean VA-MilCon Appro-

priations bill. Tell them that further delay hurts our veterans and our troops on the ground. Let them know that we expect them to reaffirm their priorities by doing the right thing and passing the funding bill quickly."

Mr. BISHOP of Utah. Mr. Chairman, I apologize for interrupting; I just want to be clear. Is the gentleman speaking to a point of order, or is he speaking to the amendment itself? I would make the point of order the gentleman is not speaking—

Mr. EDWARDS of Texas. I am speaking in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized on the amendment.

The gentleman will continue.

Mr. EDWARDS of Texas. Mr. Chairman, let me say to this body what the Disabled American Veterans said about amendments such as this. "It is our strongest recommendation that this bill be unfettered with nongermane amendments. We observe in media accounts that some Members of the body may wish to offer such amendments, and we fear that if these amendments are ruled in order for floor debate, they may bring down the bill. Accordingly, we ask that you work with the majority leader and minority leader to ensure this key bill, one that impacts one in every four Americans and is a vital priority for DAV and our membership, is passed in the most orderly manner without the distractions attendant to the political season or party differences on unrelated national priorities."

Mr. Chairman, let me tell you what the Veterans of Foreign Wars have said about this type of amendment, and I quote from their newsletter from 6 days ago. "We believe attaching them (nongermane amendments) to this critical veterans' bill could jeopardize its passage by unnecessarily delaying it or even grinding debate completely to a halt. This is unacceptable."

Mr. Chairman, I have to make a choice on this amendment to stand with the gentleman and Mr. BOEHNER, or stand with millions of America's veterans. For me, that is an easy choice. I will stand with our veterans, fight for a clean VA military construction bill that was put in good faith together on a bipartisan basis. The energy debate should be left for another day. Let's take care of our veterans. Let's honor our veterans, our troops, and their families. They deserve no less.

The Acting CHAIRMAN. Does the gentleman continue to reserve his point of order?

Mr. EDWARDS of Texas. Yes, I do.

Mr. OBEY. Mr. Chairman. I move to strike the last word.

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, one month ago when we were trying to add funding to provide the largest expansion of the GI bill in the history of the bill

since it was first approved in 1945, the House Minority Leader issued the following statement. He said, "House Republicans believe that loading up the troop funding bill with billions upon billions of unrelated Washington spending is reckless and dangerous."

Now, it was difficult for me at the time to understand how adding education benefits for our troops was unrelated to funding the troops, but today we are now being asked to consider a nongermane amendment which would bring a divisive energy debate into legislation which is trying to provide for the needs of our military families around the country and which is trying to provide the needs in the health care area for our veterans.

If I were to debate energy in the middle of this bill, I would point out that one of the reasons that we have \$4 gas today is that we have an administration which has pursued fiscal policies that have borrowed almost \$2 trillion to finance tax cuts and to finance the war in Iraq, and that has contributed to driving down the value of the dollar, which has in turn raised the cost of purchasing a gallon of gasoline by 30 percent.

If I were to debate energy on this bill, I would point out that, since Jimmy Carter left office, we have had a succession of administrations running from Reagan to Bush that systemically presided over the gutting of energy research done by the government on alternative energy sources.

I would also point out that over the last 8 years we have had an energy policy run by an administration dominated by two oil men in the President and the Vice President.

I would point out that their national security advisor, Secretary Rice, served on Chevron's board of directors for 10 years and even had an oil tanker named after her; that Interior Secretary Gale Norton started her career at a think tank funded by energy companies; commerce Secretary Don Evans was former president and CEO of a Texas oil company; Deputy Interior Secretary Griles was a former lobbyist for the oil, chemical, and mining industry, et cetera, et cetera, et cetera.

I would also point out that we on this side of the aisle have worked to pass increased fuel economy standards for automobiles; we have voted to eliminate \$14 billion in special tax breaks for oil and gas companies; we voted to crack down on speculation which has driven up the cost of oil and gas at the expense of the American people. I would have pointed out that we have voted to get more oil from the National Petroleum Reserve in Alaska. And, I would be pointing out that we have also asked the President to release oil from the Strategic Petroleum Reserve.

□ 2130

I would also point out that we support drilling on the 68 million acres of public lands that are already leased and not being developed. That is what

I would point out if I were in a debate on energy. But, in fact, this is supposed to be a discussion about the needs of our military families for housing, for education, and the needs of our veterans for health care. And I think we would best serve the country in this Chamber tonight if we would focus our remarks on that issue. And that is what I will continue to do.

#### POINT OF ORDER

Mr. EDWARDS of Texas. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2 of rule XXI.

The rule states, in pertinent part: "An amendment to a general appropriation bill shall not be in order if changing existing law." The amendment changes the application of existing law.

I ask for a ruling from the Chair.

The Acting CHAIRMAN. Does anyone wish to be heard on the point of order?

Mr. BISHOP of Utah. Mr. Chairman, I do.

The Acting CHAIRMAN. The Chair recognizes the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Chairman, I appreciate the fact that the gentleman from Wisconsin chose not to extend our time by debating energy here tonight.

I wish to speak specifically to this point of order. The issue on a point of order is the nexus between the amendment to the underlying bill, and it would be my contention there are multiple in which one can look. This particular bill on MILCON has at least eight references to runways and roads which are to be produced, all of which will be made by asphalt, which is a petroleum-based substance. With costs increasing, it would be a difficult price to try and do that.

We will have people coming in here talking about VA benefits to people, falling all over themselves stumbling to be good about it. That is great. But if, indeed, those VA hospitals are going to have a 30 percent increase in heating costs which have to be paid first, many of the benefits that we are looking at in this bill will be unable to be provided. It is almost like taking medicine off their trays when we require people to get those benefits to pay 4 and \$5 a gallon to get there.

The couple in West Virginia that drove 80 miles every week and were reimbursed 11 cents a mile. For 8 bucks they could not fund their ability to get those benefits.

We will increase our benefits and, at the same time, tell veterans they are going to have to pay at a higher price out of their pocket to get those benefits. What we give with one hand will be taken back simply with another because of our inaction.

There is precedent for what I am attempting to do. In 1999, there was an amendment that was made in order even though it was in violation of the

germaneness rule by Spence and Ortiz. In 2000 there were two more that were part of the Department of Transportation bill, bipartisan amendment.

There was another one that was made in 1990, and those are the original ones we were able to look at, let alone the concept of all sorts of legislation that we routinely put into appropriations types of measures. There is precedent for what I am trying to talk about.

Mr. Chairman, this is one of those situations where a ruling by the Chair will make a decision on whether we deny discussion on energy in this body or not. A ruling by the Chair will decide whether we talk about conservation and production and infrastructure needs; will deny or not a vote by the representatives of the people on an issue the people are asking for us to take a vote.

Benjamin Franklin, when talking about the Revolution once said that "revolutions come into this world like illegitimate children." He didn't use the word illegitimate, but illegitimate children, "half improvised and half compromised."

We have provided the improvisation for this issue. We are looking to the gentleman at the Chair to provide the compromise; to simply say that we can go forward with the debate that is significant, it is timely, it is important and does have significant nexus to this particular piece of legislation for, indeed, what we are appropriating cannot be accomplished if the energy prices continue to soar and make it an impossibility to do that.

This is a chance, Mr. Chairman, that the fate of the American economy and maybe our military intelligence will rest in the hands of your decision. It is my hope that you will decide in the favor of people on this particular point of order.

Mr. OBEY. Mr. Chairman, on the point of order, I would simply observe that the ruling of the Chair will do one thing and one thing only: it will determine what the rules of the House are and whether this amendment is in compliance with those rules. And I would ask for a ruling.

The Acting CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, the Chair is prepared to rule. The amendment offered by the gentleman from Utah proposes directly to amend existing law. As such, it constitutes legislation in violation of clause 2(c) of rule XXI. Therefore, the point of order is sustained and the amendment is not in order.

#### AMENDMENT NO. 35 OFFERED BY MR. BURGESS

Mr. BURGESS. Mr. Chairman, I ask unanimous consent that I be permitted to offer my amendment at this point in the reading.

The Acting CHAIRMAN. Is there objection to consideration of the amendment at this point?

Mr. OBEY. Reserving the right to object, Mr. Chairman, so long as the understanding that was expressed earlier

stands and that there will be only one speaker on that side of the aisle on this nongermane amendment, I would not have an objection.

Mr. BURGESS. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BURGESS. Other than myself, the gentleman from Texas and the gentleman from Wisconsin, I see no other speakers to speak on my amendment.

Mr. OBEY. Well, the gentleman from Wisconsin does not intend to participate on this one, so it will just be two of you.

Mr. BURGESS. Thank you, Mr. Chairman.

Mr. OBEY. I withdraw my reservation.

The Acting CHAIRMAN. Without objection, the gentleman may offer his amendment at this point.

There was no objection.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 35 offered by Mr. BURGESS: Page 2, line 14, insert after the dollar amount "(increased by \$100,000,000)".

Page 3, line 8, insert before the period the following: "Provided further, That of the amount appropriated in this paragraph, \$100,000,000 shall be available for the design and construction of one petroleum refinery for the Army".

Page 3, line 16, insert after the dollar amount "(increased by \$200,000,000)".

Page 4, line 4, insert before the period the following: "Provided further, That of the amount appropriated in this paragraph, \$200,000,000 shall be available for the design and construction of one petroleum refinery each for the Navy and Marine Corps".

Page 4, line 10, insert after the dollar amount "(increased by \$100,000,000)".

Page 5, line 7, insert before the period the following: "Provided further, That of the amount appropriated in this paragraph, \$100,000,000 shall be available for the design and construction of one petroleum refinery for the Air Force".

Page 15, line 17, insert after the dollar amount "(reduced by \$400,000,000)".

Mr. EDWARDS of Texas. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The Acting CHAIRMAN. The point of order is reserved.

The gentleman from Texas is recognized for 5 minutes.

Mr. BURGESS. Mr. Chairman, the amendment I am offering tonight provides \$400 million towards new construction projects. This money will be used to put American workers, pipe fitters, engineers, construction workers to work and build refineries that produce the specialized types and grades of fuel used by each branch of the service for their equipment. The refineries will be located on existing or former bases under the purview of the Department of Defense, and will represent the first refineries built in the United States since 1976. And the time to do it is now.

The Air Force isn't going to have a fleet of plug-in hybrid fighter jets, and the Navy isn't going to have a solar

battleship in the near future. They need fuel, plain and simple.

Investing in critical infrastructure and protecting the Nation are our top responsibilities in the Federal Government. Today I am offering an amendment that provides Federal funds for the construction and design of one refinery for each branch of the military to produce the petroleum products required by that branch, combining these two critical roles for the public good.

Prices are high. So is demand. Let's address both sides of the energy equation, and let's put our Americans back to work to help the military protect the Nation.

We have heard a lot about exploring and drilling for American sources of energy. Hands down, Americans agree on this point. It is an 80 percent issue across the country and, indeed, it is even higher in my district and other districts of north and central Texas. Polls show the vast majority of Americans favor drilling offshore in the ANWR.

The United States Department of Defense is straining under record high prices. In 2007, with operations in Iraq and Afghanistan, the United States armed service consumed 16 gallons of fuel per soldier per day, or about \$3 million worth of fuel every day. That is a lot of fuel, and that is a lot of opportunity for American energy and American jobs.

But this is not regular gasoline. All military planes, vehicles, generators and heavy equipment in areas of foreign operation use jet petroleum to avoid transporting and carrying different fuel grades and accidentally putting the wrong type of fuel in their equipment.

Right now global refineries are operating at a very tight capacity. This, in turn, limits the quantity of gasoline and other products that they can produce. This squeeze impacts the consumers, domestic refiners and the military as the cost of refining comprises between 10 and 20 percent of the price at the pump. It means the taxpayers are getting hit with higher costs twice, and it also leaves military fuel supplies vulnerable to disruptions from terrorist attacks and natural disasters.

And then there's the question of importing refined products. We already heard under the colloquy about how important it is to use an American product, American-made steel. Well, how about we use American-made gasoline? Use the gasoline that is produced here in America.

Domestic refinery production has declined as industry operates with tight profit margins and lower inventories of crude oil to cut gasoline costs, and these constraints mean a greater proportion of gasoline demand has to be met with imported products. We know what that means. We buy it from people who don't like us. We are funding both sides in the war on terror.

Four of five of the top suppliers of military fuel are foreign companies or

foreign state-owned entities. This poses a serious threat to our national and our economic security and must be addressed.

Let me stress that this is a win/win for America. These military specific refineries could produce and protect specialized military fuels from capacity limitations that squeeze supply and increase prices for everyone; would free up commercial refining capacity and ensure that we are not forced to outsource a significant portion of our defense when we buy from foreign refineries.

Military commanders say you can't kick behind without tanker gas, or something like that. The Air Force isn't going to have a fleet of plug-in hybrids, as I already said. Our national defense and our national economic security are too important to risk on shortages of refinery capacities when we are faced with natural disasters.

We have a Strategic Petroleum Reserve. What good is it if there is no strategic way to refine it?

And this amendment would provide the beginning of that strategic way to put the refineries in areas that are already cleared environmentally, already have the security in place, and it makes sense.

We have also heard tonight that we need to pass a clean bill. It is important to get this bill done because our veterans and our military need the monies that will be appropriated in this bill, and I agree with that very much. It is my understanding this bill has been ready to go for 4 or 5 weeks.

I don't know why we have not seen fit to bring it up before tonight. I don't know why we had to bring it up under a modified closed rule. But those are the rules the majority has set. Those are the rules under which we will play.

So I thank the chairman for hearing this amendment. I think it is an important concept that needs to be furthered.

I yield back the balance of my time.

Mr. EDWARDS of Texas. Mr. Chairman, I rise in opposition.

The Acting CHAIRMAN. Does the gentleman continue to reserve his point of order?

Mr. EDWARDS of Texas. Yes, I do.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. EDWARDS of Texas. Mr. Chairman, I won't repeat the statements by the Veterans of Foreign Wars, the Disabled American Veterans, and the American Legion and others who have spoken out against non-germane amendments on this bill whose purpose is to support our veterans, their families, our troops, and their families.

I know the gentleman from Texas. He is a friend of mine. I think he is genuine in his efforts to accomplish what he would like to accomplish, but this is not the bill. This is not the time. This is not the place in which to do it.

Furthermore, despite the gentleman's good intentions, there is a serious flaw in this amendment for which I



would strongly oppose it, and that is, it would take \$400 million out of the President's budget request for the Base Realignment and Closing process. That would be a terrible mistake because its result would be that thousands of America's veterans returning home from their second and even third tours of duty in Iraq and Afghanistan would come home to find that the barracks that were supposed to have been built with that BRAC money were not built.

They would come home, and then those troops, as they began to train to go back to Iraq and Afghanistan, would find the training ranges that they needed that were to have been built with this \$400 million in BRAC funding were not built; the very training ranges that are a vital part of not only allowing those troops to carry out their mission in our Nation's behalf, but help them come home safely to their families.

So, for those reasons, as well as a number of others, Mr. Chairman, I would like to make a point of order against the amendment because it provides an appropriation for an unauthorized program and, therefore, violates clause 2 of rule XXI. Clause 2 of rule XXI states, in pertinent part, "An appropriation may not be in order as an amendment for an expenditure not previously authorized by law."

Mr. Chairman, the amendment proposes to appropriate funds that are not authorized. The amendment therefore violates clause 2 of rule XXI.

I ask for a ruling from the Chair.

Mr. BURGESS. Mr. Chairman, I will not dispute the point of order. I believe that the amendment is germane because it is a military construction bill. But I understand the concept of authorizing. I would point out Congressional Budget Office does score this as a savings, so as the old saying goes, it doesn't cost, it pays. And I was willing to offer this money in the spirit of bipartisanship. But also in the spirit of bipartisanship I will, at this time, ask unanimous consent to withdraw the amendment.

Mr. EDWARDS. I thank the gentleman.

The Acting CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

Ms. BERKLEY. I move to strike the last word.

The Acting CHAIRMAN. The gentleman from Nevada is recognized for 5 minutes.

Ms. BERKLEY. Mr. Chairman, I rise tonight in support of this bill. I want to thank Chairman EDWARDS and Ranking Member WAMP for their extraordinary efforts on behalf of this Nation's veterans, and for including report language on veterans burial benefits.

□ 2145

I'm deeply concerned about the eroding value of plot allowance and burial benefits provided to our Nation's veterans. Because the benefits are not in-

dexed to inflation, their value continues to diminish each year. As a result, families and State veteran cemeteries have been left to cover the increasing costs of burying their loved ones. The VA simply must assess the need to increase the plot allowance of burial benefits to cover the same percentage of burial benefit costs that were covered in 1973 when these benefits were first initiated.

I appreciate the fact that the chairman has included the report language in the report the need for increasing burial benefits for our veterans.

I'm also pleased that the committee recognizes the importance of veterans' mental health and substance abuse services. This is an issue of great importance to me. I had a constituent by the name of Justin Bailey. He volunteered to serve this Nation, he was sent to Iraq, he served with honor and distinction. And when he returned, he developed a substance abuse problem. At the suggestion of his parents, he checked himself into a VA facility, and even though he was suffering from a substance abuse problem due to PTSD and other mental health issues, he was given more medication while he was in the VA facility. And he ultimately ended up overdosing while he was in the care of the VA.

Unfortunately, Justin is not an isolated incident. There are thousands of young men and women returning from service overseas that come back with a mental health problem or substance abuse problem or PTSD. I'm very delighted that this committee and Chairman EDWARDS have recognized that this is a crisis and this bill increases funding for mental health and substance abuse services for our veterans.

Again, I want to thank Chairman EDWARDS and Ranking Member WAMP for recognizing the importance of these issues, and I would like to urge my colleagues to support this legislation without reservation and without continuing to add on things that do not belong in this bill and are not germane.

Let's stand up for our veterans, and let's stand up for them this evening.

I yield back.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, AIR FORCE  
(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$976,524,000, to remain available until September 30, 2013: *Provided*, That of this amount, not to exceed \$77,314,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Air Force" in the table

entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 109-114, \$1,359,000 are hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 110-5, \$3,581,000 are hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 110-161, \$12,741,000 are hereby rescinded.

Mr. PERLMUTTER. Mr. Chairman, I move to strike the last word.

The Acting CHAIRMAN. The gentleman from Colorado is recognized for 5 minutes.

Mr. PERLMUTTER. Mr. Chairman, I would like to inquire whether the gentleman from Texas would be willing to engage in a colloquy with me.

Mr. EDWARDS of Texas. I would be honored to do so.

Mr. PERLMUTTER. I thank the gentleman.

Simply put, dirt needs to be turned on the replacement Veterans Medical Center in Aurora, Colorado. This facility is the centerpiece of the VA's capital construction plan under the Capital Asset Realignment for Enhanced Services, the CARES project, which began in 1999.

Eight years are gone, millions of dollars in additional costs have been incurred, and three VA secretaries later, it is safe to say the time for action for Colorado and the Rocky Mountain veterans is now. They've waited far too long, and our taxpayers will pay far more the longer this project is dragged out. We have to get this project done.

It is for these reasons I understand and identify with the frustration many in our veterans' community feel in being shut out of the design process as they continue to see the construction of this important undertaking pushed back year after year.

Achieving consensus and moving forward with the construction of this facility has and will continue to be one of my top priorities in Congress. Simply put, it is not fair or right to punish our veterans by the repeated delays resulting each time a new Secretary of Veterans Affairs is appointed.

I believe our veterans deserve better than they've been treated through this process, and to quote the Denver Post, "Changing plans midstream without bringing in the people who would use the facility or those who put their political capital to work to get money for the project is an affront." And the editorial concludes with, "We hope the VA reconsiders its decision and honors the commitment made to veterans in the Colorado region. The long-anticipated standalone facility is sorely needed and further delay is unacceptable." And I couldn't agree more.

That is why I feel it is vital to provide the funding necessary for the Veterans Administration to move forward with the construction of the central utility substation, the parking garage,

and the surface parking lots of the proposed facility. These are all projects for which money has already been appropriated and is in the bank, and they're ready to go. In all likelihood, this is going to take more than the \$20 million that the administration is currently calling for.

But with that, I would like to yield to the gentleman to ask if he's willing to continue to work with me to secure the funding required to build a facility our veterans can be proud of as soon as possible.

Mr. EDWARDS of Texas. The answer to the gentleman's question is absolutely yes, and I want to salute the gentleman from Colorado for his tireless devotion for seeing that the veterans in the Denver area in Colorado have a VA medical center that is worthy of their service to our country.

It is simply not right that this process has been like a ping pong game going back and forth. The veterans of Colorado are told one year one thing's going to happen, the next year another thing is going to happen. The gentleman is right in saying that if plans are changing, there should be input from the veterans in the local communities.

So I look forward to working with the gentleman not only in this House but in meetings with the VA officials so that we see we move this important project forward expeditiously.

Mr. PERLMUTTER. I thank the gentleman, and I look forward to his visit to Aurora, Colorado, at the end of August.

I yield back.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, DEFENSE-WIDE  
(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$1,614,450,000, to remain available until September 30, 2013: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$211,606,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Defense-Wide" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of

Representatives to accompany this bill: *Provided further*, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 108-324, \$3,589,000 are hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$628,668,000, to remain available until September 30, 2013: *Provided*, That of the amount appropriated, not to exceed \$50,563,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Army National Guard" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$142,809,000, to remain available until September 30, 2013: *Provided*, That of the amount appropriated, not to exceed \$10,209,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Air National Guard" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

Ms. SHEA-PORTER. Mr. Chairman, I move to strike the last word.

The Acting CHAIRMAN. The gentleman from New Hampshire is recognized for 5 minutes.

Ms. SHEA-PORTER. Mr. Chairman, I rise for the purpose of engaging in a colloquy with the chairman.

Mr. Chairman, I would like to thank you for your leadership in supporting our veterans and particularly on this bill. The 110th Congress has made great strides in fulfilling the promises made to our veterans.

Mr. Chairman, there are more than 130,000 veterans in New Hampshire. Those veterans have gone without a full service VA hospital for the past 7 years. Last year, over 700 veterans who visited our VA facility in Manchester for acute care were transported to Boston VA facilities or to the White River Junction in Vermont. For some of our more rural northern residents, this can

be an arduous ordeal. Hours can be spent in a car or bus traveling for medical care.

To address this inequity, I introduced legislation this week that would require the VA to either provide full-service hospital care or comparable services to veterans in every State.

Mr. Chairman, the legislation before us also includes an increase of \$200 million in fee-based care funding, care that our veterans can receive in local non-VA medical facilities. This program can provide much-needed assistance to veterans in New Hampshire, and I wanted to receive your assurances that we would continue to work together to ensure that New Hampshire veterans have adequate access to in-State health care.

At this time, I would like to yield to my friend and colleague from the Second District of New Hampshire.

Mr. HODES. I thank the gentleman for yielding.

I want to thank the chairman for his extraordinary leadership on this important issue and for standing up for veterans around the country.

I rise today to echo the concern of my colleague, Congresswoman CAROL SHEA-PORTER. New Hampshire remains the only State in the Nation without a full service VA hospital, forcing many veterans to drive long distances to get the care and treatment they desperately need and that they've earned. With record high gas prices, New Hampshire veterans are simply paying more to get critical medical care, and that's plain wrong.

I would like to echo the concerns of my colleague and also ask the chairman to clarify that the increases in fee-based care contained in the underlying bill are meant to address issues like those we have in New Hampshire.

And I look forward to continuing to work with the chairman and members of his committee on this important issue for Granite State veterans.

Mr. EDWARDS of Texas. I would like to answer the gentleman's question by saying that the answer is "yes."

And I want to thank Mr. HODES and Ms. SHEA-PORTER for fighting on behalf of improved medical care for the veterans of New Hampshire. You have not only done that by your election to Congress, you have been key players in making it possible for us to pass the largest increase in VA health care funding in the VA 77-year history. It wouldn't have happened without your election to Congress and your leadership.

I look forward to working with both of you in our subcommittee to see that we can ensure that the veterans of New Hampshire who have served our country receive the medical care that they deserve.

Ms. SHEA-PORTER. Thank you. I yield back.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities

for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$282,607,000, to remain available until September 30, 2013: *Provided*, That of the amount appropriated, not to exceed \$14,883,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Army Reserve" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### MILITARY CONSTRUCTION, NAVY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$57,045,000, to remain available until September 30, 2013: *Provided*, That of the amount appropriated, not to exceed \$2,045,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Navy Reserve" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$30,018,000, to remain available until September 30, 2013: *Provided*, That of the amount appropriated, not to exceed \$5,675,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the headings "Air Force Reserve" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$218,867,000, to remain available until expended.

Mr. EDWARDS of Texas. Mr. Chairman, I ask unanimous consent that the remainder of the bill through title II, page 35, line 18, be considered as read, printed in the RECORD, and open to amendment at any point.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of that portion of the bill is as follows:

#### FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$646,580,000, to remain available until September 30, 2013: *Provided*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Army" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$716,110,000.

#### FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$382,778,000, to remain available until September 30, 2013: *Provided*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Navy and Marine Corps" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$376,062,000.

#### FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$395,879,000, to remain available until September 30, 2013: *Provided*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified under the heading "Family Housing Construction, Air Force" in the table entitled "Military Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$594,465,000.

#### FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$49,231,000.

#### DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$850,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

#### HOMEOWNERS ASSISTANCE FUND

For the Homeowners Assistance Fund established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), \$4,500,000, to remain available until expended.

#### CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

##### (INCLUDING TRANSFER OF FUNDS)

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, \$134,278,000, to remain available until September 30, 2013: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided further*, That the amount appropriated in this paragraph shall be for the projects and activities, and in the amounts, specified in the table entitled "Chemical Demilitarization Construction" in the report of the Committee on Appropriations of the House of Representatives to accompany this bill.

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$473,377,000, to remain available until expended.

#### DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$9,065,386,000, to remain available until expended: *Provided*, That the Department of Defense shall notify the Committees on Appropriations of both Houses of Congress 14 days prior to obligating an amount for a construction project that exceeds or reduces the amount identified for that project in the most recently submitted budget request for this account by 20 percent or \$2,000,000, whichever is less: *Provided further*, That the previous proviso shall not apply to projects costing less than \$5,000,000, except for those projects not previously identified in any budget submission for this account and exceeding the minor construction threshold under 10 U.S.C. 2805.

## ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign

contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. (a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report, in unclassified and, if necessary classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

(b) The report under subsection (a) shall include a description of—

(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

(5) for host countries that are members of the North Atlantic Treaty Organization

(NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

(c) In this section, the term “host country” means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification, or 14 days for a notification provided in an electronic medium pursuant to sections 480 and 2883, of title 10, United States Code, to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in “Family Housing” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in “Military Construction” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 122. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the

accounts established by sections 2906(a)(1) and 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 123. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 124. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 125. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a continuing mission or function at that installation or a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress. This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify

the congressional defense committees within seven days of a decision to carry out such a military construction project.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 126. During the 5-year period after appropriations available in this Act to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense", to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 127. None of the funds appropriated or otherwise made available in this title may be used for any action that is related to or promotes the expansion of the boundaries or size of the Pinon Canyon Maneuver Site, Colorado.

### TITLE II

#### DEPARTMENT OF VETERANS AFFAIRS

##### VETERANS BENEFITS ADMINISTRATION

##### COMPENSATION AND PENSIONS

#### (INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by section 107 and chapters 11, 13, 18, 51, 53, 55, and 61 of title 38, United States Code; pension benefits to or on behalf of veterans as authorized by chapters 15, 51, 53, 55, and 61 of title 38, United States Code; and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 541 et seq.) and for other benefits as authorized by sections 107, 1312, 1977, and 2106, and chapters 23, 51, 53, 55, and 61 of title 38, United States Code, \$43,111,681,000, to remain available until expended: *Provided*, That not to exceed \$26,798,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses", "Medical support and compliance", and "Information technology systems" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

#### READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61 of title 38, United States Code, \$3,086,944,000, to remain available until expended: *Provided*, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under subsection (a) of section 3104 of title 38, United States Code, other than under paragraphs (1), (2), (5), and (11) of that subsection, shall be charged to this account.

#### VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indem-

nities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapters 19 and 21, \$42,300,000, to remain available until expended.

#### VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by subchapters I through III of chapter 37 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 2009, within the resources available, not to exceed \$500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$157,210,000.

#### VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

#### (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$61,000, as authorized by chapter 31 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$3,180,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$320,000, which may be transferred to and merged with the appropriation for "General operating expenses".

#### NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, \$646,000.

#### GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 20 of title 38, United States Code, not to exceed \$750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical support and compliance" may be expended.

#### VETERANS HEALTH ADMINISTRATION

##### MEDICAL SERVICES

#### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment, food services, and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; \$30,854,270,000, plus reimbursements, of which not less than \$3,800,000,000 shall be expended for specialty mental health care: *Provided*, That of the funds made available under this heading, not to exceed \$1,350,000,000 shall be available until September 30, 2010: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for the provision of medical treatment for veterans who have service-connected disabilities, lower income,

or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 8111(d) of title 38, United States Code, a minimum of \$15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

#### MEDICAL SUPPORT AND COMPLIANCE

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); \$4,400,000,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2010.

#### MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities of the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction, and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering, and architectural activities not charged to project costs; for repairing, altering, improving, or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry services, \$5,029,000,000, plus reimbursements, of which \$350,000,000 shall be available until September 30, 2010: *Provided*, That \$300,000,000 for non-recurring maintenance provided under this heading shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation.

#### MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, \$500,000,000, plus reimbursements, to remain available until September 30, 2010.

#### NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; hire of passenger motor vehicles; and repair, alteration or improvement of facilities under the jurisdiction of the Department, \$240,000,000, of which not to exceed \$20,000,000 shall be available until September 30, 2010.

The Acting CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. PERLMUTER) assumed the chair.

#### FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 398. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The SPEAKER pro tempore. The Committee will resume its sitting.

#### MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2009

The Committee resumed its sitting.

□ 2200

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### DEPARTMENTAL ADMINISTRATION

##### GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms, or allowances therefor; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$1,801,867,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than \$1,473,753,000: *Provided further*, That of the funds made available under this heading, not to exceed \$75,000,000 shall be available for obligation until September 30, 2010: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase (on a one-for-one replacement basis only) up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

#### INFORMATION TECHNOLOGY SYSTEMS

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; including pay and associated cost; for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by section 3109 of title 5, United States Code, \$2,492,066,000, plus reimbursements, to be available until September 30, 2010: *Provided*, That none of these funds may be obligated until the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress, and such

Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget; (2) complies with the Department of Veterans Affairs enterprise architecture; (3) conforms with an established enterprise life cycle methodology; and (4) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government: *Provided further*, That within 30 days of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which provides, by project, the costs included in this appropriation.

#### AMENDMENT NO. 11 OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. Is there objection to returning to that point in the reading?

There was no objection.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. GARRETT of New Jersey:

Page 36, line 5, after the dollar amount, insert "(reduced by \$18,018,000)".

Page 41, line 22, after the dollar amount, insert "(increased by \$18,018,000)".

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Chairman, I often come to the floor, and I often preface my remarks when I have an amendment, saying that I come to the floor tonight with a commonsense amendment. Quite candidly, I think that is more than apropos when I speak about what I'm here to speak about tonight.

My amendment simply does this: It seeks to increase the funds for State veterans homes, and it does so in the amount of \$18 million. From where does it get the money? Well, it does so by reducing the administrative expenses by a mere less than 1 percent, and that's a critical number, less than 1 percent. We believe that within that over billion dollar line that there is more than enough aptitude for going in and for finding less than 1 percent of additional funds that we could take out and put to a worthy cause such as toward our State veterans homes.

Today, there are 126 State extended care facilities. They're extended across all 50 States and in Puerto Rico as well. These veterans homes care for nearly 30,000 of our Nation's heroes. The number of veterans requiring care will continue to increase as servicemembers return from Iraq and Afghanistan.

Currently, there is a backlog, a huge, extensive backlog of projects waiting for funds. Now, many of these projects on this waiting list are critical for providing veterans with a healthy and secure environment. In fact, of the almost 200 projects waiting for Federal funds, nearly half of them are classified as priority 1.