

110TH CONGRESS  
2D SESSION

# H. R. 6001

To rebalance the United States energy portfolio, to increase and utilize the Nation's domestic energy resources and supply, to strengthen energy security and independence, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Mr. BUYER (for himself, Mr. COLE of Oklahoma, Mr. GRAVES, Mr. PICKERING, Mr. HAYES, Mr. SHIMKUS, Mr. PENCE, Mr. BURTON of Indiana, Mr. KLINE of Minnesota, Mrs. BLACKBURN, Mr. WAMP, Mr. YOUNG of Alaska, Mr. HOEKSTRA, Mr. SHUSTER, Mr. MCHENRY, Mr. BARRETT of South Carolina, Mr. SOUDER, and Mr. SHADEGG) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Armed Services, and Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To rebalance the United States energy portfolio, to increase and utilize the Nation's domestic energy resources and supply, to strengthen energy security and independence, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Main Street U.S.A. Energy Security Act of 2008”.

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

Sec. 1. Short title.

**TITLE I—INCREASE OUR ENERGY CAPACITY**

**Subtitle A—Refineries**

Sec. 101. Short title.

Sec. 102. Definitions.

Sec. 103. State assistance.

Sec. 104. Refinery process coordination and procedures.

Sec. 105. Designation of closed military bases.

Sec. 106. Savings clause.

Sec. 107. Refinery revitalization repeal.

**Subtitle B—Oil and Gas Development on the Coastal Plain of Alaska**

Sec. 121. Definitions.

Sec. 122. Leasing program for lands within the Coastal Plain.

Sec. 123. Lease sales.

Sec. 124. Grant of leases by the Secretary.

Sec. 125. Lease terms and conditions.

Sec. 126. Coastal plain environmental protection.

Sec. 127. Expedited judicial review.

Sec. 128. Federal and State distribution of revenues.

Sec. 129. Rights-of-way across the Coastal Plain.

Sec. 130. Conveyance.

Sec. 131. Local government impact aid and community service assistance.

**Subtitle C—Opening of Outer Continental Shelf**

Sec. 141. Short title.

Sec. 142. Policy.

Sec. 143. Definitions under the Outer Continental Shelf Lands Act.

Sec. 144. Determination of Adjacent Zones and planning areas.

Sec. 145. Administration of leasing.

Sec. 146. Grant of leases by Secretary.

Sec. 147. Disposition of receipts.

Sec. 148. Reservation of lands and rights.

Sec. 149. Outer Continental Shelf Leasing Program.

Sec. 150. Coordination with Adjacent States.

Sec. 151. Environmental studies.

Sec. 152. Federal Energy Natural Resources Enhancement Act of 2008.

Sec. 153. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.

Sec. 154. Outer Continental Shelf incompatible use.

Sec. 155. Repurchase of certain leases.

- Sec. 156. Offsite environmental mitigation.
- Sec. 157. Minerals Management Service.
- Sec. 158. Authority to use decommissioned offshore oil and gas platforms and other facilities for artificial reef, scientific research, or other uses.
- Sec. 159. Repeal of requirement to conduct comprehensive inventory of OCS oil and natural gas resources.
- Sec. 160. Mining and petroleum schools.
- Sec. 161. Onshore and offshore mineral lease fees.
- Sec. 162. OCS regional headquarters.
- Sec. 163. National Geo Fund Act of 2008.
- Sec. 164. Leases for areas located within 100 miles of California or Florida.
- Sec. 165. Coastal impact assistance.
- Sec. 166. Oil shale and tar sands amendments.
- Sec. 167. Availability of OCS receipts to provide payments under Secure Rural Schools and Community Self-Determination Act of 2000.
- Sec. 168. Sense of the Congress to buy and build American.

#### Subtitle D—Nuclear

- Sec. 181. Incentives for innovative technologies.
- Sec. 182. Authorization for Nuclear Power 2010 Program.
- Sec. 183. Domestic manufacturing base for nuclear components and equipment.
- Sec. 184. Nuclear energy workforce.
- Sec. 185. National Nuclear Energy Council.
- Sec. 186. Nuclear waste management.

### TITLE II—INCREASE OUR UTILIZATION EFFICIENCY

#### Subtitle A—Coal to Liquids

- Sec. 201. Location of coal-to-liquid manufacturing facilities.
- Sec. 202. Authorization to conduct research, development, testing, and evaluation of assured domestic fuels.
- Sec. 203. Coal-to-liquid long-term fuel procurement and Department of Defense development.

#### Subtitle B—Energy Tax Provisions

- Sec. 211. Short title; amendment of 1986 Code.

#### PART 1—PRODUCTION INCENTIVES

- Sec. 221. Extension and modification of renewable energy credit.
- Sec. 222. Production credit for electricity produced from marine renewables.
- Sec. 223. Extension of electricity production tax credit to electricity produced from the production of substitute natural gas from refined coal or petcoke.
- Sec. 224. Extension and modification of energy credit.
- Sec. 225. New clean renewable energy bonds.
- Sec. 226. Extension and modification of special rule to implement FERC and State electric restructuring policy.
- Sec. 227. Extension and modification of credit for residential energy efficient property.

#### PART 2—TRANSPORTATION CONSERVATION INCENTIVES

## SUBPART A—VEHICLES

- Sec. 231. Credit for plug-in hybrid vehicles.  
 Sec. 232. Extension and modification of alternative fuel vehicle refueling property credit.  
 Sec. 233. Modification of limitation on automobile depreciation.

## SUBPART B—FUELS

- Sec. 241. Extension and modification of credits for biodiesel and renewable diesel.  
 Sec. 242. Clarification that credits for fuel are designed to provide an incentive for United States production.  
 Sec. 243. Credit for production of cellulosic alcohol.  
 Sec. 244. Extension for credit for alternative fuels and mixtures derived from coal (including peat) through the Fischer-Tropsch process.

## PART 3—OTHER CONSERVATION PROVISIONS

- Sec. 251. Qualified energy conservation bonds.  
 Sec. 252. Extension and modification of credit for nonbusiness energy property.  
 Sec. 253. Extension of energy efficient commercial buildings deduction.  
 Sec. 254. Modifications of energy efficient appliance credit for appliances produced after 2007.  
 Sec. 255. Five-year applicable recovery period for depreciation of qualified energy management devices.  
 Sec. 256. Clarification of eligibility for certain fuels credits for fuel with insufficient nexus to the United States.

## TITLE III—RESEARCH AND DEVELOPMENT

- Sec. 301. Blended fuels.  
 Sec. 302. Cellulosic Ethanol.

1           **TITLE I—INCREASE OUR**  
 2                   **ENERGY CAPACITY**  
 3                   **Subtitle A—Refineries**

4   **SEC. 101. SHORT TITLE.**

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

7   **SEC. 102. DEFINITIONS.**

8           For purposes of this subtitle—

9                   (1) the term “Administrator” means the Ad-  
 10           ministrator of the Environmental Protection Agency;

1           (2) the term “applicant” means a person who  
2 is seeking a Federal refinery authorization;

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

6           (4) the term “Federal refinery authorization”—

7           (A) means any authorization required  
8 under Federal law, whether administered by a  
9 Federal or State administrative agency or offi-  
10 cial, with respect to siting, construction, expan-  
11 sion, or operation of a refinery; and

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

17           (5) the term “refinery” means—

18           (A) a facility designed and operated to re-  
19 ceive, load, unload, store, transport, process,  
20 and refine crude oil by any chemical or physical  
21 process, including distillation, fluid catalytic  
22 cracking, hydrocracking, coking, alkylation,  
23 etherification, polymerization, catalytic reform-  
24 ing, isomerization, hydrotreating, blending, and

1 any combination thereof, in order to produce  
2 gasoline or distillate;

3 (B) a facility designed and operated to re-  
4 ceive, load, unload, store, transport, process,  
5 and refine coal by any chemical or physical  
6 process, including liquefaction, in order to  
7 produce gasoline or diesel as its primary out-  
8 put; or

9 (C) a facility designed and operated to re-  
10 ceive, load, unload, store, transport, process (in-  
11 cluding biochemical, photochemical, and bio-  
12 technology processes), and refine biomass in  
13 order to produce biofuel; and

14 (6) the term “State” means a State, the Dis-  
15 trict of Columbia, the Commonwealth of Puerto  
16 Rico, and any other territory or possession of the  
17 United States.

18 **SEC. 103. STATE ASSISTANCE.**

19 (a) STATE ASSISTANCE.—At the request of a gov-  
20 ernor of a State, the Administrator is authorized to pro-  
21 vide financial assistance to that State to facilitate the hir-  
22 ing of additional personnel to assist the State with exper-  
23 tise in fields relevant to consideration of Federal refinery  
24 authorizations.

1 (b) OTHER ASSISTANCE.—At the request of a gov-  
2 ernor of a State, a Federal agency responsible for a Fed-  
3 eral refinery authorization shall provide technical, legal,  
4 or other nonfinancial assistance to that State to facilitate  
5 its consideration of Federal refinery authorizations.

6 **SEC. 104. REFINERY PROCESS COORDINATION AND PROCE-**  
7 **DURES.**

8 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

9 (1) IN GENERAL.—The President shall appoint  
10 a Federal coordinator to perform the responsibilities  
11 assigned to the Federal coordinator under this sub-  
12 title.

13 (2) OTHER AGENCIES.—Each Federal and  
14 State agency or official required to provide a Fed-  
15 eral refinery authorization shall cooperate with the  
16 Federal coordinator.

17 (b) FEDERAL REFINERY AUTHORIZATIONS.—

18 (1) MEETING PARTICIPANTS.—Not later than  
19 30 days after receiving a notification from an appli-  
20 cant that the applicant is seeking a Federal refinery  
21 authorization pursuant to Federal law, the Federal  
22 coordinator appointed under subsection (a) shall  
23 convene a meeting of representatives from all Fed-  
24 eral and State agencies responsible for a Federal re-  
25 finery authorization with respect to the refinery. The

1 governor of a State shall identify each agency of  
2 that State that is responsible for a Federal refinery  
3 authorization with respect to that refinery.

4 (2) MEMORANDUM OF AGREEMENT.—(A) Not  
5 later than 90 days after receipt of a notification de-  
6 scribed in paragraph (1), the Federal coordinator  
7 and the other participants at a meeting convened  
8 under paragraph (1) shall establish a memorandum  
9 of agreement setting forth the most expeditious co-  
10 ordinated schedule possible for completion of all  
11 Federal refinery authorizations with respect to the  
12 refinery, consistent with the full substantive and  
13 procedural review required by Federal law. If a Fed-  
14 eral or State agency responsible for a Federal refin-  
15 ery authorization with respect to the refinery is not  
16 represented at such meeting, the Federal coordinator  
17 shall ensure that the schedule accommodates those  
18 Federal refinery authorizations, consistent with Fed-  
19 eral law. In the event of conflict among Federal re-  
20 finery authorization scheduling requirements, the re-  
21 quirements of the Environmental Protection Agency  
22 shall be given priority.

23 (B) Not later than 15 days after completing the  
24 memorandum of agreement, the Federal coordinator



1 shall publish the memorandum of agreement in the  
2 Federal Register.

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

8 (e) CONSOLIDATED RECORD.—The Federal coordi-  
9 nator shall, with the cooperation of Federal and State ad-  
10 ministrative agencies and officials, maintain a complete  
11 consolidated record of all decisions made or actions taken  
12 by the Federal coordinator or by a Federal administrative  
13 agency or officer (or State administrative agency or officer  
14 acting under delegated Federal authority) with respect to  
15 any Federal refinery authorization. Such record shall be  
16 the record for judicial review under subsection (d) of deci-  
17 sions made or actions taken by Federal and State adminis-  
18 trative agencies and officials, except that, if the Court de-  
19 termines that the record does not contain sufficient infor-  
20 mation, the Court may remand the proceeding to the Fed-  
21 eral coordinator for further development of the consoli-  
22 dated record.

23 (d) REMEDIES.—

24 (1) IN GENERAL.—The United States District  
25 Court for the district in which the proposed refinery

1 is located shall have exclusive jurisdiction over any  
2 civil action for the review of the failure of an agency  
3 or official to act on a Federal refinery authorization  
4 in accordance with the schedule established pursuant  
5 to the memorandum of agreement.

6 (2) STANDING.—If an applicant or a party to  
7 a memorandum of agreement alleges that a failure  
8 to act described in paragraph (1) has occurred and  
9 that such failure to act would jeopardize timely com-  
10 pletion of the entire schedule as established in the  
11 memorandum of agreement, such applicant or other  
12 party may bring a cause of action under this sub-  
13 section.

14 (3) COURT ACTION.—If an action is brought  
15 under paragraph (2), the Court shall review whether  
16 the parties to the memorandum of agreement have  
17 been acting in good faith, whether the applicant has  
18 been cooperating fully with the agencies that are re-  
19 sponsible for issuing a Federal refinery authoriza-  
20 tion, and any other relevant materials in the consoli-  
21 dated record. Taking into consideration those fac-  
22 tors, if the Court finds that a failure to act de-  
23 scribed in paragraph (1) has occurred, and that such  
24 failure to act would jeopardize timely completion of  
25 the entire schedule as established in the memo-

1 random of agreement, the Court shall establish a  
2 new schedule that is the most expeditious coordi-  
3 nated schedule possible for completion of pro-  
4 ceedings, consistent with the full substantive and  
5 procedural review required by Federal law. The  
6 court may issue orders to enforce any schedule it es-  
7 tablishes under this paragraph.

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

13 (5) EXPEDITED REVIEW.—The Court shall set  
14 any civil action brought under this subsection for ex-  
15 pedited consideration.

16 **SEC. 105. DESIGNATION OF CLOSED MILITARY BASES.**

17 (a) DESIGNATION REQUIREMENT.—Not later than  
18 90 days after the date of enactment of this Act, the Presi-  
19 dent shall designate no less than 3 closed military installa-  
20 tions, or portions thereof, as potentially suitable for the  
21 construction of a refinery. At least 1 such site shall be  
22 designated as potentially suitable for construction of a re-  
23 finery to refine biomass in order to produce biofuel.

24 (b) REDEVELOPMENT AUTHORITY.—The redevelop-  
25 ment authority for each installation designated under sub-

1 section (a), in preparing or revising the redevelopment  
2 plan for the installation, shall consider the feasibility and  
3 practicability of siting a refinery on the installation.

4 (c) MANAGEMENT AND DISPOSAL OF REAL PROP-  
5 ERTY.—The Secretary of Defense, in managing and dis-  
6 posing of real property at an installation designated under  
7 subsection (a) pursuant to the base closure law applicable  
8 to the installation, shall give substantial deference to the  
9 recommendations of the redevelopment authority, as con-  
10 tained in the redevelopment plan for the installation, re-  
11 garding the siting of a refinery on the installation. The  
12 management and disposal of real property at a closed mili-  
13 tary installation or portion thereof found to be suitable  
14 for the siting of a refinery under subsection (a) shall be  
15 carried out in the manner provided by the base closure  
16 law applicable to the installation.

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

18 (1) the term “base closure law” means the De-  
19 fense Base Closure and Realignment Act of 1990  
20 (part A of title XXIX of Public Law 101–510; 10  
21 U.S.C. 2687 note) and title II of the Defense Au-  
22 thorization Amendments and Base Closure and Re-  
23 alignment Act (Public Law 100–526; 10 U.S.C.  
24 2687 note); and

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

4 **SEC. 106. SAVINGS CLAUSE.**

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

9 **SEC. 107. REFINERY REVITALIZATION REPEAL.**

10          Subtitle H of title III of the Energy Policy Act of  
11 2005 and the items relating thereto in the table of con-  
12 tents of such Act are repealed.

13 **Subtitle B—Oil and Gas Develop-**  
14 **ment on the Coastal Plain of**  
15 **Alaska**

16 **SEC. 121 DEFINITIONS.**

17          In this subtitle:

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

21           (2) **SECRETARY.**—The term “Secretary”, except  
22 as otherwise provided, means the Secretary of the  
23 Interior or the Secretary’s designee.

1 **SEC. 122. LEASING PROGRAM FOR LANDS WITHIN THE**  
2 **COASTAL PLAIN.**

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

5 (1) to establish and implement, in accordance  
6 with this subtitle and acting through the Director of  
7 the Bureau of Land Management in consultation  
8 with the Director of the United States Fish and  
9 Wildlife Service, a competitive oil and gas leasing  
10 program that will result in an environmentally sound  
11 program for the exploration, development, and pro-  
12 duction of the oil and gas resources of the Coastal  
13 Plain; and

14 (2) to administer the provisions of this subtitle  
15 through regulations, lease terms, conditions, restric-  
16 tions, prohibitions, stipulations, and other provisions  
17 that ensure the oil and gas exploration, development,  
18 and production activities on the Coastal Plain will  
19 result in no significant adverse effect on fish and  
20 wildlife, their habitat, subsistence resources, and the  
21 environment, including, in furtherance of this goal,  
22 by requiring the application of the best commercially  
23 available technology for oil and gas exploration, de-  
24 velopment, and production to all exploration, devel-  
25 opment, and production operations under this sub-  
26 title in a manner that ensures the receipt of fair

1 market value by the public for the mineral resources  
2 to be leased.

3 (b) REPEAL.—

4 (1) REPEAL.—Section 1003 of the Alaska Na-  
5 tional Interest Lands Conservation Act of 1980 (16  
6 U.S.C. 3143) is repealed.

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

10 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
11 TAIN OTHER LAWS.—

12 (1) COMPATIBILITY.—For purposes of the Na-  
13 tional Wildlife Refuge System Administration Act of  
14 1966 (16 U.S.C. 668dd et seq.), the oil and gas  
15 leasing program and activities authorized by this  
16 section in the Coastal Plain are deemed to be com-  
17 patible with the purposes for which the Arctic Na-  
18 tional Wildlife Refuge was established, and no fur-  
19 ther findings or decisions are required to implement  
20 this determination.

21 (2) ADEQUACY OF THE DEPARTMENT OF THE  
22 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT  
23 STATEMENT.—The “Final Legislative Environ-  
24 mental Impact Statement” (April 1987) on the  
25 Coastal Plain prepared pursuant to section 1002 of

1 the Alaska National Interest Lands Conservation  
2 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
3 of the National Environmental Policy Act of 1969  
4 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
5 quirements under the National Environmental Policy  
6 Act of 1969 that apply with respect to prelease ac-  
7 tivities, including actions authorized to be taken by  
8 the Secretary to develop and promulgate the regula-  
9 tions for the establishment of a leasing program au-  
10 thorized by this subtitle before the conduct of the  
11 first lease sale.

12 (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
13 TIONS.—Before conducting the first lease sale under  
14 this subtitle, the Secretary shall prepare an environ-  
15 mental impact statement under the National Envi-  
16 ronmental Policy Act of 1969 with respect to the ac-  
17 tions authorized by this subtitle that are not re-  
18 ferred to in paragraph (2). Notwithstanding any  
19 other law, the Secretary is not required to identify  
20 nonleasing alternative courses of action or to analyze  
21 the environmental effects of such courses of action.  
22 The Secretary shall only identify a preferred action  
23 for such leasing and a single leasing alternative, and  
24 analyze the environmental effects and potential miti-  
25 gation measures for those two alternatives. The



1 identification of the preferred action and related  
2 analysis for the first lease sale under this subtitle  
3 shall be completed within 18 months after the date  
4 of enactment of this Act. The Secretary shall only  
5 consider public comments that specifically address  
6 the Secretary's preferred action and that are filed  
7 within 20 days after publication of an environmental  
8 analysis. Notwithstanding any other law, compliance  
9 with this paragraph is deemed to satisfy all require-  
10 ments for the analysis and consideration of the envi-  
11 ronmental effects of proposed leasing under this sub-  
12 title.

13 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
14 ITY.—Nothing in this subtitle shall be considered to ex-  
15 pand or limit State and local regulatory authority.

16 (e) SPECIAL AREAS.—

17 (1) IN GENERAL.—The Secretary, after con-  
18 sultation with the State of Alaska, the city of  
19 Kaktovik, and the North Slope Borough, may des-  
20 ignate up to a total of 45,000 acres of the Coastal  
21 Plain as a Special Area if the Secretary determines  
22 that the Special Area is of such unique character  
23 and interest so as to require special management  
24 and regulatory protection. The Secretary shall des-

1        designate as such a Special Area the Sadlerochit Spring  
2        area, comprising approximately 4,000 acres.

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

7            (3) EXCLUSION FROM LEASING OR SURFACE  
8        OCCUPANCY.—The Secretary may exclude any Spe-  
9        cial Area from leasing. If the Secretary leases a Spe-  
10       cial Area, or any part thereof, for purposes of oil  
11       and gas exploration, development, production, and  
12       related activities, there shall be no surface occu-  
13       pancy of the lands comprising the Special Area.

14           (4) DIRECTIONAL DRILLING.—Notwithstanding  
15       the other provisions of this subsection, the Secretary  
16       may lease all or a portion of a Special Area under  
17       terms that permit the use of horizontal drilling tech-  
18       nology from sites on leases located outside the Spe-  
19       cial Area.

20           (f) LIMITATION ON CLOSED AREAS.—The Sec-  
21       retary’s sole authority to close lands within the Coastal  
22       Plain to oil and gas leasing and to exploration, develop-  
23       ment, and production is that set forth in this subtitle.

24           (g) REGULATIONS.—

1           (1) IN GENERAL.—The Secretary shall pre-  
2       scribe such regulations as may be necessary to carry  
3       out this subtitle, including rules and regulations re-  
4       lating to protection of the fish and wildlife, their  
5       habitat, subsistence resources, and environment of  
6       the Coastal Plain, by no later than 15 months after  
7       the date of enactment of this Act.

8           (2) REVISION OF REGULATIONS.—The Sec-  
9       retary shall periodically review and, if appropriate,  
10      revise the rules and regulations issued under sub-  
11      section (a) to reflect any significant biological, envi-  
12      ronmental, or engineering data that come to the Sec-  
13      retary’s attention.

14 **SEC. 123. LEASE SALES.**

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

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

21           (1) receipt and consideration of sealed nomina-  
22      tions for any area in the Coastal Plain for inclusion  
23      in, or exclusion (as provided in subsection (c)) from,  
24      a lease sale;

1           (2) the holding of lease sales after such nomina-  
2           tion process; and

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

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

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

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

16               (1) conduct the first lease sale under this sub-  
17               title within 22 months after the date of the enact-  
18               ment of this Act; and

19               (2) conduct additional sales so long as sufficient  
20               interest in development exists to warrant, in the Sec-  
21               retary's judgment, the conduct of such sales.

22       **SEC. 124. GRANT OF LEASES BY THE SECRETARY.**

23           (a) IN GENERAL.—The Secretary may grant to the  
24           highest responsible qualified bidder in a lease sale con-  
25           ducted pursuant to section 123 any lands to be leased on

1 the Coastal Plain upon payment by the lessee of such  
2 bonus as may be accepted by the Secretary.

3 (b) SUBSEQUENT TRANSFERS.—No lease issued  
4 under this subtitle may be sold, exchanged, assigned, sub-  
5 let, or otherwise transferred except with the approval of  
6 the Secretary. Prior to any such approval the Secretary  
7 shall consult with, and give due consideration to the views  
8 of, the Attorney General.

9 **SEC. 125. LEASE TERMS AND CONDITIONS.**

10 An oil or gas lease issued pursuant to this subtitle  
11 shall—

12 (1) provide for the payment of a royalty of not  
13 less than 12½ percent in amount or value of the  
14 production removed or sold from the lease, as deter-  
15 mined by the Secretary under the regulations appli-  
16 cable to other Federal oil and gas leases;

17 (2) require that the lessee of lands within the  
18 Coastal Plain shall be fully responsible and liable for  
19 the reclamation of lands within the Coastal Plain  
20 and any other Federal lands that are adversely af-  
21 fected in connection with exploration, development,  
22 production, or transportation activities conducted  
23 under the lease and within the Coastal Plain by the  
24 lessee or by any of the subcontractors or agents of  
25 the lessee;

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

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

13           (5) include requirements and restrictions to  
14 provide for reasonable protection of fish and wildlife,  
15 their habitat, subsistence resources, and the environ-  
16 ment as determined by the Secretary;

17           (6) prohibit the export of oil produced under  
18 the lease; and

19           (7) contain such other provisions as the Sec-  
20 retary determines necessary to ensure compliance  
21 with the provisions of this subtitle and the regula-  
22 tions issued under this subtitle.

23 **SEC. 126. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

1 The Secretary shall, consistent with the requirements of  
2 section 122, administer the provisions of this subtitle  
3 through regulations, lease terms, conditions, restrictions,  
4 prohibitions, stipulations, and other provisions that—

5 (1) ensure the oil and gas exploration, develop-  
6 ment, and production activities on the Coastal Plain  
7 will result in no significant adverse effect on fish  
8 and wildlife, their habitat, and the environment;

9 (2) require the application of the best commer-  
10 cially available technology for oil and gas explo-  
11 ration, development, and production on all new ex-  
12 ploration, development, and production operations;  
13 and

14 (3) ensure that the maximum amount of sur-  
15 face acreage covered by production and support fa-  
16 cilities, including airstrips and any areas covered by  
17 gravel berms or piers for support of pipelines, does  
18 not exceed 2,000 acres on the Coastal Plain.

19 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—  
20 The Secretary shall also require, with respect to any pro-  
21 posed drilling and related activities, that—

22 (1) a site-specific analysis be made of the prob-  
23 able effects, if any, that the drilling or related activi-  
24 ties will have on fish and wildlife, their habitat, sub-  
25 sistence resources, and the environment;

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

5           (3) the development of the plan shall occur  
6           after consultation with the agency or agencies hav-  
7           ing jurisdiction over matters mitigated by the plan.

8           (c) REGULATIONS TO PROTECT COASTAL PLAIN  
9 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
10 AND THE ENVIRONMENT.—Before implementing the leas-  
11 ing program authorized by this subtitle, the Secretary  
12 shall prepare and promulgate regulations, lease terms,  
13 conditions, restrictions, prohibitions, stipulations, and  
14 other measures designed to ensure that the activities un-  
15 dertaken on the Coastal Plain under this subtitle are con-  
16 ducted in a manner consistent with the purposes and envi-  
17 ronmental requirements of this subtitle.

18           (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
19 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
20 proposed regulations, lease terms, conditions, restrictions,  
21 prohibitions, and stipulations for the leasing program  
22 under this subtitle shall require compliance with all appli-  
23 cable provisions of Federal and State environmental law,  
24 and shall also require the following:



1           (1) Standards at least as effective as the safety  
2           and environmental mitigation measures set forth in  
3           items 1 through 29 at pages 167 through 169 of the  
4           “Final Legislative Environmental Impact State-  
5           ment” (April 1987) on the Coastal Plain.

6           (2) Seasonal limitations on exploration, develop-  
7           ment, and related activities, where necessary, to  
8           avoid significant adverse effects during periods of  
9           concentrated fish and wildlife breeding, denning,  
10          nesting, spawning, and migration.

11          (3) Design safety and construction standards  
12          for all pipelines and any access and service roads,  
13          that—

14                (A) minimize, to the maximum extent pos-  
15                sible, adverse effects upon the passage of mi-  
16                gratory species such as caribou; and

17                (B) minimize adverse effects upon the flow  
18                of surface water by requiring the use of cul-  
19                verts, bridges, and other structural devices.

20          (4) Prohibitions on general public access and  
21          use on all pipeline access and service roads.

22          (5) Stringent reclamation and rehabilitation re-  
23          quirements, consistent with the standards set forth  
24          in this subtitle, requiring the removal from the  
25          Coastal Plain of all oil and gas development and

1 production facilities, structures, and equipment upon  
2 completion of oil and gas production operations, ex-  
3 cept that the Secretary may exempt from the re-  
4 quirements of this paragraph those facilities, struc-  
5 tures, or equipment that the Secretary determines  
6 would assist in the management of the Arctic Na-  
7 tional Wildlife Refuge and that are donated to the  
8 United States for that purpose.

9 (6) Appropriate prohibitions or restrictions on  
10 access by all modes of transportation.

11 (7) Appropriate prohibitions or restrictions on  
12 sand and gravel extraction.

13 (8) Consolidation of facility siting.

14 (9) Appropriate prohibitions or restrictions on  
15 use of explosives.

16 (10) Avoidance, to the extent practicable, of  
17 springs, streams, and river system; the protection of  
18 natural surface drainage patterns, wetlands, and ri-  
19 parian habitats; and the regulation of methods or  
20 techniques for developing or transporting adequate  
21 supplies of water for exploratory drilling.

22 (11) Avoidance or minimization of air traffic-re-  
23 lated disturbance to fish and wildlife.

24 (12) Treatment and disposal of hazardous and  
25 toxic wastes, solid wastes, reserve pit fluids, drilling

1       muds and cuttings, and domestic wastewater, includ-  
2       ing an annual waste management report, a haz-  
3       ardous materials tracking system, and a prohibition  
4       on chlorinated solvents, in accordance with applica-  
5       ble Federal and State environmental law.

6               (13) Fuel storage and oil spill contingency plan-  
7       ning.

8               (14) Research, monitoring, and reporting re-  
9       quirements.

10              (15) Field crew environmental briefings.

11              (16) Avoidance of significant adverse effects  
12       upon subsistence hunting, fishing, and trapping by  
13       subsistence users.

14              (17) Compliance with applicable air and water  
15       quality standards.

16              (18) Appropriate seasonal and safety zone des-  
17       ignations around well sites, within which subsistence  
18       hunting and trapping shall be limited.

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

21              (20) All other protective environmental stipula-  
22       tions, restrictions, terms, and conditions deemed  
23       necessary by the Secretary.

24       (e) CONSIDERATIONS.—In preparing and promul-  
25       gating regulations, lease terms, conditions, restrictions,

1 prohibitions, and stipulations under this section, the Sec-  
2 retary shall consider the following:

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

8 (2) The environmental protection standards  
9 that governed the initial Coastal Plain seismic explo-  
10 ration program under parts 37.31 to 37.33 of title  
11 50, Code of Federal Regulations.

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

17 (f) FACILITY CONSOLIDATION PLANNING.—

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

24 (2) OBJECTIVES.—The plan shall have the fol-  
25 lowing objectives:

1 (A) Avoiding unnecessary duplication of fa-  
2 cilities and activities.

3 (B) Encouraging consolidation of common  
4 facilities and activities.

5 (C) Locating or confining facilities and ac-  
6 tivities to areas that will minimize impact on  
7 fish and wildlife, their habitat, and the environ-  
8 ment.

9 (D) Utilizing existing facilities wherever  
10 practicable.

11 (E) Enhancing compatibility between wild-  
12 life values and development activities.

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

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

19 (2) ensure that local residents shall have rea-  
20 sonable access to public lands in the Coastal Plain  
21 for traditional uses.

22 **SEC. 127. EXPEDITED JUDICIAL REVIEW.**

23 (a) FILING OF COMPLAINT.—

24 (1) DEADLINE.—Subject to paragraph (2), any  
25 complaint seeking judicial review of any provision of

1 this subtitle or any action of the Secretary under  
2 this subtitle shall be filed—

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

6 (B) in the case of a complaint based solely  
7 on grounds arising after such period, within 90  
8 days after the complainant knew or reasonably  
9 should have known of the grounds for the com-  
10 plaint.

11 (2) VENUE.—Any complaint seeking judicial re-  
12 view of any provision of this subtitle or any action  
13 of the Secretary under this subtitle may be filed only  
14 in the United States Court of Appeals for the Dis-  
15 trict of Columbia.

16 (3) LIMITATION ON SCOPE OF CERTAIN RE-  
17 VIEW.—Judicial review of a Secretarial decision to  
18 conduct a lease sale under this subtitle, including  
19 the environmental analysis thereof, shall be limited  
20 to whether the Secretary has complied with the  
21 terms of this subtitle and shall be based upon the  
22 administrative record of that decision. The Sec-  
23 retary's identification of a preferred course of action  
24 to enable leasing to proceed and the Secretary's  
25 analysis of environmental effects under this subtitle

1 shall be presumed to be correct unless shown other-  
2 wise by clear and convincing evidence to the con-  
3 trary.

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

8 **SEC. 128. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
9 **NUES.**

10 (a) IN GENERAL.—Notwithstanding any other provi-  
11 sion of law, of the amount of adjusted bonus, rental, and  
12 royalty revenues from Federal oil and gas leasing and op-  
13 erations authorized under this subtitle—

14 (1) 25 percent shall be paid to the State of  
15 Alaska; and

16 (2) except as otherwise provided by this Act,  
17 the balance shall be deposited into the Treasury as  
18 miscellaneous receipts.

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

21 **SEC. 129. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

1           (1) except as provided in paragraph (2), under  
2           section 28 of the Mineral Leasing Act (30 U.S.C.  
3           185), without regard to title XI of the Alaska Na-  
4           tional Interest Lands Conservation Act (30 U.S.C.  
5           3161 et seq.); and

6           (2) under title XI of the Alaska National Inter-  
7           est Lands Conservation Act (30 U.S.C. 3161 et  
8           seq.), for access authorized by sections 1110 and  
9           1111 of that Act (16 U.S.C. 3170 and 3171).

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

19          (c) **REGULATIONS.**—The Secretary shall include in  
20 regulations under section 122(g) provisions granting  
21 rights-of-way and easements described in subsection (a)  
22 of this section.

23 **SEC. 130. CONVEYANCE.**

24          In order to maximize Federal revenues by removing  
25 clouds on title to lands and clarifying land ownership pat-



1 terns within the Coastal Plain, the Secretary, notwith-  
2 standing the provisions of section 1302(h)(2) of the Alas-  
3 ka National Interest Lands Conservation Act (16 U.S.C.  
4 3192(h)(2)), shall convey—

5           (1) to the Kaktovik Inupiat Corporation the  
6 surface estate of the lands described in paragraph 1  
7 of Public Land Order 6959, to the extent necessary  
8 to fulfill the Corporation’s entitlement under sec-  
9 tions 12 and 14 of the Alaska Native Claims Settle-  
10 ment Act (43 U.S.C. 1611 and 1613) in accordance  
11 with the terms and conditions of the Agreement be-  
12 tween the Department of the Interior, the United  
13 States Fish and Wildlife Service, the Bureau of  
14 Land Management, and the Kaktovik Inupiat Cor-  
15 poration effective January 22, 1993; and

16           (2) to the Arctic Slope Regional Corporation  
17 the remaining subsurface estate to which it is enti-  
18 tled pursuant to the August 9, 1983, agreement be-  
19 tween the Arctic Slope Regional Corporation and the  
20 United States of America.

21 **SEC. 131. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
22 **NITY SERVICE ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

24           (1) IN GENERAL.—The Secretary may use  
25 amounts available from the Coastal Plain Local Gov-

1       ernment Impact Aid Assistance Fund established by  
2       subsection (d) to provide timely financial assistance  
3       to entities that are eligible under paragraph (2) and  
4       that are directly impacted by the exploration for or  
5       production of oil and gas on the Coastal Plain under  
6       this subtitle.

7           (2) ELIGIBLE ENTITIES.—The North Slope  
8       Borough, the City of Kaktovik, and any other bor-  
9       rough, municipal subdivision, village, or other com-  
10      munity in the State of Alaska that is directly im-  
11      pacted by exploration for, or the production of, oil  
12      or gas on the Coastal Plain under this subtitle, as  
13      determined by the Secretary, shall be eligible for fi-  
14      nancial assistance under this section.

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

17           (1) planning for mitigation of the potential ef-  
18      fects of oil and gas exploration and development on  
19      environmental, social, cultural, recreational, and sub-  
20      sistence values;

21           (2) implementing mitigation plans and main-  
22      taining mitigation projects;

23           (3) developing, carrying out, and maintaining  
24      projects and programs that provide new or expanded  
25      public facilities and services to address needs and

1 problems associated with such effects, including fire-  
2 fighting, police, water, waste treatment, medivac,  
3 and medical services; and

4 (4) establishment of a coordination office, by  
5 the north slope borough, in the City of Kaktovik,  
6 which shall—

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

10 (B) provide to the Committee on Resources  
11 of the House of Representatives and the Com-  
12 mittee on Energy and Natural Resources of the  
13 Senate an annual report on the status of co-  
14 ordination between developers and the commu-  
15 nities affected by development.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—Any community that is eligi-  
18 ble for assistance under this section may submit an  
19 application for such assistance to the Secretary, in  
20 such form and under such procedures as the Sec-  
21 retary may prescribe by regulation.

22 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
23 community located in the North Slope Borough may  
24 apply for assistance under this section either directly

1 to the Secretary or through the North Slope Bor-  
2 ough.

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

8 (d) ESTABLISHMENT OF FUND.—

9 (1) IN GENERAL.—There is established in the  
10 Treasury the Coastal Plain Local Government Im-  
11 pact Aid Assistance Fund.

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

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

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

22 (5) INVESTMENT OF BALANCES.—The Sec-  
23 retary of the Treasury shall invest amounts in the  
24 fund in interest bearing government securities.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
2 vide financial assistance under this section there is author-  
3 ized to be appropriated to the Secretary from the Coastal  
4 Plain Local Government Impact Aid Assistance Fund  
5 \$5,000,000 for each fiscal year.

6 **Subtitle C—Opening of Outer**  
7 **Continental Shelf**

8 **SEC. 141. SHORT TITLE.**

9 This subtitle may be cited as the “Deep Ocean En-  
10 ergy Resources Act of 2008”.

11 **SEC. 142. POLICY.**

12 It is the policy of the United States that—

13 (1) the United States is blessed with abundant  
14 energy resources on the outer Continental Shelf and  
15 has developed a comprehensive framework of envi-  
16 ronmental laws and regulations and fostered the de-  
17 velopment of state-of-the-art technology that allows  
18 for the responsible development of these resources  
19 for the benefit of its citizenry;

20 (2) adjacent States are required by the cir-  
21 cumstances to commit significant resources in sup-  
22 port of exploration, development, and production ac-  
23 tivities for mineral resources on the outer Conti-  
24 nental Shelf, and it is fair and proper for a portion

1 of the receipts from such activities to be shared with  
2 Adjacent States and their local coastal governments;

3 (3) the existing laws governing the leasing and  
4 production of the mineral resources of the outer  
5 Continental Shelf have reduced the production of  
6 mineral resources, have preempted Adjacent States  
7 from being sufficiently involved in the decisions re-  
8 garding the allowance of mineral resource develop-  
9 ment, and have been harmful to the national inter-  
10 est;

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

15 (5) it is not reasonably foreseeable that explo-  
16 ration of a leased tract located more than 25 miles  
17 seaward of the coastline, development and produc-  
18 tion of a natural gas discovery located more than 25  
19 miles seaward of the coastline, or development and  
20 production of an oil discovery located more than 50  
21 miles seaward of the coastline will adversely affect  
22 resources near the coastline;

23 (6) transportation of oil from a leased tract  
24 might reasonably be foreseen, under limited cir-  
25 cumstances, to have the potential to adversely affect

1 resources near the coastline if the oil is within 50  
2 miles of the coastline, but such potential to adversely  
3 affect such resources is likely no greater, and prob-  
4 ably less, than the potential impacts from tanker  
5 transportation because tanker spills usually involve  
6 large releases of oil over a brief period of time; and

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

15 **SEC. 143. DEFINITIONS UNDER THE OUTER CONTINENTAL**  
16 **SHELF LANDS ACT.**

17 Section 2 of the Outer Continental Shelf Lands Act  
18 (43 U.S.C. 1331) is amended—

19 (1) by amending paragraph (f) to read as fol-  
20 lows:

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

23 (2) by striking the semicolon at the end of each  
24 of paragraphs (a) through (o) and inserting a pe-  
25 riod;

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

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

4           “(r) The term ‘Adjacent State’ means, with respect  
5 to any program, plan, lease sale, leased tract or other ac-  
6 tivity, proposed, conducted, or approved pursuant to the  
7 provisions of this Act, any State the laws of which are  
8 declared, pursuant to section 4(a)(2), to be the law of the  
9 United States for the portion of the outer Continental  
10 Shelf on which such program, plan, lease sale, leased tract  
11 or activity appertains or is, or is proposed to be, con-  
12 ducted. For purposes of this paragraph, the term ‘State’  
13 includes Puerto Rico and the other Territories of the  
14 United States.

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

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

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



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

4 (5) in paragraph (a), by inserting after “con-  
5 trol” the following: “or lying within the United  
6 States exclusive economic zone adjacent to the Terri-  
7 tories of the United States”.

8 **SEC. 144. DETERMINATION OF ADJACENT ZONES AND**  
9 **PLANNING AREAS.**

10 Section 4(a)(2)(A) of the Outer Continental Shelf  
11 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the  
12 first sentence by striking “, and the President” and all  
13 that follows through the end of the sentence and inserting  
14 the following: “. The lines extending seaward and defining  
15 each State’s Adjacent Zone, and each OCS Planning Area,  
16 are as indicated on the maps for each outer Continental  
17 Shelf region entitled ‘Alaska OCS Region State Adjacent  
18 Zone and OCS Planning Areas’, ‘Pacific OCS Region  
19 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of  
20 Mexico OCS Region State Adjacent Zones and OCS Plan-  
21 ning Areas’, and ‘Atlantic OCS Region State Adjacent  
22 Zones and OCS Planning Areas’, all of which are dated  
23 September 2005 and on file in the Office of the Director,  
24 Minerals Management Service.”.

1 **SEC. 145. ADMINISTRATION OF LEASING.**

2 Section 5 of the Outer Continental Shelf Lands Act  
3 (43 U.S.C. 1334) is amended by adding at the end the  
4 following:

5 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A  
6 LEASE.—Any lessee of a producing lease may relinquish  
7 to the Secretary any portion of a lease that the lessee has  
8 no interest in producing and that the Secretary finds is  
9 geologically prospective. In return for any such relinquis-  
10 ment, the Secretary shall provide to the lessee a royalty  
11 incentive for the portion of the lease retained by the lessee,  
12 in accordance with regulations promulgated by the Sec-  
13 retary to carry out this subsection. The Secretary shall  
14 publish final regulations implementing this subsection  
15 within 365 days after the date of the enactment of the  
16 Deep Ocean Energy Resources Act of 2008.

17 “(l) NATURAL GAS LEASE REGULATIONS.—Not later  
18 than July 1, 2009, the Secretary shall publish a final regu-  
19 lation that shall—

20 “(1) establish procedures for entering into nat-  
21 ural gas leases;

22 “(2) ensure that natural gas leases are only  
23 available for tracts on the outer Continental Shelf  
24 that are wholly within 100 miles of the coastline  
25 within an area withdrawn from disposition by leas-

1 ing on the day after the date of enactment of the  
2 Deep Ocean Energy Resources Act of 2008;

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

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

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

17 “(6) provide that any Federal law that applies  
18 to an oil and gas lease on the outer Continental  
19 Shelf shall apply to a natural gas lease unless other-  
20 wise clearly inapplicable.”.

21 **SEC. 146. GRANT OF LEASES BY SECRETARY.**

22 Section 8 of the Outer Continental Shelf Lands Act  
23 (43 U.S.C. 1337) is amended—

24 (1) in subsection (a)(1) by inserting after the  
25 first sentence the following: “Further, the Secretary

1       may grant natural gas leases in a manner similar to  
2       the granting of oil and gas leases and under the var-  
3       ious bidding systems available for oil and gas  
4       leases.”;

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

7       “The Secretary may issue more than one lease for a given  
8       tract if each lease applies to a separate and distinct range  
9       of vertical depths, horizontal surface area, or a combina-  
10      tion of the two. The Secretary may issue regulations that  
11      the Secretary determines are necessary to manage such  
12      leases consistent with the purposes of this Act.”;

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

15              “(B) The Secretary shall provide for the pay-  
16      ment to coastal states, and their local coastal gov-  
17      ernments, of 75 percent of Federal receipts from  
18      projects authorized under this section located par-  
19      tially or completely within the area extending sea-  
20      ward of State submerged lands out to 4 marine  
21      leagues from the coastline, and the payment to  
22      coastal states of 50 percent of the receipts from  
23      projects completely located in the area more than 4  
24      marine leagues from the coastline. Payments shall  
25      be based on a formula established by the Secretary

1 by rulemaking no later than 180 days after the date  
2 of the enactment of the Deep Ocean Energy Re-  
3 sources Act of 2008 that provides for equitable dis-  
4 tribution, based on proximity to the project, among  
5 coastal states that have coastline that is located  
6 within 200 miles of the geographic center of the  
7 project.”;

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

9 “(q) NATURAL GAS LEASES.—

10 “(1) RIGHT TO PRODUCE NATURAL GAS.—A  
11 lessee of a natural gas lease shall have the right to  
12 produce the natural gas from a field on a natural  
13 gas leased tract if the Secretary estimates that the  
14 discovered field has at least 40 percent of the eco-  
15 nomically recoverable Btu content of the field con-  
16 tained within natural gas and such natural gas is ec-  
17 onomical to produce.

18 “(2) CRUDE OIL.—A lessee of a natural gas  
19 lease may not produce crude oil from the lease.

20 “(3) ESTIMATES OF BTU CONTENT.—The Sec-  
21 retary shall make estimates of the natural gas Btu  
22 content of discovered fields on a natural gas lease  
23 only after the completion of at least one exploration  
24 well, the data from which has been tied to the re-  
25 sults of a three-dimensional seismic survey of the

1 field. The Secretary may not require the lessee to  
2 further delineate any discovered field prior to mak-  
3 ing such estimates.

4 “(4) DEFINITION OF NATURAL GAS.—For pur-  
5 poses of a natural gas lease, natural gas means nat-  
6 ural gas and all substances produced in association  
7 with gas, including, but not limited to, hydrocarbon  
8 liquids (other than crude oil) that are obtained by  
9 the condensation of hydrocarbon vapors and sepa-  
10 rate out in liquid form from the produced gas  
11 stream.

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

22 “(s) ROYALTY SUSPENSION PROVISIONS.—The Sec-  
23 retary shall agree to a request by any lessee to amend  
24 any lease issued for Central and Western Gulf of Mexico  
25 tracts during the period of January 1, 1998, through De-

1 cember 31, 1999, to incorporate price thresholds applica-  
2 ble to royalty suspension provisions, or amend existing  
3 price thresholds, in the amount of \$40.50 per barrel (2006  
4 dollars) for oil and for natural gas of \$6.75 per million  
5 Btu (2006 dollars). Any amended lease shall impose the  
6 new or revised price thresholds effective October 1, 2008.  
7 Existing lease provisions shall prevail through September  
8 30, 2008. After the date of the enactment of the Deep  
9 Ocean Energy Resources Act of 2008, price thresholds  
10 shall apply to any royalty suspension volumes granted by  
11 the Secretary. Unless otherwise set by Secretary by regu-  
12 lation or for a particular lease sale, the price thresholds  
13 shall be \$40.50 for oil (2006 dollars) and \$6.75 for nat-  
14 ural gas (2006 dollars).

15 “(t) CONSERVATION OF RESOURCES FEES.—

16 “(1) Not later than one year after the date of  
17 the enactment of the Deep Ocean Energy Resources  
18 Act of 2008, the Secretary by regulation shall estab-  
19 lish a conservation of resources fee for producing  
20 leases that will apply to new and existing leases  
21 which shall be set at \$9 per barrel for oil and \$1.25  
22 per million Btu for gas. This fee shall only apply to  
23 leases in production located in more than 200 me-  
24 ters of water for which royalties are not being paid  
25 when prices exceed \$40.50 per barrel for oil and

1       \$6.75 per million Btu for natural gas in 2006, dol-  
2       lars. This fee shall apply to production from and  
3       after October 1, 2008, and shall be treated as offset-  
4       ting receipts.

5           “(2) Not later than one year after the date of  
6       the enactment of the Deep Ocean Energy Resources  
7       Act of 2008, the Secretary by regulation shall estab-  
8       lish a conservation of resources fee for nonproducing  
9       leases that will apply to new and existing leases  
10      which shall be set at \$3.75 per acre per year. This  
11      fee shall apply from and after October 1, 2008, and  
12      shall be treated as offsetting receipts.”;

13           (5) by striking subsection (a)(3)(A) and redesi-  
14      gnating the subsequent subparagraphs as subpara-  
15      graphs (A) and (B), respectively;

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

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

22           (A) by striking all after “(g)”, except para-  
23      graph (3);

24           (B) by striking the last sentence of para-  
25      graph (3); and



1 (C) by striking “(3)”.

2 **SEC. 147. DISPOSITION OF RECEIPTS.**

3 Section 9 of the Outer Continental Shelf Lands Act  
4 (43 U.S.C. 1338) is amended—

5 (1) by designating the existing text as sub-  
6 section (a);

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

10 (3) by adding the following:

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

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

17 “(2) PHASED-IN RECEIPTS SHARING.—

18 “(A) Beginning October 1, 2008, the Sec-  
19 retary shall share OCS Receipts derived from  
20 the following areas:

21 “(i) Lease tracts located on portions  
22 of the Gulf of Mexico OCS Region com-  
23 pletely beyond 4 marine leagues from any  
24 coastline and completely within 100 miles  
25 of any coastline that are available for leas-

1 ing under the 2002–2007 5-Year Oil and  
2 Gas Leasing Program in effect prior to the  
3 date of the enactment of the Deep Ocean  
4 Energy Resources Act of 2008.

5 “(ii) Lease tracts in production prior  
6 to October 1, 2008, completely beyond 4  
7 marine leagues from any coastline and  
8 completely within 100 miles of any coast-  
9 line located on portions of the OCS that  
10 were not available for leasing under the  
11 2002–2007 5-Year OCS Oil and Gas Leas-  
12 ing Program in effect prior to the date of  
13 the enactment of the Deep Ocean Energy  
14 Resources Act of 2008.

15 “(iii) Lease tracts for which leases are  
16 issued prior to October 1, 2008, located in  
17 the Alaska OCS Region completely beyond  
18 4 marine leagues from any coastline and  
19 completely within 100 miles of the coast-  
20 line.

21 “(B) The Secretary shall share the fol-  
22 lowing percentages of OCS Receipts from the  
23 leases described in subparagraph (A) derived  
24 during the fiscal year indicated:

25 “(i) For fiscal year 2009, 4.6 percent.

1                   “(ii) For fiscal year 2010, 5.95 per-  
2 cent.

3                   “(iii) For fiscal year 2011, 6.8 per-  
4 cent.

5                   “(iv) For fiscal year 2012, 7.65 per-  
6 cent.

7                   “(v) For fiscal year 2013, 10.20 per-  
8 cent.

9                   “(vi) For fiscal year 2014, 12.75 per-  
10 cent.

11                  “(vii) For fiscal year 2015, 15.30 per-  
12 cent.

13                  “(viii) For fiscal year 2016, 17.85  
14 percent.

15                  “(ix) For fiscal year 2017, 20.40 per-  
16 cent.

17                  “(x) For fiscal year 2018, 22.95 per-  
18 cent.

19                  “(xi) For fiscal year 2019, 25.50 per-  
20 cent.

21                  “(xii) For fiscal year 2020, 28.05 per-  
22 cent.

23                  “(xiii) For fiscal year 2021, 30.60  
24 percent.

1                   “(xiv) For fiscal year 2022, 33.15  
2                   percent.

3                   “(xv) For fiscal year 2023 35.70 per-  
4                   cent.

5                   “(xvi) For fiscal year 2024 and each  
6                   subsequent fiscal year, 37.5 percent.

7                   “(C) The provisions of this paragraph shall  
8                   not apply to leases that could not have been  
9                   issued but for section 5(k) of this Act or section  
10                  146(2) of the Deep Ocean Energy Resources  
11                  Act of 2008.

12                  “(3) IMMEDIATE RECEIPTS SHARING.—Begin-  
13                  ning October 1, 2008, the Secretary shall share 37.5  
14                  percent of OCS Receipts derived from all leases lo-  
15                  cated completely beyond 4 marine leagues from any  
16                  coastline and completely within 100 miles of any  
17                  coastline not included within the provisions of para-  
18                  graph (2).

19                  “(4) RECEIPTS SHARING FROM TRACTS WITHIN  
20                  4 MARINE LEAGUES OF ANY COASTLINE.—

21                  “(A) AREAS DESCRIBED IN PARAGRAPH  
22                  (2).—

23                  “(i) Beginning October 1, 2008, and  
24                  continuing through September 30, 2013,  
25                  the Secretary shall share 25 percent of

1 OCS Receipts derived from all leases lo-  
2 cated within 4 marine leagues from any  
3 coastline within areas described in para-  
4 graph (2). For each fiscal year after Sep-  
5 tember 30, 2013, the Secretary shall in-  
6 crease the percent shared in 5 percent in-  
7 crements each fiscal year until the sharing  
8 rate for all leases located within 4 marine  
9 leagues from any coastline within areas de-  
10 scribed in paragraph (2) becomes 37.5 per-  
11 cent.

12 “(ii) During fiscal year 2018, the Sec-  
13 retary shall conduct an analysis of all of  
14 the areas described in paragraph (3) and  
15 subsection (c)(3) to determine the total of  
16 OCS Receipts derived from such areas dur-  
17 ing the period of fiscal year 2009 through  
18 fiscal year 2018. The Secretary shall sub-  
19 tract the amount of \$4 billion from the  
20 total of such OCS Receipts. If the result is  
21 a positive number, the Secretary shall di-  
22 vide such positive number by \$4 billion.  
23 The resulting quotient, not to exceed 0.5,  
24 shall then be multiplied times 25. The  
25 product of such multiplication shall be

1 added to 37.5 and the sum shall be the  
2 percent that the Secretary shall share for  
3 fiscal year 2019 and all future years from  
4 OCS Receipts derived from all leases lo-  
5 cated within 4 marine leagues from any  
6 coastline within areas described in para-  
7 graph (2), unless increased by the provi-  
8 sions of (iii).

9 “(iii) Beginning October 1, 2019, the  
10 Secretary shall share, in addition to the  
11 share established by (i), as modified by (ii)  
12 if any, amounts determined as follows,  
13 with the total of the amounts shared under  
14 this paragraph not to exceed in any fiscal  
15 year an amount equal to 63.75 percent of  
16 total OCS Receipts derived from all leases  
17 located within 4 marine leagues from any  
18 coastline within areas described in para-  
19 graph (2)—25 percent of the total of OCS  
20 Receipts derived from areas described in  
21 paragraph (3) and subsection (c)(3) that  
22 exceed the following amounts for the fiscal  
23 year indicated: for fiscal year 2019 the  
24 amount of \$900,000,000 and for each fis-  
25 cal year thereafter add \$100,000,000.

1           Amounts added under this clause to be  
2           shared, if any, for any fiscal year shall be  
3           added to the sharing base for all subse-  
4           quent years and shall be allocated among  
5           State Adjacent Zones on a basis propor-  
6           tional to the result from the calculation in  
7           clause (i).

8           “(B) AREAS NOT DESCRIBED IN PARA-  
9           GRAPH (2).—Beginning October 1, 2008, the  
10          Secretary shall share 63.75 percent of OCS re-  
11          ceipts derived from all leases located completely  
12          or partially within 4 marine leagues from any  
13          coastline within areas not described paragraph  
14          (2).

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

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

23                 “(B) ROYALTIES.—Deposits derived from  
24                 royalties from a leased tract, including interest  
25                 thereon, shall be allocated at the end of each

1 fiscal year to the Adjacent State and any other  
2 producing State or States with a leased tract  
3 within its Adjacent Zone within 100 miles of its  
4 coastline that generated royalties during the fis-  
5 cal year, if the other producing or States have  
6 a coastline point within 300 miles of any por-  
7 tion of the leased tract, in which case the  
8 amount allocated for the leased tract shall be—

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

10 and

11 “(ii) two-thirds to each producing  
12 State, including the Adjacent State, in-  
13 versely proportional to the distance be-  
14 tween the nearest point on the coastline of  
15 the producing State and the geographic  
16 center of the leased tract.

17 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS  
18 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE  
19 COASTLINE.—

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

24 “(2) PHASED-IN RECEIPTS SHARING.—



1           “(A) Beginning October 1, 2008, the Sec-  
2           retary shall share OCS Receipts derived from  
3           the following areas:

4                   “(i) Lease tracts located on portions  
5                   of the Gulf of Mexico OCS Region partially  
6                   or completely beyond 100 miles of any  
7                   coastline that were available for leasing  
8                   under the 2002–2007 5-Year Oil and Gas  
9                   Leasing Program in effect prior to the  
10                  date of enactment of the Deep Ocean En-  
11                  ergy Resources Act of 2008.

12                   “(ii) Lease tracts in production prior  
13                   to October 1, 2008, partially or completely  
14                   beyond 100 miles of any coastline located  
15                   on portions of the OCS that were not  
16                   available for leasing under the 2007–2012  
17                   5-Year OCS Oil and Gas Leasing Program  
18                   in effect prior to the date of enactment of  
19                   the Deep Ocean Energy Resources Act of  
20                   2008.

21                   “(iii) Lease tracts for which leases are  
22                   issued prior to October 1, 2008, located in  
23                   the Alaska OCS Region partially or com-  
24                   pletely beyond 100 miles of the coastline.

1           “(B) The Secretary shall share the fol-  
2           lowing percentages of OCS Receipts from the  
3           leases described in subparagraph (A) derived  
4           during the fiscal year indicated:

5                   “(i) For fiscal year 2009, 4.6 percent.

6                   “(ii) For fiscal year 2010, 5.95 per-  
7                   cent.

8                   “(iii) For fiscal year 2011, 6.80 per-  
9                   cent.

10                  “(iv) For fiscal year 2012, 7.65 per-  
11                  cent.

12                  “(v) For fiscal year 2013, 10.20 per-  
13                  cent.

14                  “(vi) For fiscal year 2014, 12.75 per-  
15                  cent.

16                  “(vii) For fiscal year 2015, 15.30 per-  
17                  cent.

18                  “(viii) For fiscal year 2016, 17.85  
19                  percent.

20                  “(ix) For fiscal year 2017, 20.40 per-  
21                  cent.

22                  “(x) For fiscal year 2018, 22.95 per-  
23                  cent.

24                  “(xi) For fiscal year 2019, 25.50 per-  
25                  cent.

1                   “(xii) For fiscal year 2020, 28.05 per-  
2 cent.

3                   “(xiii) For fiscal year 2021, 30.60  
4 percent.

5                   “(xiv) For fiscal year 2022, 33.15  
6 percent.

7                   “(xv) For fiscal year 2023, 35.70 per-  
8 cent.

9                   “(xvi) For fiscal year 2024 and each  
10 subsequent fiscal year, 37.5 percent.

11                  “(C) The provisions of this paragraph shall  
12 not apply to leases that could not have been  
13 issued but for section 5(k) of this Act or section  
14 146(2) of the Deep Ocean Energy Resources  
15 Act of 2008.

16                  “(3) IMMEDIATE RECEIPTS SHARING.—Begin-  
17 ning October 1, 2008, the Secretary shall share 37.5  
18 percent of OCS Receipts derived on and after Octo-  
19 ber 1, 2008, from all leases located partially or com-  
20 pletely beyond 100 miles of any coastline not in-  
21 cluded within the provisions of paragraph (2), except  
22 that the Secretary shall only share 25 percent of  
23 such OCS Receipts derived from all such leases  
24 within a State’s Adjacent Zone if no leasing is al-  
25 lowed within any portion of that State’s Adjacent

1 Zone located completely within 100 miles of any  
2 coastline.

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

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

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

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

1                   “(ii) two-thirds to each producing  
2                   State, including the Adjacent State, in-  
3                   versely proportional to the distance be-  
4                   tween the nearest point on the coastline of  
5                   the producing State and the geographic  
6                   center of the leased tract.

7                   “(d) TRANSMISSION OF ALLOCATIONS.—

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

11                  “(A) to each State 60 percent of such  
12                  State’s allocations under subsections (b)(5)(A),  
13                  (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the im-  
14                  mediate prior fiscal year;

15                  “(B) to each coastal county-equivalent and  
16                  municipal political subdivisions of such State a  
17                  total of 40 percent of such State’s allocations  
18                  under subsections (b)(5)(A), (b)(5)(B),  
19                  (c)(4)(A), and (c)(4)(B), together with all ac-  
20                  crued interest thereon; and

21                  “(C) the remaining allocations under sub-  
22                  sections (b)(5) and (c)(4), together with all ac-  
23                  crued interest thereon.

24                  “(2) ALLOCATIONS TO COASTAL COUNTY-  
25                  EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-

1       retary shall make an initial allocation of the OCS  
2       Receipts to be shared under paragraph (1)(B) as fol-  
3       lows:

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

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

18                   “(i) 25 percent shall be allocated  
19                   based on the ratio of such coastal county-  
20                   equivalent political subdivision’s population  
21                   to the coastal population of all coastal  
22                   county-equivalent political subdivisions in  
23                   the State.

24                   “(ii) 25 percent shall be allocated  
25                   based on the ratio of such coastal county-

1 equivalent political subdivision's coastline  
2 miles to the coastline miles of all coastal  
3 county-equivalent political subdivisions in  
4 the State as calculated by the Secretary.  
5 In such calculations, coastal county-equiva-  
6 lent political subdivisions without a coast-  
7 line shall be considered to have 50 percent  
8 of the average coastline miles of the coast-  
9 al county-equivalent political subdivisions  
10 that do have coastlines.

11 “(iii) 25 percent shall be allocated to  
12 all coastal county-equivalent political sub-  
13 divisions having a coastline point within  
14 300 miles of the leased tract for which  
15 OCS Receipts are being shared based on a  
16 formula that allocates the funds based on  
17 such coastal county-equivalent political  
18 subdivision's relative distance from the  
19 leased tract.

20 “(iv) 25 percent shall be allocated to  
21 all coastal county-equivalent political sub-  
22 divisions having a coastline point within  
23 300 miles of the leased tract for which  
24 OCS Receipts are being shared based on  
25 the relative level of outer Continental Shelf

1 oil and gas activities in a coastal political  
2 subdivision compared to the level of outer  
3 Continental Shelf activities in all coastal  
4 political subdivisions in the State. The Sec-  
5 retary shall define the term ‘outer Conti-  
6 nental Shelf oil and gas activities’ for pur-  
7 poses of this subparagraph to include, but  
8 not be limited to, construction of vessels,  
9 drillships, and platforms involved in explo-  
10 ration, production, and development on the  
11 outer Continental Shelf; support and sup-  
12 ply bases, ports, and related activities; of-  
13 fices of geologists, geophysicists, engineers,  
14 and other professionals involved in support  
15 of exploration, production, and develop-  
16 ment of oil and gas on the outer Conti-  
17 nental Shelf; pipelines and other means of  
18 transporting oil and gas production from  
19 the outer Continental Shelf; and processing  
20 and refining of oil and gas production from  
21 the outer Continental Shelf. For purposes  
22 of this subparagraph, if a coastal county-  
23 equivalent political subdivision does not  
24 have a coastline, its coastal point shall be  
25 the point on the coastline closest to it.



1           “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-  
2           LITICAL SUBDIVISIONS.—The initial allocation to  
3           each coastal county-equivalent political subdivision  
4           under paragraph (2) shall be further allocated to the  
5           coastal county-equivalent political subdivision and  
6           any coastal municipal political subdivisions located  
7           partially or wholly within the boundaries of the  
8           coastal county-equivalent political subdivision as fol-  
9           lows:

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

12                   “(B) Two-thirds shall be allocated on a per  
13                   capita basis to the municipal political subdivi-  
14                   sions and the county-equivalent political sub-  
15                   division, with the allocation to the latter based  
16                   upon its population not included within the  
17                   boundaries of a municipal political subdivision.

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

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

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

7           “(2) To make transportation infrastructure im-  
8 provements.

9           “(3) To reduce taxes.

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

11           “(A) coastal or environmental restoration;

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

14           “(C) waterways construction and mainte-  
15 nance;

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

18           “(E) marine and oceanographic education  
19 and research.

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

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

24           “(B) energy demonstration projects;

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

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

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

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

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

14          “(H) energy efficiency and conservation  
15 programs; and

16          “(I) front-end engineering and design for  
17 facilities that produce liquid fuels from hydro-  
18 carbons and other biological matter.

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

20               “(A) historic preservation programs and  
21 projects;

22               “(B) natural disaster planning and re-  
23 sponse; and

24               “(C) hurricane and natural disaster insur-  
25 ance programs.

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

3           “(g) NO ACCOUNTING REQUIRED.—No recipient of  
4 funds under this section shall be required to account to  
5 the Federal Government for the expenditure of such  
6 funds, except as otherwise may be required by law. How-  
7 ever, States may enact legislation providing for accounting  
8 for and auditing of such expenditures. Further, funds allo-  
9 cated under this section to States and political subdivi-  
10 sions may be used as matching funds for other Federal  
11 programs.

12           “(h) EFFECT OF FUTURE LAWS.—Enactment of any  
13 future Federal statute that has the effect, as determined  
14 by the Secretary, of restricting any Federal agency from  
15 spending appropriated funds, or otherwise preventing it  
16 from fulfilling its pre-existing responsibilities as of the  
17 date of enactment of the statute, unless such responsibil-  
18 ities have been reassigned to another Federal agency by  
19 the statute with no prevention of performance, to issue  
20 any permit or other approval impacting on the OCS oil  
21 and gas leasing program, or any lease issued thereunder,  
22 or to implement any provision of this Act shall automati-  
23 cally prohibit any sharing of OCS Receipts under this sec-  
24 tion directly with the States, and their coastal political  
25 subdivisions, for the duration of the restriction. The Sec-

1 retary shall make the determination of the existence of  
2 such restricting effects within 30 days of a petition by any  
3 outer Continental Shelf lessee or producing State.

4 “(i) DEFINITIONS.—In this section:

5 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL  
6 SUBDIVISION.—The term ‘coastal county-equivalent  
7 political subdivision’ means a political jurisdiction  
8 immediately below the level of State government, in-  
9 cluding a county, parish, borough in Alaska, inde-  
10 pendent municipality not part of a county, parish, or  
11 borough in Alaska, or other equivalent subdivision of  
12 a coastal State, that lies within the coastal zone.

13 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-  
14 SION.—The term ‘coastal municipal political subdivi-  
15 sion’ means a municipality located within and part  
16 of a county, parish, borough in Alaska, or other  
17 equivalent subdivision of a State, all or part of which  
18 coastal municipal political subdivision lies within the  
19 coastal zone.

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

24 “(4) COASTAL ZONE.—The term ‘coastal zone’  
25 means that portion of a coastal State, including the

1 entire territory of any coastal county-equivalent po-  
2 litical subdivision at least a part of which lies, within  
3 75 miles landward from the coastline, or a greater  
4 distance as determined by State law enacted to im-  
5 plement this section.

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

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

14 “(7) PRODUCING STATE.—The term ‘producing  
15 State’ means an Adjacent State having an Adjacent  
16 Zone containing leased tracts from which OCS Re-  
17 ceipts were derived.

18 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’  
19 means bonus bids, royalties, and conservation of re-  
20 sources fees.”.

21 **SEC. 148. RESERVATION OF LANDS AND RIGHTS.**

22 Section 12 of the Outer Continental Shelf Lands Act  
23 (43 U.S.C. 1341) is amended—

24 (1) in subsection (a) by adding at the end the  
25 following: “The President may partially or com-

1       pletely revise or revoke any prior withdrawal made  
2       by the President under the authority of this section.  
3       The President may not revise or revoke a withdrawal  
4       that is extended by a State under subsection (h), nor  
5       may the President withdraw from leasing any area  
6       for which a State failed to prohibit, or petition to  
7       prohibit, leasing under subsection (g). Further, in  
8       the area of the outer Continental Shelf more than  
9       100 miles from any coastline, not more than 25 per-  
10      cent of the acreage of any OCS Planning Area may  
11      be withdrawn from leasing under this section at any  
12      point in time. A withdrawal by the President may be  
13      for a term not to exceed 10 years. When considering  
14      potential uses of the outer Continental Shelf, to the  
15      maximum extent possible, the President shall accom-  
16      modate competing interests and potential uses.”;

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

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

20               “(1) PROHIBITION AGAINST LEASING.—

21               “(A) UNAVAILABLE FOR LEASING WITH-  
22      OUT STATE REQUEST.—Except as otherwise  
23      provided in this subsection, from and after en-  
24      actment of the Deep Ocean Energy Resources  
25      Act of 2008, the Secretary shall not offer for

1 leasing for oil and gas, or natural gas, any area  
2 within 50 miles of the coastline that was with-  
3 drawn from disposition by leasing in the Atlan-  
4 tic OCS Region or the Pacific OCS Region, or  
5 the Gulf of Mexico OCS Region Eastern Plan-  
6 ning Area, as depicted on the maps referred to  
7 in this subparagraph, under the ‘Memorandum  
8 on Withdrawal of Certain Areas of the United  
9 States Outer Continental Shelf from Leasing  
10 Disposition’, 34 Weekly Comp. Pres. Doc.  
11 1111, dated June 12, 1998, or any area within  
12 50 miles of the coastline not withdrawn under  
13 that Memorandum that is included within the  
14 Gulf of Mexico OCS Region Eastern Planning  
15 Area as indicated on the map entitled ‘Gulf of  
16 Mexico OCS Region State Adjacent Zones and  
17 OCS Planning Areas’ or the Florida Straits  
18 Planning Area as indicated on the map entitled  
19 ‘Atlantic OCS Region State Adjacent Zones and  
20 OCS Planning Areas’, both of which are dated  
21 September 2005 and on file in the Office of the  
22 Director, Minerals Management Service.

23 “(B) AREAS BETWEEN 50 AND 100 MILES  
24 FROM THE COASTLINE.—Unless an Adjacent  
25 State petitions under subsection (h) within one



1 year after the date of the enactment of the  
2 Deep Ocean Energy Resources Act of 2008 for  
3 natural gas leasing or by June 30, 2011, for oil  
4 and gas leasing, the Secretary shall offer for  
5 leasing any area more than 50 miles but less  
6 than 100 miles from the coastline that was  
7 withdrawn from disposition by leasing in the  
8 Atlantic OCS Region, the Pacific OCS Region,  
9 or the Gulf of Mexico OCS Region Eastern  
10 Planning Area, as depicted on the maps re-  
11 ferred to in this subparagraph, under the  
12 ‘Memorandum on Withdrawal of Certain Areas  
13 of the United States Outer Continental Shelf  
14 from Leasing Disposition’, 34 Weekly Comp.  
15 Pres. Doc. 1111, dated June 12, 1998, or any  
16 area more than 50 miles but less than 100  
17 miles of the coastline not withdrawn under that  
18 Memorandum that is included within the Gulf  
19 of Mexico OCS Region Eastern Planning Area  
20 as indicated on the map entitled ‘Gulf of Mexico  
21 OCS Region State Adjacent Zones and OCS  
22 Planning Areas’ or within the Florida Straits  
23 Planning Area as indicated on the map entitled  
24 ‘Atlantic OCS Region State Adjacent Zones and  
25 OCS Planning Areas’, both of which are dated

1           September 2005 and on file in the Office of the  
2           Director, Minerals Management Service.

3           “(2) REVOCATION OF WITHDRAWAL.—The pro-  
4           visions of the ‘Memorandum on Withdrawal of Cer-  
5           tain Areas of the United States Outer Continental  
6           Shelf from Leasing Disposition’, 34 Weekly Comp.  
7           Pres. Doc. 1111, dated June 12, 1998, are hereby  
8           revoked and are no longer in effect. Any tract only  
9           partially added to the Gulf of Mexico OCS Region  
10          Central Planning Area by this Act shall be eligible  
11          for leasing of the part of such tract that is included  
12          within the Gulf of Mexico OCS Region Central Plan-  
13          ning Area, and the remainder of such tract that lies  
14          outside of the Gulf of Mexico OCS Region Central  
15          Planning Area may be developed and produced by  
16          the lessee of such partial tract using extended reach  
17          or similar drilling from a location on a leased area.  
18          Further, any area in the OCS withdrawn from leas-  
19          ing may be leased, and thereafter developed and pro-  
20          duced by the lessee using extended reach or similar  
21          drilling from a location on a leased area located in  
22          an area available for leasing.

23          “(3) PETITION FOR LEASING.—

24                  “(A) IN GENERAL.—The Governor of the  
25                  State, upon concurrence of its legislature, may

1 submit to the Secretary a petition requesting  
2 that the Secretary make available any area that  
3 is within the State's Adjacent Zone, included  
4 within the provisions of paragraph (1), and that  
5 (i) is greater than 25 miles from any point on  
6 the coastline of a Neighboring State for the  
7 conduct of offshore leasing, pre-leasing, and re-  
8 lated activities with respect to natural gas leas-  
9 ing; or (ii) is greater than 50 miles from any  
10 point on the coastline of a Neighboring State  
11 for the conduct of offshore leasing, pre-leasing,  
12 and related activities with respect to oil and gas  
13 leasing. The Adjacent State may also petition  
14 for leasing any other area within its Adjacent  
15 Zone if leasing is allowed in the similar area of  
16 the Adjacent Zone of the applicable Neigh-  
17 boring State, or if not allowed, if the Neigh-  
18 boring State, acting through its Governor, ex-  
19 presses its concurrence with the petition. The  
20 Secretary shall only consider such a petition  
21 upon making a finding that leasing is allowed  
22 in the similar area of the Adjacent Zone of the  
23 applicable Neighboring State or upon receipt of  
24 the concurrence of the Neighboring State. The  
25 date of receipt by the Secretary of such concur-

1           rence by the Neighboring State shall constitute  
2           the date of receipt of the petition for that area  
3           for which the concurrence applies. Except for  
4           any area described in the last sentence of para-  
5           graph (2), a petition for leasing any part of the  
6           Alabama Adjacent Zone that is a part of the  
7           Gulf of Mexico Eastern Planning Area, as indi-  
8           cated on the map entitled ‘Gulf of Mexico OCS  
9           Region State Adjacent Zones and OCS Plan-  
10          ning Areas’ which is dated September 2005 and  
11          on file in the Office of the Director, Minerals  
12          Management Service, shall require the concu-  
13          rence of both Alabama and Florida.

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

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

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

1           “(iii) limiting permanent surface occu-  
2           pancy on new leases to areas that are more  
3           than 10 miles from the coastline;

4           “(iv) limiting some tracts to being  
5           produced from shore or from platforms lo-  
6           cated on other tracts; or

7           “(v) other conditions that the Adja-  
8           cent State may deem appropriate as long  
9           as the Secretary does not determine that  
10          production is made economically or tech-  
11          nically impracticable or otherwise impos-  
12          sible.

13          “(C) ACTION BY SECRETARY.—Not later  
14          than 90 days after receipt of a petition under  
15          subparagraph (A), the Secretary shall approve  
16          the petition, unless the Secretary determines  
17          that leasing the area would probably cause seri-  
18          ous harm or damage to the marine resources of  
19          the State’s Adjacent Zone. Prior to approving  
20          the petition, the Secretary shall complete an en-  
21          vironmental assessment that documents the an-  
22          ticipated environmental effects of leasing in the  
23          area included within the scope of the petition.

24          “(D) FAILURE TO ACT.—If the Secretary  
25          fails to approve or deny a petition in accordance

1 with subparagraph (C) the petition shall be con-  
2 sidered to be approved 90 days after receipt of  
3 the petition.

4 “(E) AMENDMENT OF THE 5-YEAR LEAS-  
5 ING PROGRAM.—Notwithstanding section 18,  
6 within 180 days of the approval of a petition  
7 under subparagraph (C) or (D), after the expi-  
8 ration of the time limits in paragraph (1)(B),  
9 and within 180 days after the enactment of the  
10 Deep Ocean Energy Resources Act of 2008 for  
11 the areas made available for leasing under  
12 paragraph (2), the Secretary shall amend the  
13 current 5-Year Outer Continental Shelf Oil and  
14 Gas Leasing Program to include a lease sale or  
15 sales for at least 75 percent of the associated  
16 areas, unless there are, from the date of ap-  
17 proval, expiration of such time limits, or enact-  
18 ment, as applicable, fewer than 12 months re-  
19 maining in the current 5-Year Leasing Program  
20 in which case the Secretary shall include the as-  
21 sociated areas within lease sales under the next  
22 5-Year Leasing Program. For purposes of  
23 amending the 5-Year Program in accordance  
24 with this section, further consultations with  
25 States shall not be required. For purposes of

1           this section, an environmental assessment per-  
2           formed under the provisions of the National  
3           Environmental Policy Act of 1969 to assess the  
4           effects of approving the petition shall be suffi-  
5           cient to amend the 5-Year Leasing Program.

6           “(h) OPTION TO EXTEND WITHDRAWAL FROM  
7 LEASING WITHIN CERTAIN AREAS OF THE OUTER CON-  
8 TINENTAL SHELF.—A State, through its Governor and  
9 upon the concurrence of its legislature, may extend for a  
10 period of time of up to 5 years for each extension the with-  
11 drawal from leasing for all or part of any area within the  
12 State’s Adjacent Zone located more than 50 miles, but less  
13 than 100 miles, from the coastline that is subject to sub-  
14 section (g)(1)(B). A State may extend multiple times for  
15 any particular area but not more than once per calendar  
16 year for any particular area. A State must prepare sepa-  
17 rate extensions, with separate votes by its legislature, for  
18 oil and gas leasing and for natural gas leasing. An exten-  
19 sion by a State may affect some areas to be withdrawn  
20 from all leasing and some areas to be withdrawn only from  
21 one type of leasing. Extensions of the withdrawal from  
22 leasing of any part of the Alabama Adjacent Zone that  
23 is more than 50 miles, but less than 100 miles, from the  
24 coastline that is a part of the Gulf of Mexico OCS Region  
25 Eastern Planning Area, as indicated on the map entitled

1 ‘Gulf of Mexico OCS Region State Adjacent Zones and  
2 OCS Planning Areas’ which is dated September 2005 and  
3 on file in the Office of the Director, Minerals Management  
4 Service, may be made by either Alabama or Florida.

5 “(i) EFFECT OF OTHER LAWS.—Adoption by any  
6 Adjacent State of any constitutional provision, or enact-  
7 ment of any State statute, that has the effect, as deter-  
8 mined by the Secretary, of restricting either the Governor  
9 or the Legislature, or both, from exercising full discretion  
10 related to subsection (g) or (h), or both, shall automati-  
11 cally (1) prohibit any sharing of OCS Receipts under this  
12 Act with the Adjacent State, and its coastal political sub-  
13 divisions, and (2) prohibit the Adjacent State from exer-  
14 cising any authority under subsection (h), for the duration  
15 of the restriction. The Secretary shall make the determina-  
16 tion of the existence of such restricting constitutional pro-  
17 vision or State statute within 30 days of a petition by any  
18 outer Continental Shelf lessee or coastal State.

19 “(j) PROHIBITION ON LEASING EAST OF THE MILI-  
20 TARY MISSION LINE.—

21 “(1) Notwithstanding any other provision of  
22 law, from and after the enactment of the Deep  
23 Ocean Energy Resources Act of 2008, no area of the  
24 outer Continental Shelf located in the Gulf of Mexico  
25 east of the military mission line may be offered for



1 leasing for oil and gas or natural gas prior to Janu-  
2 ary 1, 2022.

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

8 **SEC. 149. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

9 Section 18 of the Outer Continental Shelf Lands Act  
10 (43 U.S.C. 1344) is amended—

11 (1) in subsection (a), by adding at the end of  
12 paragraph (3) the following: “The Secretary shall, in  
13 each 5-year program, include lease sales that when  
14 viewed as a whole propose to offer for oil and gas  
15 or natural gas leasing at least 75 percent of the  
16 available unleased acreage within each OCS Plan-  
17 ning Area. Available unleased acreage is that portion  
18 of the outer Continental Shelf that is not under  
19 lease at the time of the proposed lease sale, and has  
20 not otherwise been made unavailable for leasing by  
21 law.”;

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

24 “(c)(1) During the preparation of any proposed leas-  
25 ing program under this section, the Secretary shall con-

1 sider and analyze leasing throughout the entire Outer  
2 Continental Shelf without regard to any other law affect-  
3 ing such leasing. During this preparation the Secretary  
4 shall invite and consider suggestions from any interested  
5 Federal agency, including the Attorney General, in con-  
6 sultation with the Federal Trade Commission, and from  
7 the Governor of any coastal State. The Secretary may also  
8 invite or consider any suggestions from the executive of  
9 any local government in a coastal State that have been  
10 previously submitted to the Governor of such State, and  
11 from any other person. Further, the Secretary shall con-  
12 sult with the Secretary of Defense regarding military oper-  
13 ational needs in the outer Continental Shelf. The Sec-  
14 retary shall work with the Secretary of Defense to resolve  
15 any conflicts that might arise regarding offering any area  
16 of the outer Continental Shelf for oil and gas or natural  
17 gas leasing. If the Secretaries are not able to resolve all  
18 such conflicts, any unresolved issues shall be elevated to  
19 the President for resolution.

20 “(2) After the consideration and analysis required by  
21 paragraph (1), including the consideration of the sugges-  
22 tions received from any interested Federal agency, the  
23 Federal Trade Commission, the Governor of any coastal  
24 State, any local government of a coastal State, and any  
25 other person, the Secretary shall publish in the Federal

1 Register a proposed leasing program accompanied by a  
2 draft environmental impact statement prepared pursuant  
3 to the National Environmental Policy Act of 1969. After  
4 the publishing of the proposed leasing program and during  
5 the comment period provided for on the draft environ-  
6 mental impact statement, the Secretary shall submit a  
7 copy of the proposed program to the Governor of each af-  
8 fected State for review and comment. The Governor may  
9 solicit comments from those executives of local govern-  
10 ments in the Governor's State that the Governor, in the  
11 discretion of the Governor, determines will be affected by  
12 the proposed program. If any comment by such Governor  
13 is received by the Secretary at least 15 days prior to sub-  
14 mission to the Congress pursuant to paragraph (3) and  
15 includes a request for any modification of such proposed  
16 program, the Secretary shall reply in writing, granting or  
17 denying such request in whole or in part, or granting such  
18 request in such modified form as the Secretary considers  
19 appropriate, and stating the Secretary's reasons therefor.  
20 All such correspondence between the Secretary and the  
21 Governor of any affected State, together with any addi-  
22 tional information and data relating thereto, shall accom-  
23 pany such proposed program when it is submitted to the  
24 Congress." ; and

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

1       “(i) PROJECTION OF STATE ADJACENT ZONE RE-  
2 SOURCES AND STATE AND LOCAL GOVERNMENT SHARES  
3 OF OCS RECEIPTS.—Concurrent with the publication of  
4 the scoping notice at the beginning of the development of  
5 each 5-year outer Continental Shelf oil and gas leasing  
6 program, or as soon thereafter as possible, the Secretary  
7 shall—

8               “(1) provide to each Adjacent State a current  
9 estimate of proven and potential oil and gas re-  
10 sources located within the State’s Adjacent Zone;  
11 and

12               “(2) provide to each Adjacent State, and coast-  
13 al political subdivisions thereof, a best-efforts projec-  
14 tion of the OCS Receipts that the Secretary expects  
15 will be shared with each Adjacent State, and its  
16 coastal political subdivisions, using the assumption  
17 that the unleased tracts within the State’s Adjacent  
18 Zone are fully made available for leasing, including  
19 long-term projected OCS Receipts. In addition, the  
20 Secretary shall include a macroeconomic estimate of  
21 the impact of such leasing on the national economy  
22 and each State’s economy, including investment,  
23 jobs, revenues, personal income, and other cat-  
24 egories.”.

1 **SEC. 150. COORDINATION WITH ADJACENT STATES.**

2 Section 19 of the Outer Continental Shelf Lands Act  
3 (43 U.S.C. 1345) is amended—

4 (1) in subsection (a) in the first sentence by in-  
5 serting “, for any tract located within the Adjacent  
6 State’s Adjacent Zone,” after “government”; and

7 (2) by adding the following:

8 “(f)(1) No Federal agency may permit or otherwise  
9 approve, without the concurrence of the Adjacent State,  
10 the construction of a crude oil or petroleum products (or  
11 both) pipeline within the part of the Adjacent State’s Ad-  
12 jacent Zone that is withdrawn from oil and gas or natural  
13 gas leasing, except that such a pipeline may be approved,  
14 without such Adjacent State’s concurrence, to pass  
15 through such Adjacent Zone if at least 50 percent of the  
16 production projected to be carried by the pipeline within  
17 its first 10 years of operation is from areas of the Adja-  
18 cent State’s Adjacent Zone.

19 “(2) No State may prohibit the construction within  
20 its Adjacent Zone or its State waters of a natural gas pipe-  
21 line that will transport natural gas produced from the  
22 outer Continental Shelf. However, an Adjacent State may  
23 prevent a proposed natural gas pipeline landing location  
24 if it proposes two alternate landing locations in the Adja-  
25 cent State, acceptable to the Adjacent State, located with-

1 in 50 miles on either side of the proposed landing loca-  
2 tion.”.

3 **SEC. 151. ENVIRONMENTAL STUDIES.**

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

6 (1) by inserting “(1)” after “(d)”; and

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

8 “(2) For all programs, lease sales, leases, and actions  
9 under this Act, the following shall apply regarding the ap-  
10 plication of the National Environmental Policy Act of  
11 1969:

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

21 “(B) The environmental impact statement de-  
22 veloped in support of each 5-year oil and gas leasing  
23 program provides the environmental analysis for all  
24 lease sales to be conducted under the program and

1 such sales shall not be subject to further environ-  
2 mental analysis.

3 “(C) Exploration plans shall not be subject to  
4 any requirement to prepare an environmental impact  
5 statement, and the Secretary may find that explo-  
6 ration plans are eligible for categorical exclusion due  
7 to the impacts already being considered within an  
8 environmental impact statement or due to mitigation  
9 measures included within the plan.

10 “(D) Within each OCS Planning Area, after the  
11 preparation of the first development and production  
12 plan environmental impact statement for a leased  
13 tract within the Area, future development and pro-  
14 duction plans for leased tracts within the Area shall  
15 only require the preparation of an environmental as-  
16 sessment unless the most recent development and  
17 production plan environmental impact statement  
18 within the Area was finalized more than 10 years  
19 prior to the date of the approval of the plan, in  
20 which case an environmental impact statement shall  
21 be required.”.

1 **SEC. 152. FEDERAL ENERGY NATURAL RESOURCES EN-**  
2 **HANCEMENT ACT OF 2008.**

3 (a) **SHORT TITLE.**—This section may be cited as the  
4 “Federal Energy Natural Resources Enhancement Act of  
5 2008”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Energy and minerals exploration, develop-  
8 ment, and production on Federal onshore and off-  
9 shore lands, including bio-based fuel, natural gas,  
10 minerals, oil, geothermal, and power from wind,  
11 waves, currents, and thermal energy, involves signifi-  
12 cant outlays of funds by Federal and State wildlife,  
13 fish, and natural resource management agencies for  
14 environmental studies, planning, development, moni-  
15 toring, and management of wildlife, fish, air, water,  
16 and other natural resources.

17 (2) State wildlife, fish, and natural resource  
18 management agencies are funded primarily through  
19 permit and license fees paid to the States by the  
20 general public to hunt and fish, and through Federal  
21 excise taxes on equipment used for these activities.

22 (3) Funds generated from consumptive and rec-  
23 reational uses of wildlife, fish, and other natural re-  
24 sources currently are inadequate to address the nat-  
25 ural resources related to energy and minerals devel-  
26 opment on Federal onshore and offshore lands.



1           (4) Funds available to Federal agencies respon-  
2           sible for managing Federal onshore and offshore  
3           lands and Federal-trust wildlife and fish species and  
4           their habitats are inadequate to address the natural  
5           resources related to energy and minerals develop-  
6           ment on Federal onshore and offshore lands.

7           (5) Receipts derived from sales, bonus bids, and  
8           royalties under the mineral leasing laws of the  
9           United States are paid to the Treasury through the  
10          Minerals Management Service of the Department of  
11          the Interior.

12          (6) None of the receipts derived from sales,  
13          bonus bids, and royalties under the minerals leasing  
14          laws of the United States are paid to the Federal or  
15          State agencies to examine, monitor, and manage  
16          wildlife, fish, air, water, and other natural resources  
17          related to natural gas, oil, and mineral exploration  
18          and development.

19          (c) PURPOSES.—It is the purpose of this section to—

20                (1) authorize expenditures for the monitoring  
21                and management of wildlife and fish, and their habi-  
22                tats, and air, water, and other natural resources re-  
23                lated to energy and minerals development on Fed-  
24                eral onshore and offshore lands;

1           (2) authorize expenditures for each fiscal year  
2 to the Secretary of the Interior and the States; and

3           (3) use the appropriated funds to secure the  
4 necessary trained workforce or contractual services  
5 to conduct environmental studies, planning, develop-  
6 ment, monitoring, and post-development manage-  
7 ment of wildlife and fish and their habitats and air,  
8 water, and other natural resources that may be re-  
9 lated to bio-based fuel, gas, mineral, oil, wind, or  
10 other energy exploration, development, transpor-  
11 tation, transmission, and associated activities on  
12 Federal onshore and offshore lands, including, but  
13 not limited to—

14           (A) pertinent research, surveys, and envi-  
15 ronmental analyses conducted to identify any  
16 impacts on wildlife, fish, air, water, and other  
17 natural resources from energy and mineral ex-  
18 ploration, development, production, and trans-  
19 portation or transmission;

20           (B) projects to maintain, improve, or en-  
21 hance wildlife and fish populations and their  
22 habitats or air, water, or other natural re-  
23 sources, including activities under the Endan-  
24 gered Species Act of 1973;

1           (C) research, surveys, environmental anal-  
2           yses, and projects that assist in managing, in-  
3           cluding mitigating either onsite or offsite, or  
4           both, the impacts of energy and mineral activi-  
5           ties on wildlife, fish, air, water, and other nat-  
6           ural resources; and

7           (D) projects to teach young people to live  
8           off the land.

9           (d) DEFINITIONS.—In this section:

10           (1) ENHANCEMENT PROGRAM.—The term “En-  
11           hancement Program” means the Federal Energy  
12           Natural Resources Enhancement Program estab-  
13           lished by this section.

14           (2) STATE.—The term “State” means the Gov-  
15           ernor of the State.

16           (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
17           authorized to be appropriated to carry out the Enhance-  
18           ment Program \$150,000,000 for each of fiscal years 2009  
19           through 2019.

20           (f) ESTABLISHMENT OF FEDERAL ENERGY NAT-  
21           URAL RESOURCES ENHANCEMENT PROGRAM.—

22           (1) IN GENERAL.—There is established the  
23           Federal Energy Natural Resources Enhancement  
24           Program.

1           (2) PAYMENT TO SECRETARY OF THE INTE-  
2           RIOR.—Beginning with fiscal year 2009, and in each  
3           fiscal year thereafter, one-third of amounts appro-  
4           priated for the Enhancement Program shall be avail-  
5           able to the Secretary of the Interior for use for the  
6           purposes described in subsection (c)(3).

7           (3) PAYMENT TO STATES.—

8           (A) IN GENERAL.—Beginning with fiscal  
9           year 2009, and in each fiscal year thereafter,  
10          two-thirds of amounts appropriated for the En-  
11          hancement Program shall be available to the  
12          States for use for the purposes described in  
13          (c)(3).

14          (B) USE OF PAYMENTS BY STATE.—Each  
15          State shall use the payments made under this  
16          paragraph only for carrying out projects and  
17          programs for the purposes described in (c)(3).

18          (C) ENCOURAGE USE OF PRIVATE FUNDS  
19          BY STATE.—Each State shall use the payments  
20          made under this paragraph to leverage private  
21          funds for carrying out projects for the purposes  
22          described in (c)(3).

23          (g) LIMITATION ON USE.—Amounts made available  
24          under this section may not be used for the purchase of  
25          any interest in land.

1 (h) REPORTS TO CONGRESS.—

2 (1) IN GENERAL.—Beginning in fiscal year  
3 2010 and continuing for each fiscal year thereafter,  
4 the Secretary of the Interior and each State receiv-  
5 ing funds from the Enhancement Fund shall submit  
6 a report to the Committee on Energy and Natural  
7 Resources of the Senate and the Committee on Re-  
8 sources of the House of Representatives.

9 (2) REQUIRED INFORMATION.—Reports sub-  
10 mitted to the Congress by the Secretary of the Inte-  
11 rior and States under this subsection shall include  
12 the following information regarding expenditures  
13 during the previous fiscal year:

14 (A) A summary of pertinent scientific re-  
15 search and surveys conducted to identify im-  
16 pacts on wildlife, fish, and other natural re-  
17 sources from energy and mineral developments.

18 (B) A summary of projects planned and  
19 completed to maintain, improve or enhance  
20 wildlife and fish populations and their habitats  
21 or other natural resources.

22 (C) A list of additional actions that assist,  
23 or would assist, in managing, including miti-  
24 gating either onsite or offsite, or both, the im-

1           pacts of energy and mineral development on  
2           wildlife, fish, and other natural resources.

3                   (D) A summary of private (non-Federal)  
4           funds used to plan, conduct, and complete the  
5           plans and programs identified in subparagraphs  
6           (A) and (B).

7   **SEC. 153. TERMINATION OF EFFECT OF LAWS PROHIBITING**  
8                   **THE SPENDING OF APPROPRIATED FUNDS**  
9                   **FOR CERTAIN PURPOSES.**

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

15   **SEC. 154. OUTER CONTINENTAL SHELF INCOMPATIBLE**  
16                   **USE.**

17          (a) IN GENERAL.—No Federal agency may permit  
18         construction or operation (or both) of any facility, or des-  
19         ignate or maintain a restricted transportation corridor or  
20         operating area on the Federal outer Continental Shelf or  
21         in State waters, that will be incompatible with, as deter-  
22         mined by the Secretary of the Interior, oil and gas or nat-  
23         ural gas leasing and substantially full exploration and pro-  
24         duction of tracts that are geologically prospective for oil  
25         or natural gas (or both).

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

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

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

11 (3) required in the national interest, as deter-  
12 mined by the President.

13 **SEC. 155. REPURCHASE OF CERTAIN LEASES.**

14 (a) **AUTHORITY TO REPURCHASE AND CANCEL CER-**  
15 **TAIN LEASES.**—The Secretary of the Interior shall repur-  
16 chase and cancel any Federal oil and gas, geothermal,  
17 coal, oil shale, tar sands, or other mineral lease, whether  
18 onshore or offshore, but not including any outer Conti-  
19 nental Shelf oil and gas leases that are subject to litigation  
20 in the Court of Federal Claims on January 1, 2006, if  
21 the Secretary finds that such lease qualifies for repurchase  
22 and cancellation under the regulations authorized by this  
23 section.

24 (b) **REGULATIONS.**—Not later than 365 days after  
25 the date of the enactment of this Act, the Secretary shall

1 publish a final regulation stating the conditions under  
2 which a lease referred to in subsection (a) would qualify  
3 for repurchase and cancellation, and the process to be fol-  
4 lowed regarding repurchase and cancellation. Such regula-  
5 tion shall include, but not be limited to, the following:

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

9           (A) a request by the lessee for a required  
10 permit or other approval complied with applica-  
11 ble law, except the Coastal Zone Management  
12 Act of 1972 (16 U.S.C. 1451 et seq.), and  
13 terms of the lease and such permit or other ap-  
14 proval was denied;

15           (B) a Federal agency failed to act on a re-  
16 quest by the lessee for a required permit, other  
17 approval, or administrative appeal within a reg-  
18 ulatory or statutory time-frame associated with  
19 the requested action, whether advisory or man-  
20 datory, or if none, within 180 days; or

21           (C) a Federal agency attached a condition  
22 of approval, without agreement by the lessee, to  
23 a required permit or other approval if such con-  
24 dition of approval was not mandated by Federal  
25 statute or regulation in effect on the date of



1 lease issuance, or was not specifically allowed  
2 under the terms of the lease.

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

7 (3) The Secretary shall make a final agency de-  
8 cision on a request by a lessee under this section  
9 within 180 days of request.

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

14 (5) Compensation shall be in the form of a  
15 check or electronic transfer from the Department of  
16 the Treasury from funds deposited into miscella-  
17 neous receipts under the authority of the same Act  
18 that authorized the issuance of the lease being re-  
19 purchased.

20 (6) Failure of the Secretary to make a final  
21 agency decision on a request by a lessee under this  
22 section within 180 days of request shall result in a  
23 10 percent increase in the compensation due to the  
24 lessee if the lease is ultimately repurchased.

1 (c) NO PREJUDICE.—This section shall not be inter-  
2 preted to prejudice any other rights that the lessee would  
3 have in the absence of this section.

4 **SEC. 156. OFFSITE ENVIRONMENTAL MITIGATION.**

5 Notwithstanding any other provision of law, any per-  
6 son conducting activities under the Mineral Leasing Act  
7 (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30  
8 U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-  
9 quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16  
10 U.S.C. 552 et seq.), the General Mining Act of 1872 (30  
11 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.  
12 601 et seq.), or the Outer Continental Shelf Lands Act  
13 (43 U.S.C. 1331 et seq.), may in satisfying any mitigation  
14 requirements associated with such activities propose miti-  
15 gation measures on a site away from the area impacted  
16 and the Secretary of the Interior shall accept these pro-  
17 posed measures if the Secretary finds that they generally  
18 achieve the purposes for which mitigation measures apper-  
19 tained.

20 **SEC. 157. MINERALS MANAGEMENT SERVICE.**

21 The bureau known as the “Minerals Management  
22 Service” in the Department of the Interior shall be known  
23 as the “National Ocean Resources and Royalty Service”.

1 **SEC. 158. AUTHORITY TO USE DECOMMISSIONED OFF-**  
2 **SHORE OIL AND GAS PLATFORMS AND**  
3 **OTHER FACILITIES FOR ARTIFICIAL REEF,**  
4 **SCIENTIFIC RESEARCH, OR OTHER USES.**

5 (a) **SHORT TITLE.**—This section may be cited as the  
6 “Rigs to Reefs Act of 2008”.

7 (b) **IN GENERAL.**—The Outer Continental Shelf  
8 Lands Act (43 U.S.C. 1301 et seq.) is amended by insert-  
9 ing after section 9 the following:

10 **“SEC. 10. USE OF DECOMMISSIONED OFFSHORE OIL AND**  
11 **GAS PLATFORMS AND OTHER FACILITIES**  
12 **FOR ARTIFICIAL REEF, SCIENTIFIC RE-**  
13 **SEARCH, OR OTHER USES.**

14 “(a) **IN GENERAL.**—The Secretary shall issue regula-  
15 tions under which the Secretary may authorize use of an  
16 offshore oil and gas platform or other facility that is de-  
17 commissioned from service for oil and gas purposes for  
18 an artificial reef, scientific research, or any other use au-  
19 thorized under section 8(p) or any other applicable Fed-  
20 eral law.

21 “(b) **TRANSFER REQUIREMENTS.**—The Secretary  
22 shall not allow the transfer of a decommissioned offshore  
23 oil and gas platform or other facility to another person  
24 unless the Secretary is satisfied that the transferee is suf-  
25 ficiently bonded, endowed, or otherwise financially able to  
26 fulfill its obligations, including but not limited to—

1           “(1) ongoing maintenance of the platform or  
2 other facility;

3           “(2) any liability obligations that might arise;

4           “(3) removal of the platform or other facility if  
5 determined necessary by the Secretary; and

6           “(4) any other requirements and obligations  
7 that the Secretary may deem appropriate by regula-  
8 tion.

9           “(c) PLUGGING AND ABANDONMENT.—The Sec-  
10 retary shall ensure that plugging and abandonment of  
11 wells is accomplished at an appropriate time.

12           “(d) POTENTIAL TO PETITION TO OPT-OUT OF REG-  
13 ULATIONS.—An Adjacent State acting through a resolu-  
14 tion of its legislature, with concurrence of its Governor,  
15 may preliminarily petition to opt-out of the application of  
16 regulations promulgated under this section to platforms  
17 and other facilities located in the area of its Adjacent Zone  
18 within 12 miles of the coastline. Upon receipt of the pre-  
19 liminary petition, the Secretary shall complete an environ-  
20 mental assessment that documents the anticipated envi-  
21 ronmental effects of approving the petition. The Secretary  
22 shall provide the environmental assessment to the State,  
23 which then has the choice of no action or confirming its  
24 petition by further action of its legislature, with the con-  
25 currence of its Governor. The Secretary is authorized to

1 except such area from the application of such regulations,  
2 and shall approve any confirmed petition.

3 “(e) LIMITATION ON LIABILITY.—A person that had  
4 used an offshore oil and gas platform or other facility for  
5 oil and gas purposes and that no longer has any ownership  
6 or control of the platform or other facility shall not be  
7 liable under Federal law for any costs or damages arising  
8 from such platform or other facility after the date the plat-  
9 form or other facility is used for any purpose under sub-  
10 section (a), unless such costs or damages arise from—

11 “(1) use of the platform or other facility by the  
12 person for development or production of oil or gas;  
13 or

14 “(2) another act or omission of the person.

15 “(f) OTHER LEASING AND USE NOT AFFECTED.—  
16 This section, and the use of any offshore oil and gas plat-  
17 form or other facility for any purpose under subsection  
18 (a), shall not affect—

19 “(1) the authority of the Secretary to lease any  
20 area under this Act; or

21 “(2) any activity otherwise authorized under  
22 this Act.”.

23 (c) DEADLINE FOR REGULATIONS.—The Secretary of  
24 the Interior shall issue regulations under subsection (b)

1 by not later than 180 days after the date of the enactment  
2 of this Act.

3 (d) **STUDY AND REPORT ON EFFECTS OF REMOVAL**  
4 **OF PLATFORMS.**—Not later than one year after the date  
5 of enactment of this Act, the Secretary of the Interior,  
6 in consultation with other Federal agencies as the Sec-  
7 retary deems advisable, shall study and report to the Con-  
8 gress regarding how the removal of offshore oil and gas  
9 platforms and other facilities from the outer Continental  
10 Shelf would affect existing fish stocks and coral popu-  
11 lations.

12 **SEC. 159. REPEAL OF REQUIREMENT TO CONDUCT COM-**  
13 **PREHENSIVE INVENTORY OF OCS OIL AND**  
14 **NATURAL GAS RESOURCES.**

15 The Energy Policy Act of 2005 (Public Law 109–  
16 58) is amended—

17 (1) by repealing section 357 (119 Stat. 720; 42  
18 U.S.C. 15912); and

19 (2) in the table of contents in section 1(b), by  
20 striking the item relating to such section 357.

21 **SEC. 160. MINING AND PETROLEUM SCHOOLS.**

22 (a) **MAINTENANCE AND RESTORATION OF EXISTING**  
23 **AND HISTORIC PETROLEUM AND MINING ENGINEERING**  
24 **PROGRAMS.**—Public Law 98–409 (30 U.S.C. 1221 et  
25 seq.) is amended to read as follows:

1 **“SECTION 1. SHORT TITLE.**

2 “This Act may be cited as the ‘Energy and Mineral  
3 Schools Reinvestment Act’.

4 **“SEC. 2. POLICY.**

5 “It is the policy of the United States to maintain the  
6 human capital needed to preserve and foster the economic,  
7 energy, and mineral resources security of the United  
8 States. The petroleum and mining engineering programs  
9 and the applied geology and geophysics programs at State  
10 chartered schools, universities, and institutions that  
11 produce human capital are national assets and should be  
12 assisted with Federal funds to ensure their continued  
13 health and existence.

14 **“SEC. 3. MAINTAINING AND RESTORING HISTORIC AND EX-**  
15 **ISTING PETROLEUM AND MINING ENGINEER-**  
16 **ING EDUCATION PROGRAMS.**

17 “(a) The Secretary of the Interior (in this Act re-  
18 ferred to as the ‘Secretary’) shall provide funds to historic  
19 and existing State-chartered recognized petroleum or min-  
20 ing schools to assist such schools, universities, and institu-  
21 tions in maintaining programs in petroleum, mining, and  
22 mineral engineering education and research. All funds  
23 shall be directed only to these programs and shall be sub-  
24 ject to the conditions of this section. Such funds shall not  
25 be less than 25 percent of the annual outlay of funds au-

1 thORIZED by section 162(d) of the Deep Ocean Energy Re-  
2 sources Act of 2008.

3       “(b) In this Act the term ‘historic and existing State-  
4 chartered recognized petroleum or mining school’ means  
5 a school, university, or educational institution with the  
6 presence of an engineering program meeting the specific  
7 program criteria, established by the member societies of  
8 ABET, Inc., for petroleum, mining, or mineral engineer-  
9 ing and that is accredited on the date of enactment of  
10 the Deep Ocean Energy Resources Act of 2008 by ABET,  
11 Inc.

12       “(c) It shall be the duty of each school, university,  
13 or institution receiving funds under this section to provide  
14 for and enhance the training of undergraduate and grad-  
15 uate petroleum, mining, and mineral engineers through re-  
16 search, investigations, demonstrations, and experiments.  
17 All such work shall be carried out in a manner that will  
18 enhance undergraduate education.

19       “(d) Each school, university, or institution receiving  
20 funds under this Act shall maintain the program for which  
21 the funds are provided for 10 years after the date of the  
22 first receipt of such funds and take steps described in its  
23 application for funding to increase the number of under-  
24 graduate students enrolled in and completing the pro-



1 grams of study in petroleum, mining, and mineral engi-  
2 neering.

3       “(e) The research, investigation, demonstration, ex-  
4 periment, and training authorized by this section may in-  
5 clude development and production of conventional and  
6 non-conventional fuel resources, the production of metallic  
7 and non-metallic mineral resources including industrial  
8 mineral resources, and the production of stone, sand, and  
9 gravel. In all cases the work carried out with funds made  
10 available under this Act shall include a significant oppor-  
11 tunity for participation by undergraduate students.

12       “(f) Research funded by this Act related to energy  
13 and mineral resource development and production may in-  
14 clude—

15               “(1) studies of petroleum, mining, and mineral  
16 extraction and immediately related beneficiation  
17 technology;

18               “(2) mineral economics, reclamation technology,  
19 and practices for active operations;

20               “(3) the development of re-mining systems and  
21 technologies to facilitate reclamation that fosters the  
22 ultimate recovery of resources at abandoned petro-  
23 leum, mining, and aggregate production sites; and

1           “(4) research on ways to extract petroleum and  
2           mineral resources that reduce the environmental im-  
3           pact of those activities.

4           “(g) Grants for basic science and engineering studies  
5           and research shall not require additional participation by  
6           funding partners. Grants for studies to demonstrate the  
7           proof of concept for science and engineering or the dem-  
8           onstration of feasibility and implementation shall include  
9           participation by industry and may include funding from  
10          other Federal agencies.

11          “(h)(1) No funds made available under this section  
12          shall be applied to the acquisition by purchase or lease  
13          of any land or interests therein, or the rental, purchase,  
14          construction, preservation, or repair of any building.

15          “(2) Funding made available under this section may  
16          be used with the express approval of the Secretary for pro-  
17          posals that will provide for maintaining or upgrading of  
18          existing laboratories and laboratory equipment. Funding  
19          for such maintenance shall not be used for university over-  
20          head expenses.

21          “(3) Funding made available under this Act may be  
22          used for maintaining and upgrading mines and oil and gas  
23          drilling rigs owned by a school, university, or institution  
24          described in this section that are used for undergraduate  
25          and graduate training and worker safety training. All re-

1   quests for funding such mines and oil and gas drilling rigs  
2   must demonstrate that they have been owned by the  
3   school, university, or institution for 5 years prior to the  
4   date of enactment of the Deep Ocean Energy Resources  
5   Act of 2008 and have been actively used for instructional  
6   or training purposes during that time.

7       “(4) Any funding made available under this section  
8   for research, investigation, demonstration, experiment, or  
9   training shall not be used for university overhead charges  
10  in excess of 10 percent of the amount authorized by the  
11  Secretary.

12  **“SEC. 4. FORMER AND NEW PETROLEUM AND MINING ENGI-**  
13                   **NEERING PROGRAMS.**

14       “(a) A school, university, or educational institution  
15  that formerly met the requirements of section 3(b) imme-  
16  diately before the date of the enactment of the Deep Ocean  
17  Energy Resources Act of 2008, or that seeks to establish  
18  a new program described in section 3(b), shall be eligible  
19  for funding under this Act only if it—

20               “(1) establishes a petroleum, mining, or mineral  
21           engineering program that meets the specific program  
22           criteria and is accredited as such by ABET, Inc.,  
23           with particular consideration awarded to establishing  
24           programs and minority serving institutions;

1           “(2) agrees to the conditions of subsections (c)  
2 through (h) of section 3 and the Secretary deter-  
3 mines that the program will strengthen and increase  
4 the number of nationally available, well-qualified fac-  
5 ulty members in petroleum, mining, and mineral en-  
6 gineering; and

7           “(3) agrees to maintain the accredited program  
8 for 10 years after the date of the first receipt of  
9 funds under this Act.

10          “(b) The Secretary shall seek the advice of the Com-  
11 mittee established pursuant to section 11 in determining  
12 the criteria used to carry out this section.

13 **“SEC. 5. FUNDING OF CONSORTIA OF HISTORIC AND EXIST-**  
14 **ING SCHOOLS.**

15          “Where appropriate, the Secretary may make funds  
16 available to consortia of schools, universities, or institu-  
17 tions described in sections 3, 4, and 6, including those con-  
18 sortia that include schools, universities, or institutions  
19 that are ineligible for funds under this Act if those schools,  
20 universities, or institutions, respectively, have skills, pro-  
21 grams, or facilities specifically identified as needed by the  
22 consortia to meet the necessary expenses for purposes of—

23           “(1) specific energy and mineral research  
24 projects of broad application that could not other-  
25 wise be undertaken, including the expenses of plan-

1       ning and coordinating regional petroleum, geo-  
2       thermal, mining, and mineral engineering or  
3       beneficiation projects by two or more schools; and

4               “(2) research into any aspects of petroleum,  
5       geothermal, mining, or mineral engineering or  
6       beneficiation problems, including but not limited to  
7       exploration, that are related to the mission of the  
8       Department of the Interior.

9       **“SEC. 6. SUPPORT FOR SCHOOLS WITH ENERGY AND MIN-**  
10                   **ERAL RESOURCE PROGRAMS IN PETROLEUM**  
11                   **AND MINERAL EXPLORATION GEOLOGY, PE-**  
12                   **TROLEUM GEOPHYSICS, OR MINING GEO-**  
13                   **PHYSICS.**

14       “(a) Twelve percent of the annual outlay of funds au-  
15       thorized by section 162(d) of the Deep Ocean Energy Re-  
16       sources Act of 2008 may be granted to schools, univer-  
17       sities, and institutions other than those described in sec-  
18       tions 3 and 4, with particular consideration awarded to  
19       minority serving institutions.

20       “(b) The Secretary shall determine the eligibility of  
21       a college or university to receive funding under this Act  
22       using criteria that include—

23               “(1) the presence of a substantial program of  
24       undergraduate and graduate geoscience instruction  
25       and research in one or more of the following special-

1 ties: petroleum geology, geothermal geology, mineral  
2 exploration geology, economic geology, industrial  
3 minerals geology, mining geology, petroleum geo-  
4 physics, mining geophysics, geological engineering,  
5 or geophysical engineering that has a demonstrated  
6 history of achievement;

7 “(2) evidence of institutional commitment for  
8 the purposes of this Act that includes a significant  
9 opportunity for participation by undergraduate stu-  
10 dents in research;

11 “(3) evidence that such school, university, or in-  
12 stitution has or can obtain significant industrial co-  
13 operation in activities within the scope of this Act;

14 “(4) agreement by the school, university, or in-  
15 stitution to maintain the programs for which the  
16 funding is sought for the 10-year period beginning  
17 on the date the school, university, or institution first  
18 receives such funds; and

19 “(5) requiring that such funding shall be for  
20 the purposes set forth in subsections (c) through (h)  
21 of section 3 and subject to the conditions set forth  
22 in section 3(h).

23 “(c) The Secretary shall seek the advice of the Com-  
24 mittee established pursuant to section 11 in determining  
25 the criteria used to carry out this section.

1 **“SEC. 7. DESIGNATION OF FUNDS FOR SCHOLARSHIPS AND**  
2 **FELLOWSHIPS.**

3 “(a) The Secretary shall utilize 10 percent of the an-  
4 nual outlay of funds authorized by section 162(d) of the  
5 Deep Ocean Energy Resources Act of 2008 for the pur-  
6 pose of providing merit-based scholarships for under-  
7 graduate education, graduate fellowships, and  
8 postdoctoral fellowships.

9 “(b) In order to receive a scholarship or a graduate  
10 fellowship, an individual student must be a lawful perma-  
11 nent resident of the United States or a United States cit-  
12 izen and must agree in writing to complete a course of  
13 studies and receive a degree in petroleum, mining, or min-  
14 eral engineering, petroleum geology, geothermal geology,  
15 mining and economic geology, petroleum and mining geo-  
16 physics, or mineral economics.

17 “(c) The regulations required by section 9 shall re-  
18 quire that an individual, in order to retain a scholarship  
19 or graduate fellowship, must continue in one of the course  
20 of studies listed in subsection (b) of this section, must re-  
21 main in good academic standing, as determined by the  
22 school, institution, or university and must allow for rein-  
23 statement of the scholarship or graduate fellowship by the  
24 Secretary, upon the recommendation of the school or insti-  
25 tution. Such regulations may also provide for recovery of  
26 funds from an individual who fails to complete any of the

1 courses of study listed in subsection (b) of this section  
2 after notice that such completion is a requirement of re-  
3 ceipt funding under this Act.

4       “(d) To carry out this section, the Secretary shall  
5 award grants to schools, universities, and institutions that  
6 are eligible to receive funding under section 3, 4 or 6. A  
7 school, university, or institution receiving funding under  
8 this subsection shall be responsible for enforcing the re-  
9 quirements of this section for scholarship or fellowship  
10 students and shall return to the Secretary any funds re-  
11 covered from an individual under subsection (c). An insti-  
12 tution seeking funds under this subsection shall describe,  
13 in its application to the Secretary for funding, the number  
14 of students that would be awarded scholarships or fellow-  
15 ships if the application is approved, how such students  
16 would be selected, and how the provisions of this section  
17 will be enforced.

18 **“SEC. 8. FUNDING CRITERIA FOR INSTITUTIONS.**

19       “(a) Each application to the Secretary for funds  
20 under this Act shall state, among other things, the nature  
21 of the project to be undertaken; the period during which  
22 it will be pursued; the qualifications of the personnel who  
23 will direct and conduct it; the estimated costs; the impor-  
24 tance of the project to the Nation, region, or States con-  
25 cerned; its relation to other known research projects there-



1 tofore pursued or being pursued; the extent to which the  
2 proposed project will maximize the opportunity for the  
3 training of undergraduate petroleum, mining, and mineral  
4 engineers; geologists and geophysicists; and the extent of  
5 participation by nongovernmental sources in the project.

6       “(b) No funds shall be made available under this Act  
7 except for an application approved by the Secretary. All  
8 funds shall be made available upon the basis of merit of  
9 the application, the need for the knowledge that it is ex-  
10 pected to produce when completed, and the opportunity  
11 it provides for the undergraduate training of individuals  
12 as petroleum, mining, and mineral engineers, geologists,  
13 and geophysicists. The Secretary may use competitive re-  
14 view by nongovernmental experts in relevant fields to de-  
15 termine which applications to approve, to the extent prac-  
16 ticable.

17       “(c) Funds available under this Act shall be paid at  
18 such times and in such amounts during each fiscal year  
19 as determined by the Secretary, and upon vouchers ap-  
20 proved by the Secretary. Each school, university, or insti-  
21 tution that receives funds under this Act shall—

22               “(1) establish its plan to provide for the train-  
23               ing of individuals as petroleum, mining, and mineral  
24               engineers, geologists, and geophysicists under a cur-

1       riculum appropriate to the field of mineral resources  
2       and mineral engineering and related fields;

3           “(2) establish policies and procedures that as-  
4       sure that Federal funds made available under this  
5       Act for any fiscal year will supplement and, to the  
6       extent practicable, increase the level of funds that  
7       would, in the absence of such Federal funds, be  
8       made available for purposes of this Act, and in no  
9       case supplant such funds; and

10           “(3) have an officer appointed by its governing  
11       authority who shall receive and account for all funds  
12       paid under this Act and shall make an annual report  
13       to the Secretary on or before the first day of Sep-  
14       tember of each year, on work accomplished and the  
15       status of projects underway, together with a detailed  
16       statement of the amounts received under this Act  
17       during the preceding fiscal year, and of its disburse-  
18       ments on schedules prescribed by the Secretary.

19           “(d) If any of the funds received by the authorized  
20       receiving officer of a program under this Act are found  
21       by the Secretary to have been improperly diminished, lost,  
22       or misapplied, such funds shall be recovered by the Sec-  
23       retary.

24           “(e) Schools, universities, and institutions receiving  
25       funds under this Act are authorized and encouraged to

1 plan and conduct programs under this Act in cooperation  
2 with each other and with such other agencies, business en-  
3 terprises and individuals.

4 **“SEC. 9. DUTIES OF SECRETARY.**

5       “(a) The Secretary, acting through the Assistant Sec-  
6 retary for Land and Minerals Management, shall admin-  
7 ister this Act and shall prescribe such rules and regula-  
8 tions as may be necessary to carry out its provisions not  
9 later than 1 year after the enactment of the Deep Ocean  
10 Energy Resources Act of 2008.

11       “(b)(1) There is established in the Department of the  
12 Interior, under the supervision of the Assistant Secretary  
13 for Land and Minerals Management, an office to be known  
14 as the Office of Petroleum and Mining Schools (hereafter  
15 in this Act referred to as the ‘Office’) to administer the  
16 provisions of this Act. There shall be a Director of the  
17 Office who shall be a member of the Senior Executive  
18 Service. The position of the Director shall be allocated  
19 from among the existing Senior Executive Service posi-  
20 tions at the Department of the Interior and shall be a  
21 career reserved position as defined in section 3132(a)(8)  
22 of title 5, United States Code.

23       “(2) The Director is authorized to appoint a Deputy  
24 Director and to employ such officers and employees as  
25 may be necessary to enable the Office to carry out its func-

1 tions. Such appointments shall be made from existing po-  
2 sitions at the Department of the Interior, and shall be sub-  
3 ject to the provisions of title 5, United States Code, gov-  
4 erning appointments in the competitive service. Such posi-  
5 tions shall be paid in accordance with the provisions of  
6 chapter 51 and subchapter III of chapter 53 of such title  
7 relating to classification and General Schedule pay rates.

8 “(3) In carrying out his or her functions, the Director  
9 shall assist and advise the Secretary and the Committee  
10 pursuant to section 11 of this Act by—

11 “(A) providing professional and administrative  
12 staff support for the Committee including record-  
13 keeping and maintaining minutes of all Committee  
14 and subcommittee meetings;

15 “(B) coordinating the activities of the Com-  
16 mittee with Federal agencies and departments, and  
17 the schools, universities, and institutions to which  
18 funds are provided under this Act;

19 “(C) maintaining accurate records of funds dis-  
20 bursed for all scholarship and fellowship grants, re-  
21 search grants, and grants for career technical edu-  
22 cation purposes;

23 “(D) preparing any regulations required to im-  
24 plement this Act;

1           “(E) conducting site visits at schools, univer-  
2           sities, and institutions receiving funding under this  
3           Act; and

4           “(F) serving as a central repository for reports  
5           and clearing house for public information on re-  
6           search funded by this Act.

7           “(4) The Director or an employee of the Office shall  
8           be present at each meeting of the Committee pursuant to  
9           section 11 or a subcommittee of such Committee.

10          “(5) The Director is authorized to contract with pub-  
11          lic or private agencies, institutions, and organizations and  
12          with individuals without regard to section 3324(a) and (b)  
13          of title 31, United States Code, and section 5 of title 41,  
14          United States Code, in carrying out his or her functions.

15          “(6) As needed the Director shall ascertain whether  
16          the requirements of this Act have been met by schools,  
17          universities, institutions, and individuals.

18          “(c) The Secretary, acting through the Office of Pe-  
19          troleum and Mining Schools, shall furnish such advice and  
20          assistance as will best promote the purposes of this Act,  
21          shall participate in coordinating research, investigations,  
22          demonstrations, and experiments initiated under this Act,  
23          shall indicate to schools, universities, and institutions re-  
24          ceiving funds under this Act such lines of inquiry that  
25          seem most important, and shall encourage and assist in

1 the establishment and maintenance of cooperation between  
2 such schools, universities, and institutions, other research  
3 organizations, the Department of the Interior, and other  
4 Federal agencies.

5 “(d) The Secretary shall establish procedures—

6 “(1) to ensure that each employee and con-  
7 tractor of the Office established by this section and  
8 each member of the Committee pursuant to section  
9 11 of this Act shall disclose to the Secretary any fi-  
10 nancial interests in or financial relationships with  
11 schools, universities, institutions or individuals re-  
12 ceiving funds, scholarships or fellowships under this  
13 Act;

14 “(2) to require any employee, contractor, or  
15 member of the Committee with a financial relation-  
16 ship disclosed under paragraph (1) to recuse them-  
17 selves from—

18 “(A) any recommendation or decision re-  
19 garding the awarding of funds, scholarships or  
20 fellowships; or

21 “(B) any review, report, analysis or inves-  
22 tigation regarding compliance with the provi-  
23 sions of this Act by a school, university, institu-  
24 tion or any individual.

1       “(e) On or before the first day of July of each year  
2 beginning after the date of enactment of this sentence,  
3 schools, universities, and institutions receiving funds  
4 under this Act shall certify compliance with this Act and  
5 upon request of the Director of the office established by  
6 this section provide documentation of such compliance.

7       “(f) An individual granted a scholarship or fellowship  
8 with funds provided under this Act shall through their re-  
9 spective school, university, or institution, advise the Direc-  
10 tor of the office established by this Act of progress towards  
11 completion of the course of studies and upon the awarding  
12 of the degree within 30 days after the award.

13       “(g) The regulations required by this section shall in-  
14 clude a preference for veterans and service members who  
15 have received or will receive either the Afghanistan Cam-  
16 paign Medal or the Iraq Campaign Medal as authorized  
17 by Public Law 108–234, and Executive Order No. 13363.

18 **“SEC. 10. COORDINATION.**

19       “(a) Nothing in this Act shall be construed to impair  
20 or modify the legal relationship existing between any of  
21 the schools, universities, and institutions under whose di-  
22 rection a program is established with funds provided under  
23 this Act and the government of the State in which it is  
24 located. Nothing in this Act shall in any way be construed

1 to authorize Federal control or direction of education at  
2 any school, university, or institution.

3       “(b) The programs authorized by this Act are in-  
4 tended to enhance the Nation’s petroleum, mining, and  
5 mineral engineering education programs and to enhance  
6 educational programs in petroleum and mining exploration  
7 and to increase the number of individuals enrolled in and  
8 completing these programs. To achieve this intent, the  
9 Secretary and the Committee pursuant to section 11 shall  
10 receive the continuing advice and cooperation of all agen-  
11 cies of the Federal Government concerned with the identi-  
12 fication, exploration, and development of energy and min-  
13 eral resources.

14       “(c) Nothing in this Act is intended to give or shall  
15 be construed as giving the Secretary any authority over  
16 mining and mineral resources research conducted by any  
17 agency of the Federal Government, or as repealing or di-  
18 minishing existing authorities or responsibilities of any  
19 agency of the Federal Government to plan and conduct,  
20 contract for, or assist in research in its area of responsi-  
21 bility and concern with regard to mining and mineral re-  
22 sources.

23       “(d) The schools, universities, and institutions receiv-  
24 ing funding under this Act shall make detailed reports to  
25 the Office of Petroleum and Mining Schools on projects



1 completed, in progress, or planned with funds provided  
2 under this Act. All such reports shall be available to the  
3 public on not less than an annual basis through the Office  
4 of Petroleum and Mining Schools. All uses, products, proc-  
5 esses, and other developments resulting from any re-  
6 search, demonstration, or experiment funded in whole or  
7 in part under this Act shall be made available promptly  
8 to the general public, subject to exception or limitation,  
9 if any, as the Secretary may find necessary in the interest  
10 of national security, and subject to the applicable Federal  
11 law governing patents.

12 **“SEC. 11. COMMITTEE ON PETROLEUM, MINING, AND MIN-**  
13 **ERAL ENGINEERING AND ENERGY AND MIN-**  
14 **ERAL RESOURCE EDUCATION.**

15 “(a) The Secretary shall appoint a Committee on Pe-  
16 troleum, Mining, and Mineral Engineering and Energy  
17 and Mineral Resource Education composed of—

18 “(1) the Assistant Secretary of the Interior re-  
19 sponsible for land and minerals management and  
20 not more than 16 other persons who are knowledge-  
21 able in the fields of mining and mineral resources re-  
22 search, including 2 university administrators one of  
23 whom shall be from historic and existing petroleum  
24 and mining schools; a community, technical, or tribal  
25 college administrator; a career technical education

1 educator; 6 representatives equally distributed from  
2 the petroleum, mining, and aggregate industries; a  
3 working miner; a working oilfield worker; a rep-  
4 resentative of the Interstate Oil and Gas Compact  
5 Commission; a representative from the Interstate  
6 Mining Compact Commission; a representative from  
7 the Western Governors Association; a representative  
8 of the State geologists, and a representative of a  
9 State mining and reclamation agency. In making  
10 these 16 appointments, the Secretary shall consult  
11 with interested groups.

12 “(2) The Assistant Secretary for Land and  
13 Minerals Management, in the capacity of the Chair-  
14 man of the Committee, may have present during  
15 meetings of the Committee representatives of Fed-  
16 eral agencies with responsibility for energy and min-  
17 erals resources management, energy and mineral re-  
18 source investigations, energy and mineral commodity  
19 information, international trade in energy and min-  
20 eral commodities, mining safety regulation and mine  
21 safety research, and research into the development,  
22 production, and utilization of energy and mineral  
23 commodities. These representatives shall serve as  
24 technical advisors to the committee and shall have  
25 no voting responsibilities.

1       “(b) The Committee shall consult with, and make rec-  
2 ommendations to, the Secretary on policy matters relating  
3 to carrying out this Act. The Secretary shall consult with  
4 and carefully consider recommendations of the Committee  
5 in such matters.

6       “(c) Committee members, other than officers or em-  
7 ployees of Federal, State, or local governments, shall be,  
8 for each day (including traveltime) during which they are  
9 performing Committee business, paid at a rate fixed by  
10 the Secretary but not in excess of the daily equivalent of  
11 the maximum rate of pay for level IV of the Executive  
12 Schedule under section 5136 of title 5, United States  
13 Code, and shall be fully reimbursed for travel, subsistence,  
14 and related expenses.

15       “(d) The Committee shall be chaired by the Assistant  
16 Secretary of the Interior responsible for land and minerals  
17 management. There shall also be elected a Vice Chairman  
18 by the Committee from among the members referred to  
19 in this section. The Vice Chairman shall perform such du-  
20 ties as are determined to be appropriate by the committee,  
21 except that the Chairman of the Committee must person-  
22 ally preside at all meetings of the full Committee. The  
23 Committee may organize itself into such subcommittees as  
24 the Committee may deem appropriate.

1       “(e) Following completion of the report required by  
2 section 385 of the Energy Policy Act of 2005, the Com-  
3 mittee shall consider the recommendations of the report,  
4 ongoing efforts in the schools, universities, and institu-  
5 tions receiving funding under this Act, the Federal and  
6 State Governments, and the private sector, and shall for-  
7 mulate and recommend to the Secretary a national plan  
8 for a program utilizing the fiscal resources provided under  
9 this Act. The Committee shall submit such plan to the  
10 Secretary for approval. Upon approval, the plan shall  
11 guide the Secretary and the Committee in their actions  
12 under this Act.

13       “(f) Section 10 of the Federal Advisory Committee  
14 Act (5 U.S.C. App. 2) shall not apply to the Committee.

15       **“SEC. 12. CAREER TECHNICAL EDUCATION.**

16       “(a) Up to 25 percent of the annual outlay of funds  
17 authorized by section 162(d) of the Deep Ocean Energy  
18 Resources Act of 2008 may be granted to schools or insti-  
19 tutions including, but not limited to, colleges, universities,  
20 community colleges, tribal colleges and universities, tech-  
21 nical institutes, secondary schools, other than those de-  
22 scribed in sections 3, 4, 5, and 6, and jointly sponsored  
23 apprenticeship and training programs that are authorized  
24 by Federal law.

1       “(b) The Secretary shall determine the eligibility of  
2 a school or institution to receive funding under this section  
3 using criteria that include—

4               “(1) the presence of a State-approved program  
5 in mining engineering technology, petroleum engi-  
6 neering technology, industrial engineering tech-  
7 nology, or industrial technology that—

8                       “(A) is focused on technology and its use  
9 in energy and mineral production and related  
10 maintenance, operational safety, or energy in-  
11 frastructure protection and security;

12                      “(B) prepares students for advanced or su-  
13 pervisory roles in the mining industry or the pe-  
14 troleum industry; and

15                      “(C) grants either an associate’s degree or  
16 a baccalaureate degree in one of the subjects  
17 listed in subparagraph (A);

18               “(2) the presence of a program, including a sec-  
19 ondary school vocational education program or ca-  
20 reer academy, that provides training for individuals  
21 entering the petroleum, coal mining, or mineral min-  
22 ing industries; or

23               “(3) the presence of a State-approved program  
24 of career technical education at a secondary school,

1 offered cooperatively with a community college in  
2 one of the industrial sectors of—

3 “(A) agriculture, forestry, or fisheries;

4 “(B) utilities;

5 “(C) construction;

6 “(D) manufacturing; and

7 “(E) transportation and warehousing.

8 “(c) Schools or institutions receiving funds under this  
9 section must show evidence of an institutional commit-  
10 ment for the purposes of career technical education and  
11 provide evidence that the school or institution has received  
12 or will receive industry cooperation in the form of equip-  
13 ment, employee time, or donations of funds to support the  
14 activities that are within the scope of this section.

15 “(d) Schools or institutions receiving funds under  
16 this section must agree to maintain the programs for  
17 which the funding is sought for a period of 10 years begin-  
18 ning on the date the school or institution receives such  
19 funds, unless the Secretary finds that a shorter period of  
20 time is appropriate for the local labor market or is re-  
21 quired by State authorities.

22 “(e) Schools or institutions receiving funds under this  
23 section may combine these funds with State funds, and  
24 other Federal funds where allowed by law, to carry out  
25 programs described in this section, however the use of the

1 funds received under this section must be reported to the  
2 Secretary not less than annually.

3 “(f) The Secretary shall seek the advice of the Com-  
4 mittee established pursuant to section 11 in determining  
5 the criteria used to carry out this section.

6 **“SEC. 13. DEPARTMENT OF THE INTERIOR WORKFORCE EN-  
7 HANCEMENT.**

8 “(a) PHYSICAL SCIENCE, ENGINEERING AND TECH-  
9 NOLOGY SCHOLARSHIP PROGRAM.—

10 “(1) From the amount of funds available to  
11 carry out this section, the Secretary shall use 30  
12 percent of that amount to provide financial assist-  
13 ance for education in physical sciences, engineering,  
14 and engineering or industrial technology and dis-  
15 ciplines that, as determined by the Secretary, are  
16 critical to the functions of the Department of the In-  
17 terior and are needed in the Department of the Inte-  
18 rior workforce.

19 “(2) The Secretary of the Interior may award  
20 a scholarship in accordance with this section to a  
21 person who—

22 “(A) is a citizen of the United States;

23 “(B) is pursuing an undergraduate or ad-  
24 vanced degree in a critical skill or discipline de-

1           scribed in paragraph (1) at an institution of  
2           higher education; and

3           “(C) enters into a service agreement with  
4           the Secretary of the Interior as described in  
5           subsection (e).

6           “(3) The amount of the financial assistance  
7           provided under a scholarship awarded to a person  
8           under this subsection shall be the amount deter-  
9           mined by the Secretary of the Interior as being nec-  
10          essary to pay all educational expenses incurred by  
11          that person, including tuition, fees, cost of books,  
12          laboratory expenses, and expenses of room and  
13          board. The expenses paid, however, shall be limited  
14          to those educational expenses normally incurred by  
15          students at the institution of higher education in-  
16          volved.

17          “(b) SCHOLARSHIP PROGRAM FOR STUDENTS AT-  
18          TENDING MINORITY SERVING HIGHER EDUCATION INSTI-  
19          TUTIONS.—

20                 “(1) From the amount of funds available to  
21                 carry out this section, the Secretary shall use 35  
22                 percent of that amount to award scholarships in ac-  
23                 cordance with this section to persons who—

24                         “(A) are enrolled in a Minority Serving  
25                         Higher Education Institution;



1           “(B) are citizens or nationals of the  
2           United States;

3           “(C) are pursuing an undergraduate or ad-  
4           vanced degree in agriculture, engineering, engi-  
5           neering or industrial technology, or physical  
6           sciences, or other discipline that is found by the  
7           Secretary to be critical to the functions of the  
8           Department of the Interior and are needed in  
9           the Department of the Interior workforce; and

10          “(D) enter into a service agreement with  
11          the Secretary of the Interior as described in  
12          subsection (e).

13          “(2) The amount of the financial assistance  
14          provided under a scholarship awarded to a person  
15          under this subsection shall be the amount deter-  
16          mined by the Secretary of the Interior as being nec-  
17          essary to pay all educational expenses incurred by  
18          that person, including tuition, fees, cost of books,  
19          laboratory expenses, and expenses of room and  
20          board. The expenses paid, however, shall be limited  
21          to those educational expenses normally incurred by  
22          students at the institution of higher education in-  
23          volved.

24          “(c) EDUCATION PARTNERSHIPS WITH MINORITY  
25          SERVING HIGHER EDUCATION INSTITUTIONS.—

1           “(1) The Secretary shall require the director of  
2 each Bureau and Office, to foster the participation  
3 of Minority Serving Higher Education Institutions  
4 in any regulatory activity, land management activity,  
5 science activity, engineering or industrial technology  
6 activity, or engineering activity carried out by the  
7 Department of the Interior.

8           “(2) From the amount of funds available to  
9 carry out this section, the Secretary shall use 35  
10 percent of that amount to support activities at Mi-  
11 nority Serving Higher Education Institutions by—

12                   “(A) funding faculty and students in these  
13 institutions in collaborative research projects  
14 that are directly related to the Departmental or  
15 Bureau missions;

16                   “(B) allowing equipment transfer to Mi-  
17 nority Serving Higher Education Institutions as  
18 a part of a collaborative research program di-  
19 rectly related to a Departmental or Bureau mis-  
20 sion;

21                   “(C) allowing faculty and students at these  
22 Minority Serving Higher Education Institutions  
23 to participate Departmental and Bureau train-  
24 ing activities;

1           “(D) funding paid internships in Depart-  
2           mental and Bureau facilities for students at Mi-  
3           nority Serving Higher Education Institutions;  
4           and

5           “(E) assigning Departmental and Bureau  
6           personnel to positions located at Minority Serv-  
7           ing Higher Educational Institutions to serve as  
8           mentors to students interested in a science,  
9           technology or engineering disciplines related to  
10          the mission of the Department or the Bureaus.

11          “(d) SERVICE AGREEMENT FOR RECIPIENTS OF AS-  
12          SISTANCE.—

13           “(1) To receive financial assistance under sub-  
14          section (a) or (b) of this section—

15           “(A) in the case of an employee of the De-  
16          partment of the Interior, the employee shall  
17          enter into a written agreement to continue in  
18          the employment of the department for the pe-  
19          riod of obligated service determined under para-  
20          graph (2); and

21           “(B) in the case of a person not an em-  
22          ployee of the Department of the Interior, the  
23          person shall enter into a written agreement to  
24          accept and continue employment in the Depart-

1           ment of the Interior for the period of obligated  
2           service determined under paragraph (2).

3           “(2) For the purposes of this section, the period  
4           of obligated service for a recipient of a scholarship  
5           under this section shall be the period determined by  
6           the Secretary of the Interior as being appropriate to  
7           obtain adequate service in exchange for the financial  
8           assistance provided under the scholarship. In no  
9           event may the period of service required of a recipi-  
10          ent be less than the total period of pursuit of a de-  
11          gree that is covered by the scholarship. The period  
12          of obligated service is in addition to any other period  
13          for which the recipient is obligated to serve in the  
14          civil service of the United States.

15          “(3) An agreement entered into under this sub-  
16          section by a person pursuing an academic degree  
17          shall include any terms and conditions that the Sec-  
18          retary of the Interior determines necessary to pro-  
19          tect the interests of the United States or otherwise  
20          appropriate for carrying out this section.

21          “(e) REFUND FOR PERIOD OF UNSERVED OBLI-  
22          GATED SERVICE.—

23          “(1) A person who voluntarily terminates serv-  
24          ice before the end of the period of obligated service  
25          required under an agreement entered into under

1 subsection (d) shall refund to the United States an  
2 amount determined by the Secretary of the Interior  
3 as being appropriate to obtain adequate service in  
4 exchange for financial assistance.

5 “(2) An obligation to reimburse the United  
6 States imposed under paragraph (1) is for all pur-  
7 poses a debt owed to the United States.

8 “(3) The Secretary of the Interior may waive,  
9 in whole or in part, a refund required under para-  
10 graph (1) if the Secretary determines that recovery  
11 would be against equity and good conscience or  
12 would be contrary to the best interests of the United  
13 States.

14 “(4) A discharge in bankruptcy under title 11,  
15 United States Code, that is entered less than five  
16 years after the termination of an agreement under  
17 this section does not discharge the person signing  
18 such agreement from a debt arising under such  
19 agreement or under this subsection.

20 “(f) RELATIONSHIP TO OTHER PROGRAMS.—The  
21 Secretary of the Interior shall coordinate the provision of  
22 financial assistance under the authority of this section  
23 with the provision of financial assistance under the au-  
24 thorities provided in this Act in order to maximize the ben-

1 efits derived by the Department of Interior from the exer-  
2 cise of all such authorities.

3 “(g) REPORT.—Not later than September 1 of each  
4 year, the Secretary of the Interior shall submit to the Con-  
5 gress a report on the status of the assistance program car-  
6 ried out under this section. The report shall describe the  
7 programs within the Department designed to recruit and  
8 retain a workforce on a short-term basis and on a long-  
9 term basis.

10 “(h) DEFINITIONS.—As used in this section:

11 “(1) The term ‘Minority Serving Higher Edu-  
12 cation Institutions’ means a Hispanic-serving insti-  
13 tution, historically Black college or university, Alas-  
14 ka Native-serving institution, tribal college or uni-  
15 versity, or insular area school.

16 “(2) The term ‘Hispanic-serving institution’ has  
17 the meaning given the term in section 502(a) of the  
18 Higher Education Act of 1965 (20 U.S.C.  
19 1101a(a)).

20 “(3) The term ‘historically Black college or uni-  
21 versity’ has the meaning given the term ‘part B in-  
22 stitution’ in section 322 of the Higher Education  
23 Act of 1965 (20 U.S.C. 1061).

24 “(4) The term ‘tribal college or university’ has  
25 the meaning given the term ‘Tribal College or Uni-

1       iversity’ in section 316(b)(3) of the Higher Edu-  
2       cation Act of 1965 (20 U.S.C. 1059c).

3           “(5) The term ‘institution of higher education’  
4       has the meaning given such term in section 101 of  
5       the Higher Education Act of 1965 (20 U.S.C.  
6       1001).

7           “(6) The term ‘Alaska Native-serving institu-  
8       tion’ has the meaning given the term in section 317  
9       of the Higher Education Act of 1965 (20 U.S.C.  
10      1059d).

11          “(7) The term ‘insular area school’ means an  
12      academic institution or university in American  
13      Samoa, Guam, The Northern Mariana Islands,  
14      Puerto Rico, and the Virgin Islands, or any other  
15      territory or possession of the United States.

16          “(i) FUNDING.—To implement this section, the Sec-  
17      retary shall use 3 percent of the annual outlay authorized  
18      by section 162(d) of the Deep Ocean Energy Resources  
19      Act of 2008.”.

20          (b) FUNDING FOR ENERGY RESEARCH.—

21           (1) Using 20 percent of the funds authorized by  
22      subsection (d), the Secretary of Energy, through the  
23      energy supply research and development programs of  
24      the Department of Energy, and in consultation with  
25      the Office of Science of the Department of Energy,

1 shall carry out a program to award grants to institu-  
2 tions of higher education on the basis of competitive,  
3 merit-based review, for the purpose of conducting re-  
4 search on advanced energy technologies with the po-  
5 tential to transform the energy systems of the  
6 United States so as to—

7 (A) reduce dependence on foreign energy  
8 supplies;

9 (B) reduce or eliminate emissions of green-  
10 house gases;

11 (C) reduce negative environmental effects  
12 associated with energy production, storage, and  
13 use; and

14 (D) enhance the competitiveness of United  
15 States energy technology exports.

16 (2) Awards made under this subsection may in-  
17 clude funding for—

18 (A) energy efficiency;

19 (B) renewable energy, including solar,  
20 wind, and biofuels; and

21 (C) nuclear, hydrogen, and any other en-  
22 ergy research that could accomplish the purpose  
23 set forth in paragraph (1).

24 (3) The Secretary of Energy may require or au-  
25 thorize grantees under this subsection to partner



1 with industry, but only to the extent that such a re-  
2 quirement does not prevent long-range, potentially  
3 pathbreaking research from being funded under this  
4 subsection.

5 (4) An institution of higher education seeking  
6 funding under this subsection shall submit an appli-  
7 cation at such time, in such manner, and containing  
8 such information as the Secretary of Energy may re-  
9 quire.

10 (5) In this subsection, the term “institution of  
11 higher education” has the meaning given that term  
12 in section 101(a) of the Higher Education Act of  
13 1965.

14 (c) FUNDING FOR ENERGY SCHOLARSHIPS.—

15 (1) Using 5 percent of the funds authorized by  
16 subsection (d), the Secretary of Energy, through the  
17 energy supply research and development programs of  
18 the Department of Energy, and in consultation with  
19 the Office of Science of the Department of Energy,  
20 shall carry out a program to award grants to institu-  
21 tions of higher education on the basis of competitive,  
22 merit-based review, to grant graduate traineeships to  
23 Ph.D. students who are citizens of the United States  
24 who will carry out research on advanced energy tech-

1 nologies to accomplish the purpose set forth in sub-  
2 section (c)(1).

3 (2) Awards made under this subsection may in-  
4 clude funding for—

5 (A) energy efficiency;

6 (B) renewable energy, including solar,  
7 wind, and biofuels; and

8 (C) nuclear, hydrogen, and any other en-  
9 ergy research that would accomplish the pur-  
10 pose set forth in subsection (c)(1) that is not el-  
11 igible for funding under section 7 of the Energy  
12 and Mineral Schools Reinvestment Act.

13 (3) An institution of higher education seeking  
14 funding under this subsection shall submit an appli-  
15 cation at such time, in such manner, and containing  
16 such information as the Secretary of Energy may re-  
17 quire.

18 (4) In this subsection, the term “institution of  
19 higher education” has the meaning given that term  
20 in section 101(a) of the Higher Education Act of  
21 1965.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
23 authorized to be appropriated to carry out this section  
24 \$150,000,000 for each of fiscal years 2009 through 2019.

1 **SEC. 161. ONSHORE AND OFFSHORE MINERAL LEASE FEES.**

2       Except as otherwise provided in this subtitle, the De-  
3 partment of the Interior is prohibited from charging fees  
4 applicable to actions on Federal onshore and offshore oil  
5 and gas, coal, geothermal, and other mineral leases, in-  
6 cluding transportation of any production from such leases,  
7 if such fees were not established in final regulations prior  
8 to the date of issuance of the lease.

9 **SEC. 162. OCS REGIONAL HEADQUARTERS.**

10       The headquarters for the Gulf of Mexico Region shall  
11 permanently be located within the State of Louisiana with-  
12 in 25 miles of the center of Jackson Square, New Orleans,  
13 Louisiana. Further, not later than July 1, 2010, the Sec-  
14 retary of the Interior shall establish the headquarters for  
15 the Atlantic OCS Region and the headquarters for the Pa-  
16 cific OCS Region within a State bordering the Atlantic  
17 OCS Region and a State bordering the Pacific OCS Re-  
18 gion, respectively, from among the States bordering those  
19 Regions, that petitions by no later than January 1, 2010,  
20 for leasing, for oil and gas or natural gas, covering at least  
21 40 percent of the area of its Adjacent Zone within 100  
22 miles of the coastline. Such Atlantic and Pacific OCS Re-  
23 gions headquarters shall be located within 25 miles of the  
24 coastline and each MMS OCS regional headquarters shall  
25 be the permanent duty station for all Minerals Manage-  
26 ment Service personnel that on a daily basis spend on av-

1 erage 60 percent or more of their time in performance of  
2 duties in support of the activities of the respective Region,  
3 except that the Minerals Management Service may house  
4 regional inspection staff in other locations. Each OCS Re-  
5 gion shall each be led by a Regional Director who shall  
6 be an employee within the Senior Executive Service.

7 **SEC. 163. NATIONAL GEO FUND ACT OF 2008.**

8 (a) **SHORT TITLE.**—This section may be cited as the  
9 “National Geo Fund Act of 2008”.

10 (b) **PURPOSES.**—The purpose of this section is to  
11 provide for the management of geologic programs, geologic  
12 mapping, geophysical and other seismic studies, seismic  
13 monitoring programs, and the preservation and use of geo-  
14 logic and geophysical data, geothermal and geopressure  
15 energy resource management, unconventional energy re-  
16 sources management, and renewable energy management  
17 associated with ocean wave, current, and thermal re-  
18 sources.

19 (c) **STATE DEFINED.**—In this section the term  
20 “State” means the agency of a State designated by its  
21 Governor or State law to perform the functions and activi-  
22 ties described in subsection (b).

23 (d) **STRATEGIC UNCONVENTIONAL RESOURCES.**—

24 (1) **PROGRAM.**—The Secretary of the Interior  
25 shall establish a program for production of fuels

1 from strategic unconventional resources, and produc-  
2 tion of oil and gas resources using CO<sub>2</sub> enhanced re-  
3 covery. The program shall focus initially on activities  
4 and domestic resources most likely to result in sig-  
5 nificant production in the near future, and shall in-  
6 clude work necessary to improve extraction tech-  
7 niques, including surface and in situ operations. The  
8 program shall include characterization and assess-  
9 ment of potential resources, a sampling program,  
10 appropriate laboratory and other analyses and test-  
11 ing, and assessment of methods for exploration and  
12 development of these strategic unconventional re-  
13 sources.

14 (2) PILOT PROJECTS.—The program created in  
15 paragraph (1) shall include, but not be limited to,  
16 pilot projects on (A) the Maverick Basin heavy oil  
17 and tar sands formations of Texas, including the  
18 San Miguel deposits, (B) the Greater Green River  
19 Basin heavy oil, shale, tar sands, and coal deposits  
20 of Colorado, Utah, and Wyoming, (C) the shale, tar  
21 sands, heavy oil, and coal deposits in the Alabama-  
22 Mississippi-Tennessee region, (D) the shale, tar  
23 sands, heavy oil, and coal deposits in the Ohio River  
24 valley, and (E) strategic unconventional resources in  
25 California. The Secretary shall identify and report to

1 Congress on feasible incentives to foster recovery of  
2 unconventional fuels by private industry within the  
3 United States. Such incentives may include, but are  
4 not limited to, long-term contracts for the purchase  
5 of unconventional fuels for defense purposes, Fed-  
6 eral grants and loan guarantees for necessary capital  
7 expenditures, and favorable terms for the leasing of  
8 Government lands containing unconventional re-  
9 sources.

10 (3) DEFINITIONS.—In this subsection:

11 (A) STRATEGIC UNCONVENTIONAL RE-  
12 SOURCES.—The term “strategic unconventional  
13 resources” means hydrocarbon resources, in-  
14 cluding heavy oil, shale, tar sands, and coal de-  
15 posits, from which liquid fuels may be pro-  
16 duced.

17 (B) IN SITU EXTRACTION METHODS.—The  
18 term “in situ extraction methods” means recov-  
19 ery techniques that are applied to the resources  
20 while they are still in the ground, and are in  
21 commercial use or advanced stages of develop-  
22 ment. Such techniques include, but are not lim-  
23 ited to, steam flooding, steam-assisted gravity  
24 drainage (including combination with electric  
25 power generation where appropriate), cyclic

1 steam stimulation, air injection, and chemical  
2 treatment.

3 (4) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out  
5 this subsection for each of fiscal years 2009 through  
6 2016 not less than \$35,000,000. Each pilot project  
7 shall be allocated not less than \$4,000,000 per year  
8 in each of fiscal years 2009 through 2016.

9 (e) SUPPORT OF GEOTHERMAL AND GEOPRESSURE  
10 OIL AND GAS ENERGY PRODUCTION.—

11 (1) IN GENERAL.—The Secretary of the Inte-  
12 rior shall carry out a grant program in support of  
13 geothermal and geopressure oil and gas energy pro-  
14 duction. The program shall include grants for a total  
15 of not less than three assessments of the use of in-  
16 novative geothermal techniques such as organic  
17 rankine cycle systems at marginal, unproductive,  
18 and productive oil and gas wells, and not less than  
19 one assessment of the use of innovative geopressure  
20 techniques. The Secretary shall, to the extent prac-  
21 ticable and in the public interest, make awards  
22 that—

23 (A) include not less than five oil or gas  
24 well sites per project award;

1           (B) use a range of oil or gas well hot water  
2 source temperatures from 150 degrees Fahr-  
3 enheit to 300 degrees Fahrenheit;

4           (C) use existing or new oil or gas wells;

5           (D) cover a range of sizes from 175 kilo-  
6 watts to one megawatt;

7           (E) are located at a range of sites includ-  
8 ing tribal lands, Federal lease, State, or pri-  
9 vately owned sites;

10          (F) can be replicated at a wide range of  
11 sites;

12          (G) facilitate identification of optimum  
13 techniques among competing alternatives;

14          (H) include business commercialization  
15 plans that have the potential for production of  
16 equipment at high volumes and operation and  
17 support at a large number of sites; and

18          (I) satisfy other criteria that the Secretary  
19 determines are necessary to carry out the pro-  
20 gram.

21       The Secretary shall give preference to assessments  
22 that address multiple elements contained in subpara-  
23 graphs (A) through (I).

24           (2) GRANT AWARDS.—



1           (A) IN GENERAL.—Each grant award for  
2           assessment of innovative geothermal or  
3           geopressure technology such as organic rankine  
4           cycle systems at oil and gas wells made by the  
5           Secretary under this section shall include—

6                   (i) necessary and appropriate site en-  
7                   gineering study;

8                   (ii) detailed economic assessment of  
9                   site specific conditions;

10                  (iii) appropriate feasibility studies to  
11                  determine ability for replication;

12                  (iv) design or adaptation of existing  
13                  technology for site specific circumstances  
14                  or conditions;

15                  (v) installation of equipment, service,  
16                  and support; and

17                  (vi) monitoring for a minimum of one  
18                  year after commissioning date.

19           (3) COMPETITIVE GRANT SELECTION.—Not less  
20           than 180 days after the date of the enactment of  
21           this Act, the Secretary shall conduct a national solici-  
22           tation for applications for grants under the pro-  
23           gram. Grant recipients shall be selected on a com-  
24           petitive basis based on criteria in subsection (b).

1           (4) FEDERAL SHARE.—The Federal share of  
2 costs of grants under this subsection shall be pro-  
3 vided from funds made available to carry out this  
4 section. The Federal share of the cost of a project  
5 carried out with such a grant shall not exceed 50  
6 percent of such cost.

7           (5) AUTHORIZATION OF APPROPRIATIONS.—  
8 There is authorized to be appropriated to carry out  
9 this subsection for each of fiscal years 2007 through  
10 2011 not less than \$5,000,000. No funds authorized  
11 under this section may be used for the purposes of  
12 drilling new wells.

13           (6) AMENDMENT.—Section 4 of the Geothermal  
14 Steam Act of 1970 (30 U.S.C. 1003) is amended by  
15 adding at the end the following:

16       “(h) GEOTHERMAL RESOURCES CO-PRODUCED  
17 WITH THE MINERALS.—Any person who holds a lease or  
18 who operates a cooperative or unit plan under the Mineral  
19 Leasing Act, in the absence of an existing lease for geo-  
20 thermal resources under this Act, shall upon notice to the  
21 Secretary have the right to utilize any geothermal re-  
22 sources co-produced with the minerals for which the lease  
23 was issued during the operation of that lease or coopera-  
24 tive or unit plan, for the generating of electricity to oper-  
25 ate the lease. Any electricity that is produced in excess

1 of that which is required to operate the lease and that  
2 is sold for purposes outside of the boundary of the lease  
3 shall be subject to the requirements of section 5.”.

4 (f) LIQUID FUELS GRANT PROGRAM.—

5 (1) PROGRAM.—The Secretary of the Interior  
6 shall establish a grant program for facilities for coal-  
7 to-liquids, petroleum coke-to-liquids, oil shale, tar  
8 sands, heavy oil, and Alaska natural gas-to-liquids  
9 and to assess the production of low-rank coal water  
10 fuel (in this subsection referred to as “LRCWF”).

11 (2) LRCWF.—The LRCWF grant project loca-  
12 tion shall use lignite coal and shall be allocated  
13 \$15,000,000.

14 (3) DEFINITIONS.—In this subsection:

15 (A) COAL-TO-LIQUIDS FRONT-END ENGI-  
16 NEERING AND DESIGN.—The terms “coal-to-liq-  
17 uids front-end engineering and design” and  
18 “FEED” mean those expenditures necessary to  
19 engineer, design, and obtain permits for a facil-  
20 ity for a particular geographic location which  
21 will utilize a process or technique to produce  
22 liquid fuels from coal resources.

23 (B) LOW-RANK COAL WATER FUEL.—In  
24 this subsection the term “low-rank coal water  
25 fuel” means a liquid fuel produced from hydro-

1 thermal treatment of lignite and sub-bituminous  
2 coals.

3 (4) GRANT PROVISIONS.—All grants shall re-  
4 quire a 50 percent non-Federal cost share. The first  
5 4 FEED grant recipients who receive full project  
6 construction financing commitments, based on ear-  
7 liest calendar date, shall not be required to repay  
8 any of their grants. The next 4 FEED grant recipi-  
9 ents who receive such commitments shall be required  
10 to repay 25 percent of the grant. The next 4 FEED  
11 grant recipients who receive such commitments shall  
12 be required to repay 50 percent of the grant, and  
13 the remaining FEED grant recipients shall be re-  
14 quired to repay 75 percent of the grant. Any re-  
15 quired repayment shall be paid as part of the closing  
16 process for any construction financing relating to  
17 the grant. No repayment shall require the payment  
18 of interest if repaid within 5 years of the issuance  
19 of the grant. FEED grants shall be limited to a  
20 maximum of \$500,000 per 1,000 barrels per day of  
21 liquid fuels production capacity.

22 (5) AUTHORIZATION OF APPROPRIATIONS.—  
23 There is authorized to be appropriated to carry out  
24 this subsection \$50,000,000 for each of fiscal years  
25 2009 through 2016.

1 (g) RENEWABLE ENERGY FROM OCEAN WAVE, CUR-  
2 RENT, AND THERMAL RESOURCES.—

3 (1) PROGRAM.—The Secretary of the Interior  
4 shall establish a grant program for the production of  
5 renewable energy from ocean waves, tides, currents,  
6 and thermal resources.

7 (2) GRANT PROVISIONS.—All grants under this  
8 subsection shall require a 50 percent non-Federal  
9 cost share.

10 (3) AUTHORIZATION OF APPROPRIATIONS.—  
11 There is authorized to be appropriated to carry out  
12 this subsection funds for each of fiscal years 2009  
13 through 2016 in the amount of not less than  
14 \$20,000,000 each year, and thereafter in such  
15 amounts as the Secretary may find appropriate.

16 (h) AMENDMENT TO THE SURFACE MINING CON-  
17 TROL AND RECLAMATION ACT OF 1977.—Section 507 of  
18 the Surface Mining Control and Reclamation Act of 1977  
19 (30 U.S.C. 1267) is amended by adding at the end the  
20 following:

21 “(i) Any person who provides the regulatory authority  
22 with a map under subsection (b)(13) or (b)(14) shall not  
23 be liable to any other person in any way for the accuracy  
24 or completeness of any such map which was not prepared  
25 and certified by or on behalf of such person.”.

1 (i) AMENDMENT TO THE ENERGY POLICY ACT OF  
2 2005.—Section 357 of the Energy Policy Act of 2005 (42  
3 U.S.C. 15912) is amended by redesignating subsection (b)  
4 as subsection (c), and inserting the following new sub-  
5 section:

6 “(b) There is authorized to be appropriated for the  
7 Secretary to contract for use of the 3–D seismic tech-  
8 nology referenced in (a)(2) the amount of \$50,000,000 for  
9 each of fiscal years 2009 through 2016.”.

10 **SEC. 164. LEASES FOR AREAS LOCATED WITHIN 100 MILES**  
11 **OF CALIFORNIA OR FLORIDA.**

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

16 (1) AUTHORITY.—Within 2 years after the date  
17 of enactment of this Act, the lessee of an existing oil  
18 and gas lease for an area located completely within  
19 100 miles of the coastline within the California or  
20 Florida Adjacent Zones shall have the option, with-  
21 out compensation, of exchanging such lease for a  
22 new oil and gas lease having a primary term of 5  
23 years. For the area subject to the new lease, the les-  
24 see may select any unleased tract on the outer Con-  
25 tinental Shelf that is in an area available for leasing.

1 Further, with the permission of the relevant Gov-  
2 ernor, such a lessee may convert its existing oil and  
3 gas lease into a natural gas lease having a primary  
4 term of 5 years and covering the same area as the  
5 existing lease or another area within the same  
6 State's Adjacent Zone within 100 miles of the coast-  
7 line.

8 (2) ADMINISTRATIVE PROCESS.—The Secretary  
9 of the Interior shall establish a reasonable adminis-  
10 trative process to implement paragraph (1). Ex-  
11 changes and conversions under subsection (a), in-  
12 cluding the issuance of new leases, shall not be con-  
13 sidered to be major Federal actions for purposes of  
14 the National Environmental Policy Act of 1969 (42  
15 U.S.C. 4321 et seq.). Further, such actions con-  
16 ducted in accordance with this section are deemed to  
17 be in compliance all provisions of the Outer Conti-  
18 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

24 (4) PRIORITY.—The Secretary shall give pri-  
25 ority in the lease exchange process based on the

1 amount of the original bonus bid paid for the  
2 issuance of each lease to be exchanged. The Sec-  
3 retary shall allow leases covering partial tracts to be  
4 exchanged for leases covering full tracts conditioned  
5 upon payment of additional bonus bids on a per-acre  
6 basis as determined by the average per acre of the  
7 original bonus bid per acre for the partial tract  
8 being exchanged.

9 (5) EXPLORATION PLANS.—Any exploration  
10 plan submitted to the Secretary of the Interior after  
11 the date of the enactment of this Act and before  
12 July 1, 2012, for an oil and gas lease for an area  
13 wholly within 100 miles of the coastline within the  
14 California Adjacent Zone or Florida Adjacent Zone  
15 shall not be treated as received by the Secretary  
16 until the earlier of July 1, 2012, or the date on  
17 which a petition by the Adjacent State for oil and  
18 gas leasing covering the area within which is located  
19 the area subject to the oil and gas lease was ap-  
20 proved.

21 (b) FURTHER LEASE CANCELLATION AND EX-  
22 CHANGE PROVISIONS.—

23 (1) CANCELLATION OF LEASE.—As part of the  
24 lease exchange process under this section, the Sec-



1       retary shall cancel a lease that is exchanged under  
2       this section.

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

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

11              (4) PLUGGING AND ABANDONMENT.—The plug-  
12      ging and abandonment requirements for any wells  
13      located on any lease to be cancelled and exchanged  
14      under this section must be complied with by the les-  
15      sees prior to the cancellation and exchange.

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

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

5 **SEC. 165. COASTAL IMPACT ASSISTANCE.**

6 Section 31 of the Outer Continental Shelf Lands Act  
7 (43 U.S.C. 1356a) is repealed.

8 **SEC. 166. OIL SHALE AND TAR SANDS AMENDMENTS.**

9 (a) REPEAL OF REQUIREMENT TO ESTABLISH PAY-  
10 MENTS.—Section 369(o) of the Energy Policy Act of 2005  
11 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927)  
12 is repealed.

13 (b) TREATMENT OF REVENUES.—Section 21 of the  
14 Mineral Leasing Act (30 U.S.C. 241) is amended by add-  
15 ing at the end the following:

16 “(e) REVENUES.—

17 “(1) IN GENERAL.—Notwithstanding the provi-  
18 sions of section 35, all revenues received from and  
19 under an oil shale or tar sands lease shall be dis-  
20 posed of as provided in this subsection.

21 “(2) ROYALTY RATES FOR COMMERCIAL  
22 LEASES.—

23 “(A) ROYALTY RATES.—The Secretary  
24 shall model the royalty schedule for oil shale  
25 and tar sands leases based on the royalty pro-

1 gram currently in effect for the production of  
2 synthetic crude oil from oil sands in the Prov-  
3 ince of Alberta, Canada.

4 “(B) REDUCTION.—The Secretary shall re-  
5 duce any royalty otherwise required to be paid  
6 under subparagraph (A) under any oil shale or  
7 tar sands lease on a sliding scale based upon  
8 market price, with a 10 percent reduction if the  
9 average futures price of NYMEX Light Sweet  
10 Crude, or a similar index, drops, for the pre-  
11 vious quarter year, below \$50 (in January 1,  
12 2006, dollars), and an 80 percent reduction if  
13 the average price drops below \$30 (in January  
14 1, 2006, dollars) for the quarter previous to the  
15 one in which the production is sold.

16 “(3) DISPOSITION OF REVENUES.—

17 “(A) DEPOSIT.—The Secretary shall de-  
18 posit into a separate account in the Treasury  
19 all revenues derived from any oil shale or tar  
20 sands lease.

21 “(B) ALLOCATIONS TO STATES AND LOCAL  
22 POLITICAL SUBDIVISIONS.—The Secretary shall  
23 allocate 50 percent of the revenues deposited  
24 into the account established under subpara-  
25 graph (A) to the State within the boundaries of

1           which the leased lands are located, with a por-  
2           tion of that to be paid directly by the Secretary  
3           to the State's local political subdivisions as pro-  
4           vided in this paragraph.

5           “(C) TRANSMISSION OF ALLOCATIONS.—

6           “(i) IN GENERAL.—Not later than the  
7           last business day of the month after the  
8           month in which the revenues were received,  
9           the Secretary shall transmit—

10           “(I) to each State two-thirds of  
11           such State's allocations under sub-  
12           paragraph (B), and in accordance  
13           with clauses (ii) and (iii) to certain  
14           county-equivalent and municipal polit-  
15           ical subdivisions of such State a total  
16           of one-third of such State's allocations  
17           under subparagraph (B), together  
18           with all accrued interest thereon; and

19           “(II) the remaining balance of  
20           such revenues deposited into the ac-  
21           count that are not allocated under  
22           subparagraph (B), together with in-  
23           terest thereon, shall be transmitted to  
24           the miscellaneous receipts account of  
25           the Treasury, except that until a lease

1           has been in production for 20 years  
2           50 percent of such remaining balance  
3           derived from a lease shall be paid in  
4           accordance with subclause (I).

5           “(ii) ALLOCATIONS TO CERTAIN  
6           COUNTY-EQUIVALENT POLITICAL SUBDIVI-  
7           SIONS.—The Secretary shall under clause  
8           (i)(I) make equitable allocations of the rev-  
9           enues to county-equivalent political sub-  
10          divisions that the Secretary determines are  
11          closely associated with the leasing and pro-  
12          duction of oil shale and tar sands, under a  
13          formula that the Secretary shall determine  
14          by regulation.

15          “(iii) ALLOCATIONS TO MUNICIPAL  
16          POLITICAL SUBDIVISIONS.—The initial al-  
17          location to each county-equivalent political  
18          subdivision under clause (ii) shall be fur-  
19          ther allocated to the county-equivalent po-  
20          litical subdivision and any municipal polit-  
21          ical subdivisions located partially or wholly  
22          within the boundaries of the county-equa-  
23          lent political subdivision on an equitable  
24          basis under a formula that the Secretary  
25          shall determine by regulation.

1           “(D) INVESTMENT OF DEPOSITS.—The de-  
2           posits in the Treasury account established  
3           under this section shall be invested by the Sec-  
4           retary of the Treasury in securities backed by  
5           the full faith and credit of the United States  
6           having maturities suitable to the needs of the  
7           account and yielding the highest reasonably  
8           available interest rates as determined by the  
9           Secretary of the Treasury.

10           “(E) USE OF FUNDS.—A recipient of  
11           funds under this subsection may use the funds  
12           for any lawful purpose as determined by State  
13           law. Funds allocated under this subsection to  
14           States and local political subdivisions may be  
15           used as matching funds for other Federal pro-  
16           grams without limitation. Funds allocated to  
17           local political subdivisions under this subsection  
18           may not be used in calculation of payments to  
19           such local political subdivisions under programs  
20           for payments in lieu of taxes or other similar  
21           programs.

22           “(F) NO ACCOUNTING REQUIRED.—No re-  
23           cipient of funds under this subsection shall be  
24           required to account to the Federal Government

1 for the expenditure of such funds, except as  
 2 otherwise may be required by law.

3 “(4) DEFINITIONS.—In this subsection:

4 “(A) COUNTY-EQUIVALENT POLITICAL  
 5 SUBDIVISION.—The term ‘county-equivalent po-  
 6 litical subdivision’ means a political jurisdiction  
 7 immediately below the level of State govern-  
 8 ment, including a county, parish, borough in  
 9 Alaska, independent municipality not part of a  
 10 county, parish, or borough in Alaska, or other  
 11 equivalent subdivision of a State.

12 “(B) MUNICIPAL POLITICAL SUBDIVI-  
 13 SION.—The term ‘municipal political subdivi-  
 14 sion’ means a municipality located within and  
 15 part of a county, parish, borough in Alaska, or  
 16 other equivalent subdivision of a State.”.

17 **SEC. 167. AVAILABILITY OF OCS RECEIPTS TO PROVIDE**  
 18 **PAYMENTS UNDER SECURE RURAL SCHOOLS**  
 19 **AND COMMUNITY SELF-DETERMINATION ACT**  
 20 **OF 2000.**

21 Section 9 of the Outer Continental Shelf Lands Act  
 22 (43 U.S.C. 1338) is amended by inserting after subsection  
 23 (i), as added by section 147 of this Act, the following new  
 24 subsection:

1       “(j) CONDITIONAL AVAILABILITY OF FUNDS FOR  
2 PAYMENTS UNDER SECURE RURAL SCHOOLS AND COM-  
3 MUNITY SELF-DETERMINATION ACT OF 2000.—

4           “(1) AVAILABILITY OF FUNDS.—Subject to  
5 paragraph (2), but notwithstanding any other provi-  
6 sion of this section, \$50,000,000 of OCS Receipts  
7 shall be available to the Secretary of the Treasury  
8 for each of fiscal years 2009 through 2010 to make  
9 payments under sections 102 and 103 of the Secure  
10 Rural Schools and Community Self-Determination  
11 Act of 2000 (Public Law 106–393; 16 U.S.C. 500  
12 note). The Secretary of the Treasury shall use the  
13 funds made available by this subsection to make  
14 such payments in lieu of using funds in the Treas-  
15 ury not otherwise appropriated, as otherwise author-  
16 ized by sections 102(b)(3) and 103(b)(2) of such  
17 Act.

18           “(2) CONDITION ON AVAILABILITY.—OCS Re-  
19 ceipts shall be available under paragraph (1) for a  
20 fiscal year only if—

21           “(A) title I of the Secure Rural Schools  
22 and Community Self-Determination Act of  
23 2000 has been reauthorized through at least  
24 that fiscal year; and



1           “(B) the authority to initiate projects  
2           under titles II and III of such Act has been ex-  
3           tended through at least that fiscal year.”.

4 **SEC. 168. SENSE OF THE CONGRESS TO BUY AND BUILD**  
5 **AMERICAN.**

6           (a) BUY AND BUILD AMERICAN.—It is the intention  
7 of the Congress that this subtitle, among other things, re-  
8 sult in a healthy and growing American industrial, manu-  
9 facturing, transportation, and service sector employing the  
10 vast talents of America’s workforce to assist in the devel-  
11 opment of affordable energy from the Outer Continental  
12 Shelf. Moreover, the Congress intends to monitor the de-  
13 ployment of personnel and material in the Outer Conti-  
14 nental Shelf to encourage the development of American  
15 technology and manufacturing to enable United States  
16 workers to benefit from this subtitle by good jobs and ca-  
17 reers, as well as the establishment of important industrial  
18 facilities to support expanded access to American re-  
19 sources.

20           (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—  
21 Section 30(a) of the Outer Continental Shelf Lands Act  
22 (43 U.S.C. 1356(a)) is amended in the matter preceding  
23 paragraph (1) by striking “regulations which” and insert-  
24 ing “regulations that shall be supplemental and com-  
25 plimentary with and under no circumstances a substi-

1 tution for the provisions of the Constitution and laws of  
2 the United States extended to the subsoil and seabed of  
3 the outer Continental Shelf pursuant to section 144(a)(1)  
4 of this Act, except insofar as such laws would otherwise  
5 apply to individuals who have extraordinary ability in the  
6 sciences, arts, education, or business, which has been dem-  
7 onstrated by sustained national or international acclaim,  
8 and that”.

## 9 **Subtitle D—Nuclear**

### 10 **SEC. 181. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

11 (a) DEFINITION OF PROJECT COST.—Section  
12 1701(1) of the Energy Policy Act of 2005 (42 U.S.C.  
13 16511(1)) is amended by inserting a new paragraph (4)  
14 and renumbering the paragraphs accordingly:

15 “(4) PROJECT COST.—The term ‘project cost’  
16 means all costs associated with the development,  
17 planning, design, engineering, permitting and licens-  
18 ing, construction, commissioning, start-up, shake-  
19 down and financing of the facility, including but not  
20 limited to reasonable escalation and contingencies,  
21 the cost of and fees for the guarantee, reasonably re-  
22 quired reserve funds, initial working capital and in-  
23 terest during construction.”.

24 (b) TERMS AND CONDITIONS.—Section 1702 of the  
25 Energy Policy Act of 2005 (42 U.S.C. 16512) is amended

1 by striking subsections (b) and (c) and inserting the fol-  
 2 lowing:

3       “(b) SPECIFIC APPROPRIATION OR CONTRIBU-  
 4 TION.—

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

7               “(A) an appropriation for the cost has  
 8 been made; or

9               “(B) the Secretary has received from the  
 10 borrower a payment in full for the cost of the  
 11 obligation and deposited the payment into the  
 12 Treasury; or

13               “(C) a combination of subparagraphs (A)  
 14 and (B) has been made, that when combined is  
 15 sufficient to cover the cost of the obligation.

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

20       “(c) AMOUNT.—Section 1702 of the Energy Policy Act  
 21 of 2005 (42 U.S.C. 16512) is amended by striking sub-  
 22 section (c) and inserting the following:

23       “(c) AMOUNT.—

24           “(1) IN GENERAL.—Subject to paragraph (2),  
 25 the Secretary shall guarantee 100 percent of the ob-

1 ligation for a facility that is the subject of the guar-  
2 antee, or a lesser amount if requested by the bor-  
3 rower.

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

9 (d) FEES.—Section 1702(h) of the Energy Policy Act  
10 of 2005 (42 U.S.C. 16512(h)) is amended by striking  
11 paragraph (2) and inserting the following:

12 “(2) AVAILABILITY.—Fees collected under this  
13 subsection shall—

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

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

1 **SEC. 182. AUTHORIZATION FOR NUCLEAR POWER 2010 PRO-**  
2 **GRAM.**

3 Section 952(c) of the Energy Policy Act of 2005 (42  
4 U.S.C. 16014) is amended by striking paragraphs (1) and  
5 (2) and inserting the following:

6 “(1) IN GENERAL.—The Secretary shall carry  
7 out a Nuclear Power 2010 Program to position the  
8 nation to start construction of new nuclear power  
9 plants by 2010 or as close to 2010 as achievable.

10 “(2) SCOPE OF PROGRAM.—The Nuclear Power  
11 2010 Program shall be cost-shared with the private  
12 sector and shall support the following objectives:

13 “(A) Demonstrating the licensing process  
14 for new nuclear power plants, including the Nu-  
15 clear Regulatory Commission process for ob-  
16 taining early site permits (ESPs), combined  
17 construction/operating licenses (COLs), and de-  
18 sign certifications.

19 “(B) Conducting first-of-a-kind design and  
20 engineering work on at least two advanced nu-  
21 clear reactor designs sufficient to bring those  
22 designs to a state of design completion suffi-  
23 cient to allow development of firm cost esti-  
24 mates.

25 “(3) AUTHORIZATION OF APPROPRIATIONS.—  
26 There are authorized to be appropriated to the Sec-

1       retary to carry out the Nuclear Power 2010 Pro-  
2       gram:

3               “(A) \$182,800,000 for fiscal year 2008.

4               “(B) \$159,600,000 for fiscal year 2009.

5               “(C) \$135,600,000 for fiscal year 2010.

6               “(D) \$46,900,000 for fiscal year 2011.

7               “(E) \$2,200,000 for fiscal year 2012.”.

8       **SEC. 183. DOMESTIC MANUFACTURING BASE FOR NUCLEAR**  
9               **COMPONENTS AND EQUIPMENT.**

10       (a) ESTABLISHMENT OF INTERAGENCY WORKING  
11       GROUP.—

12               (1) PURPOSES.—The purposes of this sub-  
13       section are—

14               (A) to increase the competitiveness of the  
15       United States nuclear energy products and  
16       services industries;

17               (B) to identify the stimulus or incentives  
18       necessary to cause United States manufacturers  
19       of nuclear energy products to expand manufac-  
20       turing capacity;

21               (C) to facilitate the export of United  
22       States nuclear energy products and services;

23               (D) to reduce the trade deficit of the  
24       United States through the export of United  
25       States nuclear energy products and services;

1           (E) to retain and create nuclear energy  
2 manufacturing and related service jobs in the  
3 United States;

4           (F) to integrate the objectives in subpara-  
5 graphs (A) through (E) in a manner consistent  
6 with the interests of the United States, into the  
7 foreign policy of the United States; and

8           (G) to authorize funds for increasing  
9 United States capacity to manufacture nuclear  
10 energy products and supply nuclear energy  
11 services.

12 (2) ESTABLISHMENT.—

13           (A) There shall be established an inter-  
14 agency working group that, in consultation with  
15 representative industry organizations and man-  
16 ufacturers of nuclear energy products, shall  
17 make recommendations to coordinate the ac-  
18 tions and programs of the Federal Government  
19 in order to promote increasing domestic manu-  
20 facturing capacity and export of domestic nu-  
21 clear energy products and services.

22           (B) The Interagency Working Group shall  
23 be composed of—

24                   (i) the Secretary of Energy, or the  
25                   Secretary's designee, who shall chair the

1 interagency working group and shall pro-  
2 vide staff for carrying out the functions of  
3 the interagency working group;

4 (ii) representatives of—

5 (I) the Department of Energy;

6 (II) the Department of Com-  
7 merce;

8 (III) the Department of Defense;

9 (IV) the Department of the  
10 Treasury;

11 (V) the Department of State;

12 (VI) the Environmental Protec-  
13 tion Agency;

14 (VII) the United States Agency  
15 for International Development;

16 (VIII) the Export-Import Bank  
17 of the United States;

18 (IX) the Trade and Development  
19 Agency;

20 (X) the Small Business Adminis-  
21 tration;

22 (XI) the Office of the United  
23 States Trade Representative; and

24 (XII) other Federal agencies, as  
25 determined by the President.



1           (C) The heads of appropriate agencies  
2 shall detail such personnel and furnish such  
3 services to the interagency group, with or with-  
4 out reimbursement, as may be necessary to  
5 carry out the group's functions.

6           (3) DUTIES OF THE INTERAGENCY WORKING  
7 GROUP.—

8           (A) Not later than 6 months after the date  
9 of enactment of this Act, the interagency work-  
10 ing group established under paragraph (2)(A)  
11 shall identify the actions necessary to promote  
12 the safe development and application in foreign  
13 countries of nuclear energy products and serv-  
14 ices in order to—

15                   (i) increase electricity generation from  
16 nuclear energy sources through develop-  
17 ment of new generation facilities;

18                   (ii) improve the efficiency, safety, and  
19 reliability of existing nuclear generating fa-  
20 cilities through modifications; and

21                   (iii) enhance the safe treatment, han-  
22 dling, storage, and disposal of used nuclear  
23 fuel.

24           (B) Not later than 6 months after the date  
25 of enactment of this Act, the interagency work-

1           ing group shall identify mechanisms (including  
2           tax stimulus for investment, loans and loan  
3           guarantees, and grants) necessary for United  
4           States companies to increase their capacity to  
5           produce or provide nuclear energy products and  
6           services, and to increase their exports of nu-  
7           clear energy products and services. The inter-  
8           agency working group shall identify administra-  
9           tive or legislative initiatives necessary to—

10                   (i) encourage United States compa-  
11                   nies to increase their manufacturing capac-  
12                   ity for nuclear energy products;

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

19                   (iii) encourage, through financial in-  
20                   centives, private sector capital investment  
21                   to expand manufacturing capacity; and

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

1           and meet domestic and international nu-  
2           clear quality assurance code requirements.

3           (C) Not later than 9 months after the date  
4           of enactment of this Act, the interagency work-  
5           ing group shall provide a report to Congress on  
6           its findings under subparagraphs (A) and (B),  
7           including recommendations for new legislative  
8           authority where necessary.

9           (4) TRADE ASSISTANCE.—The interagency  
10          working group shall encourage the member agencies  
11          of the interagency working group to—

12                 (A) provide technical training and edu-  
13                 cation for international development personnel  
14                 and local users in their own country;

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

20                 (C) develop nuclear energy projects in for-  
21                 eign countries;

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

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

5 (E) support, through financial incentives,  
6 private sector efforts to commercialize and ex-  
7 port nuclear energy products and services in ac-  
8 cordance with the subsidy codes of the World  
9 Trade Organization; and

10 (F) augment budgets for trade and devel-  
11 opment programs in order to support pre-feasi-  
12 bility or feasibility studies for projects that uti-  
13 lize nuclear energy products and services.

14 (5) AUTHORIZATION OF APPROPRIATIONS.—

15 There are authorized to be appropriated to the Sec-  
16 retary of Energy for purposes of carrying out this  
17 subtitle \$20,000,000 for fiscal years 2008 and 2009.

18 (b) CREDIT FOR QUALIFYING NUCLEAR POWER

19 MANUFACTURING.—Subpart E of part IV of subchapter  
20 A of chapter 1 of the Internal Revenue Code is amended  
21 by inserting after section 48B the following new section:

22 **“SEC. 48C. QUALIFYING NUCLEAR POWER MANUFAC-**  
23 **TURING CREDIT.**

24 “(a) IN GENERAL.—For purposes of section 46, the  
25 qualifying nuclear power manufacturing credit for any

1 taxable year is an amount equal to 20 percent of the quali-  
2 fied investment for such taxable year.

3 “(b) QUALIFIED INVESTMENT.—

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

8 “(A) which is either part of a qualifying  
9 nuclear power manufacturing project or is  
10 qualifying nuclear power manufacturing equip-  
11 ment,

12 “(B)(i) the construction, reconstruction, or  
13 erection of which is completed by the taxpayer,  
14 or

15 “(ii) which is acquired by the taxpayer if  
16 the original use of such property commences  
17 with the taxpayer,

18 “(C) with respect to which depreciation (or  
19 amortization in lieu of depreciation) is allow-  
20 able, and

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

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

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

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

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

14          “(2) QUALIFYING NUCLEAR POWER MANUFAC-  
15          TURING EQUIPMENT.—The term ‘qualifying nuclear  
16          power manufacturing equipment’ means machine  
17          tools and other similar equipment, including com-  
18          puters and other peripheral equipment, acquired or  
19          constructed primarily to enable the taxpayer to  
20          produce or test equipment necessary for the con-  
21          struction or operation of a nuclear power plant.

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

25          (c) CONFORMING AMENDMENTS.—

1           (1) ADDITIONAL INVESTMENT CREDIT.—Sec-  
2           tion 46 of such Code is amended—

3                   (A) by striking “and” at the end of para-  
4                   graph (3);

5                   (B) by striking the period at the end of  
6                   paragraph (4) and inserting “, and”; and

7                   (C) by inserting after paragraph (4) the  
8                   following new paragraph:

9                   “(5) the qualifying nuclear power manufac-  
10                  turing credit.”.

11           (2) APPLICATION OF SECTION 49.—Subpara-  
12           graph (C) of section 49(a)(1) of such Code is  
13           amended by—

14                   (A) by striking “and” at the end of clause  
15                   (iii);

16                   (B) by striking the period at the end of  
17                   clause (iv) and inserting “, and”; and

18                   (C) by inserting after clause (iv) the fol-  
19                   lowing new clause:

20                   “(v) the basis of any property which  
21                   is part of a qualifying nuclear power equip-  
22                   ment manufacturing project under section  
23                   48C.”.

24           (3) TABLE OF SECTIONS.—The table of sections  
25           preceding section 46 of such Code is amended by in-

1       serting after the item for section 48B the following  
2       new line:

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

3       (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to property (1) the construction,  
5 reconstruction, or erection of which of began after the date  
6 of enactment, or (2) which was acquired by the taxpayer  
7 on or after the date of enactment and not pursuant to  
8 a binding contract which was in effect on the day prior  
9 to the date of enactment.

10 **SEC. 184. NUCLEAR ENERGY WORKFORCE.**

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

13           (1) by redesignating subsection (d) as sub-  
14       section (e); and

15           (2) by inserting after subsection (e) the fol-  
16       lowing:

17       “(d) **WORKFORCE TRAINING.**—

18           “(1) **IN GENERAL.**—The Secretary of Labor, in  
19       cooperation with the Secretary of Energy, shall pro-  
20       mulgate regulations to implement a program to pro-  
21       vide workforce training to meet the high demand for  
22       workers skilled in the nuclear utility and nuclear en-  
23       ergy products and services industries.

24           “(2) **CONSULTATION.**—In carrying out this sub-  
25       section, the Secretary of Labor shall consult with



1 representatives of the nuclear utility and nuclear en-  
2 ergy products and services industries, and organized  
3 labor, concerning skills that are needed in those in-  
4 dustries.

5 “(3) AUTHORIZATION OF APPROPRIATIONS.—  
6 There are authorized to be appropriated to the Sec-  
7 retary of Labor, working in coordination with the  
8 Secretaries of Education and Energy \$20,000,000  
9 for each of fiscal years 2008 through 2012 for use  
10 in implementing a program to provide workforce  
11 training to meet the high demand for workers skilled  
12 in the nuclear utility and nuclear energy products  
13 and services industries.”.

14 **SEC. 185. NATIONAL NUCLEAR ENERGY COUNCIL.**

15 (a) IN GENERAL.—

16 (1) The Secretary of Energy shall establish a  
17 National Nuclear Energy Council (hereinafter the  
18 “Council”).

19 (2) The National Nuclear Energy Council shall  
20 be subject to the requirements of the Federal Advi-  
21 sory Committee Act (5 U.S.C. Appendix 2).

22 (b) PURPOSE.—The National Nuclear Energy Coun-  
23 cil shall—

24 (1) serve in an advisory capacity to the Sec-  
25 retary of Energy regarding nuclear energy on mat-

1       ters submitted to the Council by the Secretary of  
2       Energy; and

3           (2) advise, inform, and make recommendations  
4       to the Secretary of Energy, and represent the views  
5       of the nuclear energy industry with respect to any  
6       matter relating to nuclear energy.

7       (c) MEMBERSHIP AND ORGANIZATION.—

8           (1) The members of the Council shall be ap-  
9       pointed by the Secretary of Energy.

10          (2) The Council may establish such study and  
11       administrative committees as it may deem appro-  
12       priate. Study committees shall only assist the Coun-  
13       cil in preparing its advice, information, or rec-  
14       ommendations to the Secretary of Energy. Adminis-  
15       trative committees shall be formed solely for the  
16       purpose of assisting the Council or its Chairman in  
17       the management of the internal affairs of the Coun-  
18       cil.

19          (3) The officers of the Council shall consist of  
20       a Chairman, a Vice Chairman, and such other offi-  
21       cers as may be approved by the Council. The Chair-  
22       man and Vice Chairman must be members of the  
23       Council and shall receive no compensation for service  
24       as officers of the Council.

1           (4) The Secretary of Energy shall be Cochair-  
2           man of the Council. If the Secretary of Energy des-  
3           ignates a full-time, salaried official of the Depart-  
4           ment of Energy as his alternate, such alternate may  
5           exercise any duties of the Secretary of Energy and  
6           may perform any function on the Council otherwise  
7           reserved for the Secretary of Energy.

8           (5) The Chairman and the Vice Chairman shall  
9           be elected by the Council at its organizational meet-  
10          ing to serve until their successors are elected at the  
11          next organizational meeting of the Council.

12          (d) MEETINGS.—

13           (1) Regular meetings of the Council shall be  
14           held at least twice each year at times determined by  
15           the Chairman and approved by the Government Co-  
16           chairman.

17           (2) No meeting of the Council shall be held un-  
18           less the Government Cochairman approves the agen-  
19           da thereof, approves the calling thereof, and is  
20           present thereat.

21           (3) The time and place of all Council meetings  
22           shall be given general publicity and such meetings  
23           shall be open to the public.

24          (e) STUDIES BY THE COUNCIL.—

1           (1) The Council may establish study committees  
2 to prepare reports for the consideration of the Coun-  
3 cil pursuant to requests from the Secretary of En-  
4 ergy for advice, information, and recommendations.

5           (2) The Secretary of Energy or a full-time em-  
6 ployee of the Department of Energy designated by  
7 the Secretary shall be the Cochairman of each study  
8 committee.

9           (3) The members of study committees shall be  
10 selected from the Council membership on the basis  
11 of their training, experience, and general qualifica-  
12 tions to deal with the matters assigned.

13 **SEC. 186. NUCLEAR WASTE MANAGEMENT.**

14       (a) HIGH LEVEL WASTE AUTHORITY.—

15           (1) ESTABLISHMENT.—Not later than the ear-  
16 lier of—

17               (A) 90 days after the submittal of a license  
18 application for a repository at Yucca Mountain;

19               or

20               (B) 1 year after the date of enactment of  
21 this Act,

22 the President shall establish a High Level Waste  
23 Authority (in this section referred to as the “Au-  
24 thority”).

25           (2) DUTIES.—The Authority—

1 (A) shall assume the responsibilities of the  
2 Secretary of Energy with respect to contracts  
3 entered into under section 302(a) of the Nu-  
4 clear Waste Policy Act of 1982 (42 U.S.C.  
5 10222(a));

6 (B) shall consider, as appropriate, all rea-  
7 sonable used fuel options in addition to direct  
8 disposal, including recycling, interim storage,  
9 and alternate geologic repository sites outside  
10 the State of Nevada;

11 (C) may enter into contracts with civilian  
12 nuclear power reactor owners and operators for  
13 used fuel management, including recycling, fuel  
14 fabrication, and sale or disposition of materials  
15 derived from recycling; and

16 (D) may negotiate with willing host com-  
17 munities or States for supporting facilities and  
18 activities.

19 (3) MEMBERSHIP.—The Authority shall consist  
20 of 7 members, to be appointed by the President,  
21 with the advice and consent of the Senate, from  
22 among individuals who—

23 (A) are United States citizens;

24 (B) have experience in nuclear industry  
25 corporate management; and

1 (C) have large corporation management ex-  
2 pertise.

3 (4) TERMS.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (B), members of the Authority  
6 shall serve for terms of 5 years, and may serve  
7 for not more than 2 terms.

8 (B) INITIAL TERMS.—Of the individuals  
9 appointed initially to the Authority—

10 (i) 2 shall be appointed for an initial  
11 term of 5 years;

12 (ii) 2 shall be appointed for an initial  
13 term of 4 years;

14 (iii) 2 shall be appointed for an initial  
15 term of 3 years; and

16 (iv) 1 shall be appointed for an initial  
17 term of 2 years.

18 (C) VACANCIES.—The President, with the  
19 advice and consent of the Senate, shall appoint  
20 individuals to fill vacancies on the Authority, in  
21 the same manner as the original appointment  
22 was made, to serve for the remainder of the  
23 term vacated.

24 (5) TRAVEL EXPENSES AND PER DIEM.—Mem-  
25 bers of the Authority shall be reimbursed by the Au-

1       thority for travel expenses incurred as part of their  
2       service on the Authority, including per diem in lieu  
3       of subsistence in accordance with subchapter I of  
4       chapter 57 of title 5, United States Code, for each  
5       day on which they are engaged in the business of the  
6       Authority.

7               (6) REPORT TO CONGRESS.—Not later than 1  
8       year after the Authority is established under para-  
9       graph (1), and annually thereafter, the Authority  
10      shall transmit to the Congress a report on its activi-  
11      ties.

12             (b) RECYCLING REGULATIONS.—Not later than 1  
13      year after the date of enactment of this Act, the Nuclear  
14      Regulatory Commission, in collaboration with the Sec-  
15      retary of Energy, shall issue regulations for licensing fa-  
16      cilities for the recovery and use of plutonium from used  
17      fuel recycling that provide appropriate protections for the  
18      common defense and security.

19             (c) FUNDING.—The Authority's activities shall be  
20      funded through—

21               (1) the Nuclear Waste Fund established under  
22      section 302(c) of the Nuclear Waste Policy Act of  
23      1982 (42 U.S.C. 10222(e));

24               (2) appropriations authorized under subsection  
25      (e); and

1           (3) any contributions provided by State or local  
2 governments or from the private sector.

3           (d) RESEARCH AND DEVELOPMENT.—Nothing in  
4 this section shall be construed to reduce the responsibility  
5 of the Secretary of Energy to conduct research and devel-  
6 opment on advanced nuclear fuel cycles and separation  
7 technologies.

8           (e) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to the Secretary of En-  
10 ergy for carrying out this section such sums as may be  
11 necessary.

12           **TITLE II—INCREASE OUR**  
13           **UTILIZATION EFFICIENCY**  
14           **Subtitle A—Coal to Liquids**

15           **SEC. 201. LOCATION OF COAL-TO-LIQUID MANUFACTURING**  
16           **FACILITIES.**

17           The Secretary of Energy, in coordination with the  
18 head of any affected agency, shall promulgate such regula-  
19 tions as the Secretary determines to be necessary to sup-  
20 port the development on Federal land (including land of  
21 the Department of Energy, military bases, and military  
22 installations closed or realigned under the defense base  
23 closure and realignment) of coal-to-liquid manufacturing  
24 facilities and associated infrastructure, including the cap-  
25 ture, transportation, or sequestration of carbon dioxide.



1 **SEC. 202. AUTHORIZATION TO CONDUCT RESEARCH, DE-**  
2 **VELOPMENT, TESTING, AND EVALUATION OF**  
3 **ASSURED DOMESTIC FUELS.**

4 Of the amount authorized to be appropriated for the  
5 Air Force for research, development, test, and evaluation,  
6 \$10,000,000 may be made available for the Air Force Re-  
7 search Laboratory to continue support efforts to test,  
8 qualify, and procure synthetic fuels developed from coal  
9 for aviation jet use.

10 **SEC. 203. COAL-TO-LIQUID LONG-TERM FUEL PROCURE-**  
11 **MENT AND DEPARTMENT OF DEFENSE DE-**  
12 **VELOPMENT.**

13 Section 2922a of title 10, United States Code is  
14 amended—

15 (1) in subsection (b)—

16 (A) by inserting “(1)” before “The Sec-  
17 retary”; and

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

19 “(2)(A) The Secretary of Defense may enter into con-  
20 tracts or other agreements with private companies or other  
21 entities to develop and operate coal-to-liquid manufac-  
22 turing facilities on or near military installations.

23 “(B) In entering into contracts and other agreements  
24 under subparagraph (A), the Secretary shall consider land  
25 availability, testing opportunities, and proximity to raw  
26 materials.”; and

1 (2) in subsection (d)—

2 (A) by striking “Subject to applicable pro-  
3 visions of law, any” and inserting “Any”;

4 (B) by inserting after “covered fuel” the  
5 following: “or coal-to-liquid fuel”; and

6 (C) by striking “1 or more years” and in-  
7 serting “up to 25 years”.

## 8 **Subtitle B—Energy Tax Provisions**

### 9 **SEC. 211. SHORT TITLE; AMENDMENT OF 1986 CODE.**

10 (a) **SHORT TITLE.**—This subtitle may be cited as the  
11 “Renewable Energy and Energy Conservation Tax Act of  
12 2008”.

13 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
14 wise expressly provided, whenever in this subtitle an  
15 amendment or repeal is expressed in terms of an amend-  
16 ment to, or repeal of, a section or other provision, the ref-  
17 erence shall be considered to be made to a section or other  
18 provision of the Internal Revenue Code of 1986.

### 19 **PART 1—PRODUCTION INCENTIVES**

#### 20 **SEC. 221. EXTENSION AND MODIFICATION OF RENEWABLE** 21 **ENERGY CREDIT.**

22 (a) **EXTENSION OF CREDIT.**—Each of the following  
23 provisions of section 45(d) (relating to qualified facilities)  
24 is amended by striking “January 1, 2009” and inserting  
25 “January 1, 2012”:

- 1 (1) Paragraph (1).
- 2 (2) Clauses (i) and (ii) of paragraph (2)(A).
- 3 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).
- 4 (4) Paragraph (4).
- 5 (5) Paragraph (5).
- 6 (6) Paragraph (6).
- 7 (7) Paragraph (7).
- 8 (8) Subparagraphs (A) and (B) of paragraph
- 9 (9).

10 (b) MODIFICATION OF CREDIT PHASEOUT.—

11 (1) REPEAL OF PHASEOUT.—Subsection (b) of

12 section 45 is amended—

13 (A) by striking paragraph (1), and

14 (B) by striking “the 8 cent amount in

15 paragraph (1),” in paragraph (2) thereof.

16 (2) LIMITATION BASED ON INVESTMENT IN FA-

17 CILITY.—Subsection (b) of section 45 is amended by

18 inserting before paragraph (2) the following new

19 paragraph:

20 “(1) LIMITATION BASED ON INVESTMENT IN

21 FACILITY.—

22 “(A) IN GENERAL.—In the case of any

23 qualified facility originally placed in service

24 after December 31, 2009, the amount of the

25 credit determined under subsection (a) for any

1 taxable year with respect to electricity produced  
2 at such facility shall not exceed the product  
3 of—

4 “(i) the applicable percentage with re-  
5 spect to such facility, multiplied by

6 “(ii) the eligible basis of such facility.

7 “(B) CARRYFORWARD OF UNUSED LIMITA-  
8 TION AND EXCESS CREDIT.—

9 “(i) UNUSED LIMITATION.—If the  
10 limitation imposed under subparagraph (A)  
11 with respect to any facility for any taxable  
12 year exceeds the prelimitation credit for  
13 such facility for such taxable year, the lim-  
14 itation imposed under subparagraph (A)  
15 with respect to such facility for the suc-  
16 ceeding taxable year shall be increased by  
17 the amount of such excess.

18 “(ii) EXCESS CREDIT.—If the  
19 prelimitation credit with respect to any fa-  
20 cility for any taxable year exceeds the limi-  
21 tation imposed under subparagraph (A)  
22 with respect to such facility for such tax-  
23 able year, the credit determined under sub-  
24 section (a) with respect to such facility for  
25 the succeeding taxable year (determined

1 before the application of subparagraph (A)  
2 for such succeeding taxable year) shall be  
3 increased by the amount of such excess.  
4 With respect to any facility, no amount  
5 may be carried forward under this clause  
6 to any taxable year beginning after the 10-  
7 year period described in subsection  
8 (a)(2)(A)(ii) with respect to such facility.

9 “(iii) PRELIMINATION CREDIT.—The  
10 term ‘prelimination credit’ with respect to  
11 any facility for a taxable year means the  
12 credit determined under subsection (a)  
13 with respect to such facility for such tax-  
14 able year, determined without regard to  
15 subparagraph (A) and after taking into ac-  
16 count any increase for such taxable year  
17 under clause (ii).

18 “(C) APPLICABLE PERCENTAGE.—For  
19 purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘applica-  
21 ble percentage’ means, with respect to any  
22 facility, the appropriate percentage pre-  
23 scribed by the Secretary for the month in  
24 which such facility is originally placed in  
25 service.

1           “(ii) METHOD OF PRESCRIBING AP-  
2           PLICABLE PERCENTAGES.—The applicable  
3           percentages prescribed by the Secretary for  
4           any month under clause (i) shall be per-  
5           centages which yield over a 10-year period  
6           amounts of limitation under subparagraph  
7           (A) which have a present value equal to 35  
8           percent of the eligible basis of the facility.

9           “(iii) METHOD OF DISCOUNTING.—  
10          The present value under clause (ii) shall be  
11          determined—

12                 “(I) as of the last day of the 1st  
13                 year of the 10-year period referred to  
14                 in clause (ii),

15                 “(II) by using a discount rate  
16                 equal to the greater of 110 percent of  
17                 the Federal long-term rate as in effect  
18                 under section 1274(d) for the month  
19                 preceding the month for which the ap-  
20                 plicable percentage is being pre-  
21                 scribed, or 4.5 percent, and

22                 “(III) by taking into account the  
23                 limitation under subparagraph (A) for  
24                 any year on the last day of such year.

1           “(D) ELIGIBLE BASIS.—For purposes of  
2 this paragraph—

3           “(i) IN GENERAL.—The term ‘eligible  
4 basis’ means, with respect to any facility,  
5 the sum of—

6           “(I) the basis of such facility de-  
7 termined as of the time that such fa-  
8 cility is originally placed in service,  
9 and

10           “(II) the portion of the basis of  
11 any shared qualified property which is  
12 properly allocable to such facility  
13 under clause (ii).

14           “(ii) RULES FOR ALLOCATION.—For  
15 purposes of subclause (II) of clause (i), the  
16 basis of shared qualified property shall be  
17 allocated among all qualified facilities  
18 which are projected to be placed in service  
19 and which require utilization of such prop-  
20 erty in proportion to projected generation  
21 from such facilities.

22           “(iii) SHARED QUALIFIED PROP-  
23 erty.—For purposes of this paragraph,  
24 the term ‘shared qualified property’ means,

1 with respect to any facility, any property  
2 described in section 168(e)(3)(B)(vi)—

3 “(I) which a qualified facility will  
4 require for utilization of such facility,  
5 and

6 “(II) which is not a qualified fa-  
7 cility.

8 “(iv) SPECIAL RULE RELATING TO  
9 GEOTHERMAL FACILITIES.—In the case of  
10 any qualified facility using geothermal en-  
11 ergy to produce electricity, the basis of  
12 such facility for purposes of this paragraph  
13 shall be determined as though intangible  
14 drilling and development costs described in  
15 section 263(c) were capitalized rather than  
16 expensed.

17 “(E) SPECIAL RULE FOR FIRST AND LAST  
18 YEAR OF CREDIT PERIOD.—In the case of any  
19 taxable year any portion of which is not within  
20 the 10-year period described in subsection  
21 (a)(2)(A)(ii) with respect to any facility, the  
22 amount of the limitation under subparagraph  
23 (A) with respect to such facility shall be re-  
24 duced by an amount which bears the same ratio  
25 to the amount of such limitation (determined



1 without regard to this subparagraph) as such  
2 portion of the taxable year which is not within  
3 such period bears to the entire taxable year.

4 “(F) ELECTION TO TREAT ALL FACILITIES  
5 PLACED IN SERVICE IN A YEAR AS 1 FACIL-  
6 ITY.—At the election of the taxpayer, all quali-  
7 fied facilities which are part of the same project  
8 and which are placed in service during the same  
9 calendar year shall be treated for purposes of  
10 this section as 1 facility which is placed in serv-  
11 ice at the mid-point of such year or the first  
12 day of the following calendar year.”.

13 (c) TRASH FACILITY CLARIFICATION.—Paragraph  
14 (7) of section 45(d) is amended—

15 (1) by striking “facility which burns” and in-  
16 sserting “facility (other than a facility described in  
17 paragraph (6)) which uses”, and

18 (2) by striking “COMBUSTION”.

19 (d) EXPANSION OF BIOMASS FACILITIES.—

20 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
21 graph (3) of section 45(d) is amended by redesign-  
22 ating subparagraph (B) as subparagraph (C) and  
23 by inserting after subparagraph (A) the following  
24 new subparagraph:

1           “(B) EXPANSION OF FACILITY.—Such  
2           term shall include a new unit placed in service  
3           after the date of the enactment of this subpara-  
4           graph in connection with a facility described in  
5           subparagraph (A), but only to the extent of the  
6           increased amount of electricity produced at the  
7           facility by reason of such new unit.”.

8           (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
9           graph (2) of section 45(d) is amended by redesignig-  
10          nating subparagraph (B) as subparagraph (C) and  
11          inserting after subparagraph (A) the following new  
12          subparagraph:

13           “(B) EXPANSION OF FACILITY.—Such  
14           term shall include a new unit placed in service  
15           after the date of the enactment of this subpara-  
16           graph in connection with a facility described in  
17           subparagraph (A)(i), but only to the extent of  
18           the increased amount of electricity produced at  
19           the facility by reason of such new unit.”.

20          (e) EFFECTIVE DATE.—

21           (1) IN GENERAL.—Except as otherwise pro-  
22           vided in this subsection, the amendments made by  
23           this section shall apply to property originally placed  
24           in service after December 31, 2008.

1           (2) REPEAL OF CREDIT PHASEOUT.—The  
2           amendments made by subsection (b)(1) shall apply  
3           to taxable years ending after December 31, 2008.

4           (3) LIMITATION BASED ON INVESTMENT IN FA-  
5           CILITY.—The amendment made by subsection (b)(2)  
6           shall apply to property originally placed in service  
7           after December 31, 2009.

8           (4) TRASH FACILITY CLARIFICATION.—The  
9           amendments made by subsection (c) shall apply to  
10          electricity produced and sold after the date of the  
11          enactment of this Act.

12          (5) EXPANSION OF BIOMASS FACILITIES.—The  
13          amendments made by subsection (d) shall apply to  
14          property placed in service after the date of the en-  
15          actment of this Act.

16 **SEC. 222. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
17 **PRODUCED FROM MARINE RENEWABLES.**

18          (a) IN GENERAL.—Paragraph (1) of section 45(c)  
19          (relating to resources) is amended by striking “and” at  
20          the end of subparagraph (G), by striking the period at  
21          the end of subparagraph (H) and inserting “, and”, and  
22          by adding at the end the following new subparagraph:

23                         “(I) marine and hydrokinetic renewable en-  
24                         ergy.”.

1 (b) MARINE RENEWABLES.—Subsection (c) of sec-  
2 tion 45 is amended by adding at the end the following  
3 new paragraph:

4 “(10) MARINE AND HYDROKINETIC RENEW-  
5 ABLE ENERGY.—

6 “(A) IN GENERAL.—The term ‘marine and  
7 hydrokinetic renewable energy’ means energy  
8 derived from—

9 “(i) waves, tides, and currents in  
10 oceans, estuaries, and tidal areas,

11 “(ii) free flowing water in rivers,  
12 lakes, and streams,

13 “(iii) free flowing water in an irriga-  
14 tion system, canal, or other man-made  
15 channel, including projects that utilize non-  
16 mechanical structures to accelerate the  
17 flow of water for electric power production  
18 purposes, or

19 “(iv) differentials in ocean tempera-  
20 ture (ocean thermal energy conversion).

21 “(B) EXCEPTIONS.—Such term shall not  
22 include any energy which is derived from any  
23 source which utilizes a dam, diversionary struc-  
24 ture (except as provided in subparagraph

1 (A)(iii)), or impoundment for electric power  
2 production purposes.”.

3 (c) DEFINITION OF FACILITY.—Subsection (d) of  
4 section 45 is amended by adding at the end the following  
5 new paragraph:

6 “(11) MARINE AND HYDROKINETIC RENEW-  
7 ABLE ENERGY FACILITIES.—In the case of a facility  
8 producing electricity from marine and hydrokinetic  
9 renewable energy, the term ‘qualified facility’ means  
10 any facility owned by the taxpayer—

11 “(A) which has a nameplate capacity rat-  
12 ing of at least 150 kilowatts, and

13 “(B) which is originally placed in service  
14 on or after the date of the enactment of this  
15 paragraph and before January 1, 2012.”.

16 (d) CREDIT RATE.—Subparagraph (A) of section  
17 45(b)(4) is amended by striking “or (9)” and inserting  
18 “(9), or (11)”.

19 (e) COORDINATION WITH SMALL IRRIGATION  
20 POWER.—Paragraph (5) of section 45(d), as amended by  
21 section 221(a), is amended by striking “January 1, 2012”  
22 and inserting “the date of the enactment of paragraph  
23 (11)”.

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

1 after the date of the enactment of this Act, in taxable  
2 years ending after such date.

3 **SEC. 223. EXTENSION OF ELECTRICITY PRODUCTION TAX**  
4 **CREDIT TO ELECTRICITY PRODUCED FROM**  
5 **THE PRODUCTION OF SUBSTITUTE NATURAL**  
6 **GAS FROM REFINED COAL OR PETCOKE.**

7 (a) REFINED COAL.—Clauses (i) and (ii) of section  
8 45(c)(7)(A) of the Internal Revenue Code of 1986 (defin-  
9 ing refined coal) are amended to read as follows:

10 “(i) is a liquid, gaseous or solid fuel  
11 produced from coal (including lignite), high  
12 carbon fly ash or petroleum coke, in each  
13 case including such fuel used as a feed-  
14 stock,

15 “(ii) is sold by the taxpayer with the  
16 reasonable expectation that it will be used  
17 for the purpose of producing steam, heat,  
18 or electricity,”.

19 (b) SPECIAL RULES RELATING TO REFINED COAL  
20 PRODUCTION FACILITIES.—Subparagraph (A) of section  
21 45(e)(8) of such Code (determination of credit amount)  
22 is amended to read as follows:

23 “(A) DETERMINATION OF CREDIT  
24 AMOUNT.—In the case of a producer of refined  
25 coal, the credit determined under this section

1 (without regard to this paragraph) for any tax-  
2 able year—

3 “(i) shall be—

4 “(I) in the case of the production  
5 of electricity, be 2.0 cents multiplied  
6 by the kilowatt hours of electricity  
7 produced, and

8 “(II) in any other case, be  
9 \$4.375 per ton of qualified refined  
10 coal produced (or, in the case of re-  
11 fined coal that is a liquid or gaseous  
12 fuel, 40 cents per million BTU of re-  
13 fined coal), and

14 “(ii) for electricity or refined coal (as  
15 the case may be)—

16 “(I) produced by the taxpayer at  
17 a refined coal production facility dur-  
18 ing the 10-year period beginning on  
19 the date the facility was originally  
20 placed in service, and

21 “(II) sold by the taxpayer to an  
22 unrelated person during such 10-year  
23 period and such taxable year.”.

1 (c) INFLATION ADJUSTMENT.—Section 45(b)(2) of  
2 such Code (related to credit and phaseout adjustment  
3 based on inflation) is amended by—

4 (1) inserting “and the 40 cents per million  
5 BTU amount” after “\$4.375 amount”, and

6 (2) striking “and” after “subsection (e)(8)(A),”  
7 and inserting “the \$4.375 amount”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to refined coal produced and sold  
10 after December 31, 2010.

11 **SEC. 224. EXTENSION AND MODIFICATION OF ENERGY**  
12 **CREDIT.**

13 (a) EXTENSION OF CREDIT.—

14 (1) SOLAR ENERGY PROPERTY.—Paragraphs  
15 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating  
16 to energy credit) are each amended by striking  
17 “January 1, 2009” and inserting “January 1,  
18 2017”.

19 (2) FUEL CELL PROPERTY.—Subparagraph (E)  
20 of section 48(c)(1) (relating to qualified fuel cell  
21 property) is amended by striking “December 31,  
22 2008” and inserting “December 31, 2016”.

23 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
24 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section  
25 38(c)(4) (relating to specified credits) is amended by strik-



1 ing “and” at the end of clause (iii), by striking the period  
2 at the end of clause (iv) and inserting “, and”, and by  
3 adding at the end the following new clause:

4                   “(v) the credit determined under sec-  
5                   tion 46 to the extent that such credit is at-  
6                   tributable to the energy credit determined  
7                   under section 48.”.

8           (c) INCREASE OF CREDIT LIMITATION FOR FUEL  
9 CELL PROPERTY.—Subparagraph (B) of section 48(c)(1)  
10 is amended by striking “\$500” and inserting “\$1,500”.

11           (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN  
12 INTO ACCOUNT.—

13               (1) IN GENERAL.—Paragraph (3) of section  
14 48(a) is amended by striking the second sentence  
15 thereof.

16               (2) CONFORMING AMENDMENTS.—

17                   (A) Paragraph (1) of section 48(c) is  
18 amended by striking subparagraph (D) and re-  
19 designating subparagraph (E) as subparagraph  
20 (D).

21                   (B) Paragraph (2) of section 48(c) is  
22 amended by striking subparagraph (D) and re-  
23 designating subparagraph (E) as subparagraph  
24 (D).

25           (e) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the amendments made by  
3           this section shall take effect on the date of the en-  
4           actment of this Act.

5           (2) ALLOWANCE AGAINST ALTERNATIVE MIN-  
6           IMUM TAX.—The amendments made by subsection  
7           (b) shall apply to credits determined under section  
8           46 of the Internal Revenue Code of 1986 in taxable  
9           years beginning after the date of the enactment of  
10          this Act and to carrybacks of such credits.

11          (3) INCREASE IN LIMITATION FOR FUEL CELL  
12          PROPERTY.—The amendment made by subsection  
13          (c) shall apply to periods after the date of the enact-  
14          ment of this Act, in taxable years ending after such  
15          date, under rules similar to the rules of section  
16          48(m) of the Internal Revenue Code of 1986 (as in  
17          effect on the day before the date of the enactment  
18          of the Revenue Reconciliation Act of 1990).

19          (4) PUBLIC ELECTRIC UTILITY PROPERTY.—  
20          The amendments made by subsection (d) shall apply  
21          to periods after February 13, 2008, in taxable years  
22          ending after such date, under rules similar to the  
23          rules of section 48(m) of the Internal Revenue Code  
24          of 1986 (as in effect on the day before the date of

1 the enactment of the Revenue Reconciliation Act of  
2 1990).

3 **SEC. 225. NEW CLEAN RENEWABLE ENERGY BONDS.**

4 (a) IN GENERAL.—Part IV of subchapter A of chap-  
5 ter 1 (relating to credits against tax) is amended by add-  
6 ing at the end the following new subpart:

7 **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. New clean renewable energy bonds.

8 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**  
9 **IT BONDS.**

10 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds  
11 a qualified tax credit bond on one or more credit allowance  
12 dates of the bond during any taxable year, there shall be  
13 allowed as a credit against the tax imposed by this chapter  
14 for the taxable year an amount equal to the sum of the  
15 credits determined under subsection (b) with respect to  
16 such dates.

17 “(b) AMOUNT OF CREDIT.—

18 “(1) IN GENERAL.—The amount of the credit  
19 determined under this subsection with respect to any  
20 credit allowance date for a qualified tax credit bond  
21 is 25 percent of the annual credit determined with  
22 respect to such bond.

1           “(2) ANNUAL CREDIT.—The annual credit de-  
2           termined with respect to any qualified tax credit  
3           bond is the product of—

4                   “(A) the applicable credit rate, multiplied  
5           by

6                   “(B) the outstanding face amount of the  
7           bond.

8           “(3) APPLICABLE CREDIT RATE.—For purposes  
9           of paragraph (2), the applicable credit rate is the  
10          rate which the Secretary estimates will permit the  
11          issuance of qualified tax credit bonds with a speci-  
12          fied maturity or redemption date without discount  
13          and without interest cost to the qualified issuer. The  
14          applicable credit rate with respect to any qualified  
15          tax credit bond shall be determined as of the first  
16          day on which there is a binding, written contract for  
17          the sale or exchange of the bond.

18          “(4) SPECIAL RULE FOR ISSUANCE AND RE-  
19          DEMPTION.—In the case of a bond which is issued  
20          during the 3-month period ending on a credit allow-  
21          ance date, the amount of the credit determined  
22          under this subsection with respect to such credit al-  
23          lowance date shall be a ratable portion of the credit  
24          otherwise determined based on the portion of the 3-  
25          month period during which the bond is outstanding.

1 A similar rule shall apply when the bond is redeemed  
2 or matures.

3 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

4 “(1) IN GENERAL.—The credit allowed under  
5 subsection (a) for any taxable year shall not exceed  
6 the excess of—

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

10 “(B) the sum of the credits allowable  
11 under this part (other than subpart C and this  
12 subpart).

13 “(2) CARRYOVER OF UNUSED CREDIT.—If the  
14 credit allowable under subsection (a) exceeds the  
15 limitation imposed by paragraph (1) for such taxable  
16 year, such excess shall be carried to the succeeding  
17 taxable year and added to the credit allowable under  
18 subsection (a) for such taxable year (determined be-  
19 fore the application of paragraph (1) for such suc-  
20 ceeding taxable year).

21 “(d) QUALIFIED TAX CREDIT BOND.—For purposes  
22 of this section—

23 “(1) QUALIFIED TAX CREDIT BOND.—The term  
24 ‘qualified tax credit bond’ means a new clean renew-  
25 able energy bond which is part of an issue that

1 meets the requirements of paragraphs (2), (3), (4),  
2 (5), and (6).

3 “(2) SPECIAL RULES RELATING TO EXPENDI-  
4 TURES.—

5 “(A) IN GENERAL.—An issue shall be  
6 treated as meeting the requirements of this  
7 paragraph if, as of the date of issuance, the  
8 issuer reasonably expects—

9 “(i) 100 percent or more of the avail-  
10 able project proceeds to be spent for 1 or  
11 more qualified purposes within the 3-year  
12 period beginning on such date of issuance,  
13 and

14 “(ii) a binding commitment with a  
15 third party to spend at least 10 percent of  
16 such available project proceeds will be in-  
17 curred within the 6-month period begin-  
18 ning on such date of issuance.

19 “(B) FAILURE TO SPEND REQUIRED  
20 AMOUNT OF BOND PROCEEDS WITHIN 3  
21 YEARS.—

22 “(i) IN GENERAL.—To the extent that  
23 less than 100 percent of the available  
24 project proceeds of the issue are expended  
25 by the close of the expenditure period for

1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term ‘expenditure period’ means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

“(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

1           “(C) QUALIFIED PURPOSE.—For purposes  
2 of this paragraph, the term ‘qualified purpose’  
3 means a purpose specified in section 54B(a)(1).

4           “(D) REIMBURSEMENT.—For purposes of  
5 this subtitle, available project proceeds of an  
6 issue shall be treated as spent for a qualified  
7 purpose if such proceeds are used to reimburse  
8 the issuer for amounts paid for a qualified pur-  
9 pose after the date that the Secretary makes an  
10 allocation of bond limitation with respect to  
11 such issue, but only if—

12                   “(i) prior to the payment of the origi-  
13 nal expenditure, the issuer declared its in-  
14 tent to reimburse such expenditure with  
15 the proceeds of a qualified tax credit bond,

16                   “(ii) not later than 60 days after pay-  
17 ment of the original expenditure, the issuer  
18 adopts an official intent to reimburse the  
19 original expenditure with such proceeds,  
20 and

21                   “(iii) the reimbursement is made not  
22 later than 18 months after the date the  
23 original expenditure is paid.

24           “(3) REPORTING.—An issue shall be treated as  
25 meeting the requirements of this paragraph if the



1 issuer of qualified tax credit bonds submits reports  
2 similar to the reports required under section 149(e).

3 “(4) SPECIAL RULES RELATING TO ARBI-  
4 TRAGE.—

5 “(A) IN GENERAL.—An issue shall be  
6 treated as meeting the requirements of this  
7 paragraph if the issuer satisfies the require-  
8 ments of section 148 with respect to the pro-  
9 ceeds of the issue.

10 “(B) SPECIAL RULE FOR INVESTMENTS  
11 DURING EXPENDITURE PERIOD.—An issue shall  
12 not be treated as failing to meet the require-  
13 ments of subparagraph (A) by reason of any in-  
14 vestment of available project proceeds during  
15 the expenditure period.

16 “(C) SPECIAL RULE FOR RESERVE  
17 FUNDS.—An issue shall not be treated as fail-  
18 ing to meet the requirements of subparagraph  
19 (A) by reason of any fund which is expected to  
20 be used to repay such issue if—

21 “(i) such fund is funded at a rate not  
22 more rapid than equal annual installments,

23 “(ii) such fund is funded in a manner  
24 reasonably expected to result in an amount

1 not greater than an amount necessary to  
2 repay the issue, and

3 “(iii) the yield on such fund is not  
4 greater than the discount rate determined  
5 under paragraph (5)(B) with respect to the  
6 issue.

7 “(5) MATURITY LIMITATION.—

8 “(A) IN GENERAL.—An issue shall not be  
9 treated as meeting the requirements of this  
10 paragraph if the maturity of any bond which is  
11 part of such issue exceeds the maximum term  
12 determined by the Secretary under subpara-  
13 graph (B).

14 “(B) MAXIMUM TERM.—During each cal-  
15 endar month, the Secretary shall determine the  
16 maximum term permitted under this paragraph  
17 for bonds issued during the following calendar  
18 month. Such maximum term shall be the term  
19 which the Secretary estimates will result in the  
20 present value of the obligation to repay the  
21 principal on the bond being equal to 50 percent  
22 of the face amount of such bond. Such present  
23 value shall be determined using as a discount  
24 rate the average annual interest rate of tax-ex-  
25 empt obligations having a term of 10 years or

1 more which are issued during the month. If the  
2 term as so determined is not a multiple of a  
3 whole year, such term shall be rounded to the  
4 next highest whole year.

5 “(6) PROHIBITION ON FINANCIAL CONFLICTS  
6 OF INTEREST.—An issue shall be treated as meeting  
7 the requirements of this paragraph if the issuer cer-  
8 tifies that—

9 “(A) applicable State and local law re-  
10 quirements governing conflicts of interest are  
11 satisfied with respect to such issue, and

12 “(B) if the Secretary prescribes additional  
13 conflicts of interest rules governing the appro-  
14 priate Members of Congress, Federal, State,  
15 and local officials, and their spouses, such addi-  
16 tional rules are satisfied with respect to such  
17 issue.

18 “(e) OTHER DEFINITIONS.—For purposes of this  
19 subchapter—

20 “(1) CREDIT ALLOWANCE DATE.—The term  
21 ‘credit allowance date’ means—

22 “(A) March 15,

23 “(B) June 15,

24 “(C) September 15, and

25 “(D) December 15.

1       Such term includes the last day on which the bond  
2       is outstanding.

3           “(2) BOND.—The term ‘bond’ includes any ob-  
4       ligation.

5           “(3) STATE.—The term ‘State’ includes the  
6       District of Columbia and any possession of the  
7       United States.

8           “(4) AVAILABLE PROJECT PROCEEDS.—The  
9       term ‘available project proceeds’ means—

10           “(A) the excess of—

11                   “(i) the proceeds from the sale of an  
12                   issue, over

13                   “(ii) the issuance costs financed by  
14                   the issue (to the extent that such costs do  
15                   not exceed 2 percent of such proceeds),  
16                   and

17                   “(B) the proceeds from any investment of  
18                   the excess described in subparagraph (A).

19           “(f) CREDIT TREATED AS INTEREST.—For purposes  
20       of this subtitle, the credit determined under subsection (a)  
21       shall be treated as interest which is includible in gross in-  
22       come.

23           “(g) S CORPORATIONS AND PARTNERSHIPS.—In the  
24       case of a tax credit bond held by an S corporation or part-  
25       nership, the allocation of the credit allowed by this section

1 to the shareholders of such corporation or partners of such  
2 partnership shall be treated as a distribution.

3 “(h) BONDS HELD BY REGULATED INVESTMENT  
4 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—  
5 If any qualified tax credit bond is held by a regulated in-  
6 vestment company or a real estate investment trust, the  
7 credit determined under subsection (a) shall be allowed to  
8 shareholders of such company or beneficiaries of such  
9 trust (and any gross income included under subsection (f)  
10 with respect to such credit shall be treated as distributed  
11 to such shareholders or beneficiaries) under procedures  
12 prescribed by the Secretary.

13 “(i) CREDITS MAY BE STRIPPED.—Under regula-  
14 tions prescribed by the Secretary—

15 “(1) IN GENERAL.—There may be a separation  
16 (including at issuance) of the ownership of a quali-  
17 fied tax credit bond and the entitlement to the credit  
18 under this section with respect to such bond. In case  
19 of any such separation, the credit under this section  
20 shall be allowed to the person who on the credit al-  
21 lowance date holds the instrument evidencing the en-  
22 titlement to the credit and not to the holder of the  
23 bond.

24 “(2) CERTAIN RULES TO APPLY.—In the case  
25 of a separation described in paragraph (1), the rules

1 of section 1286 shall apply to the qualified tax credit  
2 bond as if it were a stripped bond and to the credit  
3 under this section as if it were a stripped coupon.

4 **“SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.**

5 “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For  
6 purposes of this subpart, the term ‘new clean renewable  
7 energy bond’ means any bond issued as part of an issue  
8 if—

9 “(1) 100 percent of the available project pro-  
10 ceeds of such issue are to be used for capital expend-  
11 itures incurred by public power providers or coopera-  
12 tive electric companies for one or more qualified re-  
13 newable energy facilities,

14 “(2) the bond is issued by a qualified issuer,  
15 and

16 “(3) the issuer designates such bond for pur-  
17 poses of this section.

18 “(b) REDUCED CREDIT AMOUNT.—The annual credit  
19 determined under section 54A(b) with respect to any new  
20 clean renewable energy bond shall be 70 percent of the  
21 amount so determined without regard to this subsection.

22 “(c) LIMITATION ON AMOUNT OF BONDS DES-  
23 IGNATED.—

24 “(1) IN GENERAL.—The maximum aggregate  
25 face amount of bonds which may be designated

1 under subsection (a) by any issuer shall not exceed  
2 the limitation amount allocated under this sub-  
3 section to such issuer.

4 “(2) NATIONAL LIMITATION ON AMOUNT OF  
5 BONDS DESIGNATED.—There is a national new clean  
6 renewable energy bond limitation of \$2,000,000,000  
7 which shall be allocated by the Secretary as provided  
8 in paragraph (3), except that—

9 “(A) not more than 60 percent thereof  
10 may be allocated to qualified projects of public  
11 power providers, and

12 “(B) not more than 40 percent thereof  
13 may be allocated to qualified projects of cooper-  
14 ative electric companies.

15 “(3) METHOD OF ALLOCATION.—

16 “(A) ALLOCATION AMONG PUBLIC POWER  
17 PROVIDERS.—After the Secretary determines  
18 the qualified projects of public power providers  
19 which are appropriate for receiving an alloca-  
20 tion of the national new clean renewable energy  
21 bond limitation, the Secretary shall, to the max-  
22 imum extent practicable, make allocations  
23 among such projects in such manner that the  
24 amount allocated to each such project bears the  
25 same ratio to the cost of such project as the

1           limitation under subparagraph (2)(A) bears to  
2           the cost of all such projects.

3           “(B) ALLOCATION AMONG COOPERATIVE  
4           ELECTRIC COMPANIES.—The Secretary shall  
5           make allocations of the amount of the national  
6           new clean renewable energy bond limitation de-  
7           scribed in paragraph (2)(B) among qualified  
8           projects of cooperative electric companies in  
9           such manner as the Secretary determines ap-  
10          propriate.

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

12           “(1) QUALIFIED RENEWABLE ENERGY FACIL-  
13          ITY.—The term ‘qualified renewable energy facility’  
14          means a qualified facility (as determined under sec-  
15          tion 45(d) without regard to paragraphs (8) and  
16          (10) thereof and to any placed in service date)  
17          owned by a public power provider or a cooperative  
18          electric company.

19           “(2) PUBLIC POWER PROVIDER.—The term  
20          ‘public power provider’ means a State utility with a  
21          service obligation, as such terms are defined in sec-  
22          tion 217 of the Federal Power Act (as in effect on  
23          the date of the enactment of this paragraph).

24           “(3) COOPERATIVE ELECTRIC COMPANY.—The  
25          term ‘cooperative electric company’ means a mutual



1 or cooperative electric company described in section  
2 501(c)(12) or section 1381(a)(2)(C).

3 “(4) CLEAN RENEWABLE ENERGY BOND LEND-  
4 ER.—The term ‘clean renewable energy bond lender’  
5 means a lender which is a cooperative which is  
6 owned by, or has outstanding loans to, 100 or more  
7 cooperative electric companies and is in existence on  
8 February 1, 2002, and shall include any affiliated  
9 entity which is controlled by such lender.

10 “(5) QUALIFIED ISSUER.—The term ‘qualified  
11 issuer’ means a public power provider, a cooperative  
12 electric company, a clean renewable energy bond  
13 lender, or a not-for-profit electric utility which has  
14 received a loan or loan guarantee under the Rural  
15 Electrification Act.”.

16 (b) REPORTING.—Subsection (d) of section 6049 (re-  
17 lating to returns regarding payments of interest) is  
18 amended by adding at the end the following new para-  
19 graph:

20 “(9) REPORTING OF CREDIT ON QUALIFIED  
21 TAX CREDIT BONDS.—

22 “(A) IN GENERAL.—For purposes of sub-  
23 section (a), the term ‘interest’ includes amounts  
24 includible in gross income under section 54A  
25 and such amounts shall be treated as paid on

1 the credit allowance date (as defined in section  
2 54A(e)(1)).

3 “(B) REPORTING TO CORPORATIONS,  
4 ETC.—Except as otherwise provided in regula-  
5 tions, in the case of any interest described in  
6 subparagraph (A) of this paragraph, subsection  
7 (b)(4) of this section shall be applied without  
8 regard to subparagraphs (A), (H), (I), (J), (K),  
9 and (L)(i).

10 “(C) REGULATORY AUTHORITY.—The Sec-  
11 retary may prescribe such regulations as are  
12 necessary or appropriate to carry out the pur-  
13 poses of this paragraph, including regulations  
14 which require more frequent or more detailed  
15 reporting.”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Sections 54(c)(2) and 1400N(l)(3)(B) are  
18 each amended by striking “subpart C” and inserting  
19 “subparts C and I”.

20 (2) Section 1397E(c)(2) is amended by striking  
21 “subpart H” and inserting “subparts H and I”.

22 (3) Section 6401(b)(1) is amended by striking  
23 “and H” and inserting “H, and I”.

24 (4) The heading of subpart H of part IV of  
25 subchapter A of chapter 1 is amended by striking

1       **“Certain Bonds”** and inserting **“Clean Re-**  
2       **newable Energy Bonds”**.

3           (5) The table of subparts for part IV of sub-  
4       chapter A of chapter 1 is amended by striking the  
5       item relating to subpart H and inserting the fol-  
6       lowing new items:

      “SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE  
          ENERGY BONDS.

      “SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

7       (d) **EFFECTIVE DATES.**—The amendments made by  
8       this section shall apply to obligations issued after the date  
9       of the enactment of this Act.

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

13       (a) **EXTENSION FOR QUALIFIED ELECTRIC UTILI-**  
14       **TIES.**—

15           (1) **IN GENERAL.**—Paragraph (3) of section  
16       451(i) (relating to special rule for sales or disposi-  
17       tions to implement Federal Energy Regulatory Com-  
18       mission or State electric restructuring policy) is  
19       amended by inserting “(before January 1, 2010, in  
20       the case of a qualified electric utility)” after “Janu-  
21       ary 1, 2008”.

22           (2) **QUALIFIED ELECTRIC UTILITY.**—Subsection  
23       (i) of section 451 is amended by redesignating para-

1 graphs (6) through (10) as paragraphs (7) through  
2 (11), respectively, and by inserting after paragraph  
3 (5) the following new paragraph:

4 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-  
5 poses of this subsection, the term ‘qualified electric  
6 utility’ means a person that, as of the date of the  
7 qualifying electric transmission transaction, is  
8 vertically integrated, in that it is both—

9 “(A) a transmitting utility (as defined in  
10 section 3(23) of the Federal Power Act (16  
11 U.S.C. 796(23))) with respect to the trans-  
12 mission facilities to which the election under  
13 this subsection applies, and

14 “(B) an electric utility (as defined in sec-  
15 tion 3(22) of the Federal Power Act (16 U.S.C.  
16 796(22))).”.

17 (b) EXTENSION OF PERIOD FOR TRANSFER OF  
18 OPERATIONAL CONTROL AUTHORIZED BY FERC.—  
19 Clause (ii) of section 451(i)(4)(B) is amended by striking  
20 “December 31, 2007” and inserting “the date which is  
21 4 years after the close of the taxable year in which the  
22 transaction occurs”.

23 (c) PROPERTY LOCATED OUTSIDE THE UNITED  
24 STATES NOT TREATED AS EXEMPT UTILITY PROP-

1 ERTY.—Paragraph (5) of section 451(i) is amended by  
2 adding at the end the following new subparagraph:

3           “(C) EXCEPTION FOR PROPERTY LOCATED  
4           OUTSIDE THE UNITED STATES.—The term ‘ex-  
5           empt utility property’ shall not include any  
6           property which is located outside the United  
7           States.”.

8 (d) EFFECTIVE DATES.—

9           (1) EXTENSION.—The amendments made by  
10 subsection (a) shall apply to transactions after De-  
11 cember 31, 2007.

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

16           (3) EXCEPTION FOR PROPERTY LOCATED OUT-  
17 SIDE THE UNITED STATES.—The amendment made  
18 by subsection (c) shall apply to transactions after  
19 the date of the enactment of this Act.

20 **SEC. 227. EXTENSION AND MODIFICATION OF CREDIT FOR**  
21 **RESIDENTIAL ENERGY EFFICIENT PROP-**  
22 **ERTY.**

23           (a) EXTENSION.—Section 25D(g) (relating to termi-  
24 nation) is amended by striking “December 31, 2008” and  
25 inserting “December 31, 2014”.

1 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-  
2 ERTY.—

3 (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-  
4 ing to maximum credit) is amended by striking  
5 “\$2,000” and inserting “\$4,000”.

6 (2) CONFORMING AMENDMENT.—Section  
7 25D(e)(4)(A)(i) is amended by striking “\$6,667”  
8 and inserting “\$13,333”.

9 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

10 (1) IN GENERAL.—Section 25D(a) (relating to  
11 allowance of credit) is amended by striking “and” at  
12 the end of paragraph (2), by striking the period at  
13 the end of paragraph (3) and inserting “, and”, and  
14 by adding at the end the following new paragraph:

15 “(4) 30 percent of the qualified small wind en-  
16 ergy property expenditures made by the taxpayer  
17 during such year.”.

18 (2) LIMITATION.—Section 25D(b)(1) (relating  
19 to maximum credit) is amended by striking “and” at  
20 the end of subparagraph (B), by striking the period  
21 at the end of subparagraph (C) and inserting “,  
22 and”, and by adding at the end the following new  
23 subparagraph:

24 “(D) \$500 with respect to each half kilo-  
25 watt of capacity (not to exceed \$4,000) of wind

1 turbines for which qualified small wind energy  
2 property expenditures are made.”.

3 (3) QUALIFIED SMALL WIND ENERGY PROP-  
4 ERTY EXPENDITURES.—

5 (A) IN GENERAL.—Section 25D(d) (relat-  
6 ing to definitions) is amended by adding at the  
7 end the following new paragraph:

8 “(4) QUALIFIED SMALL WIND ENERGY PROP-  
9 ERTY EXPENDITURE.—The term ‘qualified small  
10 wind energy property expenditure’ means an expend-  
11 iture for property which uses a wind turbine to gen-  
12 erate electricity for use in connection with a dwelling  
13 unit located in the United States and used as a resi-  
14 dence by the taxpayer.”.

15 (B) NO DOUBLE BENEFIT.—Section  
16 45(d)(1) (relating to wind facility) is amended  
17 by adding at the end the following new sen-  
18 tence: “Such term shall not include any facility  
19 with respect to which any qualified small wind  
20 energy property expenditure (as defined in sub-  
21 section (d)(4) of section 25D) is taken into ac-  
22 count in determining the credit under such sec-  
23 tion.”.

24 (4) MAXIMUM EXPENDITURES IN CASE OF  
25 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating

1 to maximum expenditures) is amended by striking  
2 “and” at the end of clause (ii), by striking the pe-  
3 riod at the end of clause (iii) and inserting “, and”,  
4 and by adding at the end the following new clause:

5 “(iv) \$1,667 in the case of each half  
6 kilowatt of capacity (not to exceed  
7 \$13,333) of wind turbines for which quali-  
8 fied small wind energy property expendi-  
9 tures are made.”.

10 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-  
11 TEMS.—

12 (1) IN GENERAL.—Section 25D(a) (relating to  
13 allowance of credit), as amended by subsection (c),  
14 is amended by striking “and” at the end of para-  
15 graph (3), by striking the period at the end of para-  
16 graph (4) and inserting “, and”, and by adding at  
17 the end the following new paragraph:

18 “(5) 30 percent of the qualified geothermal  
19 heat pump property expenditures made by the tax-  
20 payer during such year.”.

21 (2) LIMITATION.—Section 25D(b)(1) (relating  
22 to maximum credit), as amended by subsection (c),  
23 is amended by striking “and” at the end of subpara-  
24 graph (C), by striking the period at the end of sub-



1 paragraph (D) and inserting “, and”, and by adding  
2 at the end the following new subparagraph:

3 “(E) \$2,000 with respect to any qualified  
4 geothermal heat pump property expenditures.”.

5 (3) QUALIFIED GEOTHERMAL HEAT PUMP  
6 PROPERTY EXPENDITURE.—Section 25D(d) (relat-  
7 ing to definitions), as amended by subsection (c), is  
8 amended by adding at the end the following new  
9 paragraph:

10 “(5) QUALIFIED GEOTHERMAL HEAT PUMP  
11 PROPERTY EXPENDITURE.—

12 “(A) IN GENERAL.—The term ‘qualified  
13 geothermal heat pump property expenditure’  
14 means an expenditure for qualified geothermal  
15 heat pump property installed on or in connec-  
16 tion with a dwelling unit located in the United  
17 States and used as a residence by the taxpayer.

18 “(B) QUALIFIED GEOTHERMAL HEAT  
19 PUMP PROPERTY.—The term ‘qualified geo-  
20 thermal heat pump property’ means any equip-  
21 ment which—

22 “(i) uses the ground or ground water  
23 as a thermal energy source to heat the  
24 dwelling unit referred to in subparagraph

1 (A) or as a thermal energy sink to cool  
2 such dwelling unit, and

3 “(ii) meets the requirements of the  
4 Energy Star program which are in effect  
5 at the time that the expenditure for such  
6 equipment is made.”.

7 (4) MAXIMUM EXPENDITURES IN CASE OF  
8 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating  
9 to maximum expenditures), as amended by sub-  
10 section (c), is amended by striking “and” at the end  
11 of clause (iii), by striking the period at the end of  
12 clause (iv) and inserting “, and”, and by adding at  
13 the end the following new clause:

14 “(v) \$6,667 in the case of any quali-  
15 fied geothermal heat pump property ex-  
16 penditures.”.

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

19 (1) IN GENERAL.—Subsection (c) of section  
20 25D is amended to read as follows:

21 “(c) LIMITATION BASED ON AMOUNT OF TAX;  
22 CARRYFORWARD OF UNUSED CREDIT.—

23 “(1) LIMITATION BASED ON AMOUNT OF  
24 TAX.—In the case of a taxable year to which section  
25 26(a)(2) does not apply, the credit allowed under

1 subsection (a) for the taxable year shall not exceed  
2 the excess of—

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

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

9 “(2) CARRYFORWARD OF UNUSED CREDIT.—

10 “(A) RULE FOR YEARS IN WHICH ALL  
11 PERSONAL CREDITS ALLOWED AGAINST REG-  
12 ULAR AND ALTERNATIVE MINIMUM TAX.—In  
13 the case of a taxable year to which section  
14 26(a)(2) applies, if the credit allowable under  
15 subsection (a) exceeds the limitation imposed by  
16 section 26(a)(2) for such taxable year reduced  
17 by the sum of the credits allowable under this  
18 subpart (other than this section), such excess  
19 shall be carried to the succeeding taxable year  
20 and added to the credit allowable under sub-  
21 section (a) for such succeeding taxable year.

22 “(B) RULE FOR OTHER YEARS.—In the  
23 case of a taxable year to which section 26(a)(2)  
24 does not apply, if the credit allowable under  
25 subsection (a) exceeds the limitation imposed by

1 paragraph (1) for such taxable year, such ex-  
2 cess shall be carried to the succeeding taxable  
3 year and added to the credit allowable under  
4 subsection (a) for such succeeding taxable  
5 year.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 23(b)(4)(B) is amended by in-  
8 serting “and section 25D” after “this section”.

9 (B) Section 24(b)(3)(B) is amended by  
10 striking “and 25B” and inserting “, 25B, and  
11 25D”.

12 (C) Section 25B(g)(2) is amended by strik-  
13 ing “section 23” and inserting “sections 23 and  
14 25D”.

15 (D) Section 26(a)(1) is amended by strik-  
16 ing “and 25B” and inserting “25B, and 25D”.

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by  
19 this section shall apply to taxable years beginning  
20 after December 31, 2007.

21 (2) APPLICATION OF EGTRRA SUNSET.—The  
22 amendments made by subparagraphs (A) and (B) of  
23 subsection (e)(2) shall be subject to title IX of the  
24 Economic Growth and Tax Relief Reconciliation Act

1 of 2001 in the same manner as the provisions of  
2 such Act to which such amendments relate.

3 **PART 2—TRANSPORTATION CONSERVATION**

4 **INCENTIVES**

5 **Subpart A—Vehicles**

6 **SEC. 231. CREDIT FOR PLUG-IN HYBRID VEHICLES.**

7 (a) IN GENERAL.—Subpart B of part IV of sub-  
8 chapter A of chapter 1 (relating to other credits) is  
9 amended by adding at the end the following new section:

10 **“SEC. 30D. PLUG-IN HYBRID VEHICLES.**

11 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
12 lowed as a credit against the tax imposed by this chapter  
13 for the taxable year an amount equal to the sum of the  
14 credit amounts determined under subsection (b) with re-  
15 spect to each qualified plug-in hybrid vehicle placed in  
16 service by the taxpayer during the taxable year.

17 “(b) PER VEHICLE DOLLAR LIMITATION.—

18 “(1) IN GENERAL.—The amount determined  
19 under this subsection with respect to any qualified  
20 plug-in hybrid vehicle is the sum of the amounts de-  
21 termined under paragraphs (2) and (3) with respect  
22 to such vehicle.

23 “(2) BASE AMOUNT.—The amount determined  
24 under this paragraph is \$4,000.

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

8           “(c) APPLICATION WITH OTHER CREDITS.—

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

17          “(2) PERSONAL CREDIT.—

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

24                 “(B) LIMITATION BASED ON AMOUNT OF  
25                 TAX.—In the case of a taxable year to which

1 section 26(a)(2) does not apply, the credit al-  
2 lowed under subsection (a) for any taxable year  
3 (determined after application of paragraph (1))  
4 shall not exceed the excess of—

5 “(i) the sum of the regular tax liabil-  
6 ity (as defined in section 26(b)) plus the  
7 tax imposed by section 55, over

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

12 “(d) QUALIFIED PLUG-IN HYBRID VEHICLE.—For  
13 purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualified plug-in  
15 hybrid vehicle’ means a motor vehicle (as defined in  
16 section 30(c)(2))—

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

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

21 “(C) which is made by a manufacturer,

22 “(D) which has a gross vehicle weight rat-  
23 ing of less than 14,000 pounds,

24 “(E) which has received a certificate of  
25 conformity under the Clean Air Act and meets

1 or exceeds the Bin 5 Tier II emission standard  
2 established in regulations prescribed by the Ad-  
3 ministrator of the Environmental Protection  
4 Agency under section 202(i) of the Clean Air  
5 Act for that make and model year vehicle,

6 “(F) which is propelled to a significant ex-  
7 tent by an electric motor which draws electricity  
8 from a battery which—

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

11 “(ii) is capable of being recharged  
12 from an external source of electricity, and

13 “(G) which either—

14 “(i) is also propelled to a significant  
15 extent by other than an electric motor, or

16 “(ii) has a significant onboard source  
17 of electricity which also recharges the bat-  
18 tery referred to in subparagraph (F).

19 “(2) EXCEPTION.—The term ‘qualified plug-in  
20 hybrid vehicle’ shall not include any vehicle which is  
21 not a passenger automobile or light truck if such ve-  
22 hicle has a gross vehicle weight rating of less than  
23 8,500 pounds.

24 “(3) OTHER TERMS.—The terms ‘passenger  
25 automobile’, ‘light truck’, and ‘manufacturer’ have



1 the meanings given such terms in regulations pre-  
2 scribed by the Administrator of the Environmental  
3 Protection Agency for purposes of the administra-  
4 tion of title II of the Clean Air Act (42 U.S.C. 7521  
5 et seq.).

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

12 “(e) LIMITATION ON NUMBER OF QUALIFIED PLUG-  
13 IN HYBRID VEHICLES ELIGIBLE FOR CREDIT.—

14 “(1) IN GENERAL.—In the case of a qualified  
15 plug-in hybrid vehicle sold during the phaseout pe-  
16 riod, only the applicable percentage of the credit oth-  
17 erwise allowable under subsection (a) shall be al-  
18 lowed.

19 “(2) PHASEOUT PERIOD.—For purposes of this  
20 subsection, the phaseout period is the period begin-  
21 ning with the second calendar quarter following the  
22 calendar quarter which includes the first date on  
23 which the number of qualified plug-in hybrid vehicles  
24 manufactured by the manufacturer of the vehicle re-  
25 ferred to in paragraph (1) sold for use in the United

1 States after the date of the enactment of this sec-  
2 tion, is at least 60,000.

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

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

7 “(B) 25 percent for the 3d and 4th cal-  
8 endar quarters of the phaseout period, and

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

11 “(4) CONTROLLED GROUPS.—Rules similar to  
12 the rules of section 30B(f)(4) shall apply for pur-  
13 poses of this subsection.

14 “(f) SPECIAL RULES.—

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

19 “(2) RECAPTURE.—The Secretary shall, by reg-  
20 ulations, provide for recapturing the benefit of any  
21 credit allowable under subsection (a) with respect to  
22 any property which ceases to be property eligible for  
23 such credit.

24 “(3) PROPERTY USED OUTSIDE UNITED  
25 STATES, ETC., NOT QUALIFIED.—No credit shall be

1 allowed under subsection (a) with respect to any  
2 property referred to in section 50(b)(1) or with re-  
3 spect to the portion of the cost of any property  
4 taken into account under section 179.

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

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

14 (b) PLUG-IN VEHICLES NOT TREATED AS NEW  
15 QUALIFIED HYBRID VEHICLES.—Section 30B(d)(3) is  
16 amended by adding at the end the following new subpara-  
17 graph:

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

23 (c) CREDIT MADE PART OF GENERAL BUSINESS  
24 CREDIT.—Section 38(b) is amended—

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

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

5           (3) by striking the period at the end of para-  
6 graph (31) and inserting “, plus”, and

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

9           “(32) the portion of the plug-in hybrid vehicle  
10 credit to which section 30D(c)(1) applies.”.

11       (d) CONFORMING AMENDMENTS.—

12           (1)(A) Section 24(b)(3)(B), as amended by this  
13 Act, is amended by striking “and 25D” and insert-  
14 ing “25D, and 30D”.

15           (B) Section 25(e)(1)(C)(ii) is amended by in-  
16 sserting “30D,” after “25D,”.

17           (C) Section 25B(g)(2), as amended by this Act,  
18 is amended by striking “and 25D” and inserting “,  
19 25D, and 30D”.

20           (D) Section 26(a)(1), as amended by this Act,  
21 is amended by striking “and 25D” and inserting  
22 “25D, and 30D”.

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

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

6           “(37) to the extent provided in section  
7           30D(f)(1).”.

8           (3) Section 6501(m) is amended by inserting  
9           “30D(f)(4),” after “30C(e)(5),”.

10           (4) The table of sections for subpart B of part  
11           IV of subchapter A of chapter 1 is amended by add-  
12           ing at the end the following new item:

“Sec. 30D. Plug-in hybrid vehicles.”.

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

15           (1) IN GENERAL.—Paragraph (2) of section  
16           30B(g) is amended to read as follows:

17           “(2) PERSONAL CREDIT.—The credit allowed  
18           under subsection (a) for any taxable year (after ap-  
19           plication of paragraph (1)) shall be treated as a  
20           credit allowable under subpart A for such taxable  
21           year.”.

22           (2) CONFORMING AMENDMENTS.—

23           (A) Subparagraph (A) of section 30C(d)(2)  
24           is amended by striking “sections 27, 30, and  
25           30B” and inserting “sections 27 and 30”.

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

3 (f) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-  
5 vided in this subsection, the amendments made by  
6 this section shall apply to taxable years beginning  
7 after December 31, 2008.

8 (2) TREATMENT OF ALTERNATIVE MOTOR VE-  
9 HICLE CREDIT AS PERSONAL CREDIT.—The amend-  
10 ments made by subsection (e) shall apply to taxable  
11 years beginning after December 31, 2007.

12 (g) APPLICATION OF EGTRRA SUNSET.—The  
13 amendment made by subsection (d)(1)(A) shall be subject  
14 to title IX of the Economic Growth and Tax Relief Rec-  
15 onciliation Act of 2001 in the same manner as the provi-  
16 sion of such Act to which such amendment relates.

17 **SEC. 232. EXTENSION AND MODIFICATION OF ALTER-**  
18 **NATIVE FUEL VEHICLE REFUELING PROP-**  
19 **ERTY CREDIT.**

20 (a) INCREASE IN CREDIT AMOUNT.—Section 30C  
21 (relating to alternative fuel vehicle refueling property cred-  
22 it) is amended—

23 (1) by striking “30 percent” in subsection (a)  
24 and inserting “50 percent”, and

1           (2) by striking “\$30,000” in subsection (b)(1)  
2           and inserting “\$50,000”.

3           (b) EXTENSION OF CREDIT.—Paragraph (2) of sec-  
4           tion 30C(g) (relating to termination) is amended by strik-  
5           ing “December 31, 2009” and inserting “December 31,  
6           2010”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to property placed in service after  
9           the date of the enactment of this Act, in taxable years  
10          ending after such date.

11       **SEC. 233. MODIFICATION OF LIMITATION ON AUTOMOBILE**  
12                               **DEPRECIATION.**

13          (a) IN GENERAL.—Paragraph (5) of section 280F(d)  
14          (defining passenger automobile) is amended to read as fol-  
15          lows:

16                       “(5) PASSENGER AUTOMOBILE.—

17                               “(A) IN GENERAL.—Except as provided in  
18                               subparagraph (B), the term ‘passenger auto-  
19                               mobile’ means any 4-wheeled vehicle—

20                                       “(i) which is primarily designed or  
21                                       which can be used to carry passengers over  
22                                       public streets, roads, or highways (except  
23                                       any vehicle operated exclusively on a rail or  
24                                       rails), and

1                   “(ii) which is rated at not more than  
2                   14,000 pounds gross vehicle weight.

3                   “(B) EXCEPTIONS.—The term ‘passenger  
4                   automobile’ shall not include—

5                   “(i) any exempt-design vehicle, and

6                   “(ii) any exempt-use vehicle.

7                   “(C) EXEMPT-DESIGN VEHICLE.—The  
8                   term ‘exempt-design vehicle’ means—

9                   “(i) any vehicle which, by reason of its  
10                  nature or design, is not likely to be used  
11                  more than a de minimis amount for per-  
12                  sonal purposes, and

13                  “(ii) any vehicle—

14                   “(I) which is designed to have a  
15                   seating capacity of more than 9 per-  
16                   sons behind the driver’s seat,

17                   “(II) which is equipped with a  
18                   cargo area of at least 5 feet in interior  
19                   length which is an open area or is de-  
20                   signed for use as an open area but is  
21                   enclosed by a cap and is not readily  
22                   accessible directly from the passenger  
23                   compartment, or

24                   “(III) has an integral enclosure,  
25                   fully enclosing the driver compartment



1 and load carrying device, does not  
2 have seating rearward of the driver's  
3 seat, and has no body section pro-  
4 truding more than 30 inches ahead of  
5 the leading edge of the windshield.

6 “(D) EXEMPT-USE VEHICLE.—The term  
7 ‘exempt-use vehicle’ means—

8 “(i) any ambulance, hearse, or com-  
9 bination ambulance-hearse used by the tax-  
10 payer directly in a trade or business,

11 “(ii) any vehicle used by the taxpayer  
12 directly in the trade or business of trans-  
13 porting persons or property for compensa-  
14 tion or hire, and

15 “(iii) any truck or van if substantially  
16 all of the use of such vehicle by the tax-  
17 payer is directly in—

18 “(I) a farming business (within  
19 the meaning of section 263A(e)(4)),

20 “(II) the transportation of a sub-  
21 stantial amount of equipment, sup-  
22 plies, or inventory, or

23 “(III) the moving or delivery of  
24 property which requires substantial  
25 cargo capacity.

1           “(E) RECAPTURE.—In the case of any ve-  
 2           hicle which is not a passenger automobile by  
 3           reason of being an exempt-use vehicle, if such  
 4           vehicle ceases to be an exempt-use vehicle in  
 5           any taxable year after the taxable year in which  
 6           such vehicle is placed in service, a rule similar  
 7           to the rule of subsection (b) shall apply.”.

8           (b) CONFORMING AMENDMENT.—Section 179(b) (re-  
 9           lating to limitations) is amended by striking paragraph  
 10          (6).

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

14                               **Subpart B—Fuels**

15       **SEC. 241. EXTENSION AND MODIFICATION OF CREDITS FOR**  
 16                               **BIODIESEL AND RENEWABLE DIESEL.**

17          (a) IN GENERAL.—Sections 40A(g), 6426(e)(6), and  
 18          6427(e)(5)(B) are each amended by striking “December  
 19          31, 2008” and inserting “December 31, 2010”.

20          (b) UNIFORM TREATMENT OF DIESEL PRODUCED  
 21          FROM BIOMASS.—Paragraph (3) of section 40A(f) is  
 22          amended—

23                   (1) by striking “diesel fuel” and inserting “liq-  
 24          uid fuel”,

1           (2) by striking “using a thermal  
2 depolymerization process”, and

3           (3) by striking “or D396” in subparagraph (B)  
4 and inserting “or other equivalent standard ap-  
5 proved by the Secretary for fuels to be used in die-  
6 sel-powered highway vehicles”.

7           (c) COPRODUCTION OF RENEWABLE DIESEL WITH  
8 PETROLEUM FEEDSTOCK.—

9           (1) IN GENERAL.—Paragraph (3) of section  
10 40A(f) (defining renewable diesel) is amended by  
11 adding at the end the following flush sentence:

12           “Such term does not include any fuel derived from  
13 coprocessing biomass with a feedstock which is not  
14 biomass. For purposes of this paragraph, the term  
15 ‘biomass’ has the meaning given such term by sec-  
16 tion 45K(c)(3).”.

17           (2) CONFORMING AMENDMENT.—Paragraph (3)  
18 of section 40A(f) is amended by striking “(as de-  
19 fined in section 45K(c)(3))”.

20           (d) EFFECTIVE DATE.—

21           (1) IN GENERAL.—Except as otherwise pro-  
22 vided in this subsection, the amendments made by  
23 this section shall apply to fuel produced, and sold or  
24 used, after December 31, 2008.

1           (2) COPRODUCTION OF RENEWABLE DIESEL  
2           WITH PETROLEUM FEEDSTOCK.—The amendments  
3           made by subsection (c) shall apply to fuel produced,  
4           and sold or used, after February 13, 2008.

5 **SEC. 242. CLARIFICATION THAT CREDITS FOR FUEL ARE**  
6                               **DESIGNED TO PROVIDE AN INCENTIVE FOR**  
7                               **UNITED STATES PRODUCTION.**

8           (a) BIODIESEL FUELS CREDIT.—Paragraph (5) of  
9           section 40A(d), as added by subsection (c), is amended  
10          to read as follows:

11                       “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
12           TION TO THE UNITED STATES.—No credit shall be  
13           determined under this section with respect to any  
14           biodiesel unless—

15                       “(A) such biodiesel is produced in the  
16           United States for use as a fuel in the United  
17           States, and

18                       “(B) the taxpayer obtains a certification  
19           (in such form and manner as prescribed by the  
20           Secretary) from the producer of the biodiesel  
21           which identifies the product produced and the  
22           location of such production.

23          For purposes of this paragraph, the term ‘United  
24          States’ includes any possession of the United  
25          States.’’.

1 (b) EXCISE TAX CREDIT.—Paragraph (2) of section  
2 6426(h), as added by subsection (c), is amended to read  
3 as follows:

4 “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
5 No credit shall be determined under this section  
6 with respect to any biodiesel or alternative fuel un-  
7 less—

8 “(A) such biodiesel or alternative fuel is  
9 produced in the United States for use as a fuel  
10 in the United States, and

11 “(B) the taxpayer obtains a certification  
12 (in such form and manner as prescribed by the  
13 Secretary) from the producer of such biodiesel  
14 or alternative fuel which identifies the product  
15 produced and the location of such production.”.

16 (c) PROVISIONS CLARIFYING TREATMENT OF FUELS  
17 WITH NO NEXUS TO THE UNITED STATES.—

18 (1) ALCOHOL FUELS CREDIT.—Subsection (d)  
19 of section 40 is amended by adding at the end the  
20 following new paragraph:

21 “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
22 TION TO THE UNITED STATES.—No credit shall be  
23 determined under this section with respect to any al-  
24 cohol which is produced outside the United States  
25 for use as a fuel outside the United States. For pur-

1 poses of this paragraph, the term ‘United States’ in-  
2 cludes any possession of the United States.”.

3 (2) BIODIESEL FUELS CREDIT.—Subsection (d)  
4 of section 40A is amended by adding at the end the  
5 following new paragraph:

6 “(5) LIMITATION TO BIODIESEL WITH CONNec-  
7 TION TO THE UNITED STATES.—No credit shall be  
8 determined under this section with respect to any  
9 biodiesel which is produced outside the United  
10 States for use as a fuel outside the United States.  
11 For purposes of this paragraph, the term ‘United  
12 States’ includes any possession of the United  
13 States.”.

14 (3) EXCISE TAX CREDIT.—

15 (A) IN GENERAL.—Section 6426 is amend-  
16 ed by adding at the end the following new sub-  
17 section:

18 “(h) LIMITATION TO FUELS WITH CONNECTION TO  
19 THE UNITED STATES.—

20 “(1) ALCOHOL.—No credit shall be determined  
21 under this section with respect to any alcohol which  
22 is produced outside the United States for use as a  
23 fuel outside the United States.

24 “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
25 No credit shall be determined under this section

1 with respect to any biodiesel or alternative fuel  
2 which is produced outside the United States for use  
3 as a fuel outside the United States.

4 For purposes of this subsection, the term ‘United States’  
5 includes any possession of the United States.”.

6 (B) CONFORMING AMENDMENT.—Sub-  
7 section (e) of section 6427 is amended by redес-  
8 ignating paragraph (5) as paragraph (6) and by  
9 inserting after paragraph (4) the following new  
10 paragraph:

11 “(5) LIMITATION TO FUELS WITH CONNECTION  
12 TO THE UNITED STATES.—No amount shall be pay-  
13 able under paragraph (1) or (2) with respect to any  
14 mixture or alternative fuel if credit is not allowed  
15 with respect to such mixture or alternative fuel by  
16 reason of section 6426(h).”.

17 (d) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-  
19 graph (2), the amendments made by this section  
20 shall apply to fuel produced, and sold or used, after  
21 December 31, 2008.

22 (2) PROVISIONS CLARIFYING TREATMENT OF  
23 FUELS WITH NO NEXUS TO THE UNITED STATES.—

24 (A) IN GENERAL.—Except as otherwise  
25 provided in this paragraph, the amendments

1 made by subsection (c) shall take effect as if in-  
2 cluded in section 301 of the American Jobs  
3 Creation Act of 2004.

4 (B) ALTERNATIVE FUEL CREDITS.—So  
5 much of the amendments made by subsection  
6 (c) as relate to the alternative fuel credit or the  
7 alternative fuel mixture credit shall take effect  
8 as if included in section 11113 of the Safe, Ac-  
9 countable, Flexible, Efficient Transportation  
10 Equity Act: A Legacy for Users.

11 (C) RENEWABLE DIESEL.—So much of the  
12 amendments made by subsection (c) as relate to  
13 renewable diesel shall take effect as if included  
14 in section 1346 of the Energy Policy Act of  
15 2005.

16 **SEC. 243. CREDIT FOR PRODUCTION OF CELLULOSIC ALCO-**  
17 **HOL.**

18 (a) IN GENERAL.—Subsection (b) of section 40 is  
19 amended by redesignating paragraph (5) as paragraph (6)  
20 and by inserting after paragraph (4) the following new  
21 paragraph:

22 “(5) CELLULOSIC ALCOHOL FUEL PRODUCER  
23 CREDIT.—

24 “(A) IN GENERAL.—The cellulosic alcohol  
25 fuel producer credit of any cellulosic alcohol fuel



1 producer for any taxable year is 50 cents for  
2 each gallon of qualified cellulosic fuel produc-  
3 tion of such producer.

4 “(B) QUALIFIED CELLULOSIC FUEL PRO-  
5 DUCTION.—For purposes of this paragraph, the  
6 term ‘qualified cellulosic fuel production’ means  
7 any cellulosic alcohol which is produced by a  
8 cellulosic alcohol fuel producer, and which dur-  
9 ing the taxable year—

10 “(i) is sold by such producer to an-  
11 other person—

12 “(I) for use by such other person  
13 in the production of a qualified mix-  
14 ture in such other person’s trade or  
15 business (other than casual off-farm  
16 production),

17 “(II) for use by such other per-  
18 son as a fuel in a trade or business,  
19 or

20 “(III) who sells such alcohol at  
21 retail to another person and places  
22 such alcohol in the fuel tank of such  
23 other person, or

24 “(ii) is used or sold by such producer  
25 for any purpose described in clause (i).

1           “(C) CELLULOSIC ALCOHOL.—For pur-  
2 poses of this paragraph, the term ‘cellulosic al-  
3 cohol’ means any alcohol which—

4                   “(i) is produced in the United States  
5 for use as a fuel in the United States, and

6                   “(ii) is derived from any  
7 lignocellulosic or hemicellulosic matter that  
8 is available on a renewable or recurring  
9 basis.

10 For purposes of this subparagraph, the term  
11 ‘United States’ includes any possession of the  
12 United States.

13           “(D) CELLULOSIC ALCOHOL FUEL PRO-  
14 DUCER.—For purposes of this paragraph, the  
15 term ‘cellulosic alcohol fuel producer’ means  
16 any person who produces cellulosic alcohol in a  
17 trade or business and is registered with the  
18 Secretary as a cellulosic alcohol fuel producer.

19           “(E) ADDITIONAL DISTILLATION EX-  
20 CLUDED.—The qualified cellulosic fuel produc-  
21 tion of any producer for any taxable year shall  
22 not include any alcohol which is purchased by  
23 the producer and with respect to which such  
24 producer increases the proof of the alcohol by  
25 additional distillation.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (a) of section 40 is amended by  
3 striking “plus” at the end of paragraph (1), by  
4 striking “plus” at the end of paragraph (2), by  
5 striking the period at the end of paragraph (3) and  
6 inserting “, plus”, and by adding at the end the fol-  
7 lowing new paragraph:

8 “(4) in the case of a cellulosic alcohol fuel pro-  
9 ducer, the cellulosic alcohol fuel producer credit.”.

10 (2) Clause (ii) of section 40(d)(3)(C) is amend-  
11 ed by striking “subsection (b)(4)(B)” and inserting  
12 “paragraph (4)(B) or (5)(B) of subsection (b)”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to alcohol produced after December  
15 31, 2008.

16 **SEC. 244. EXTENSION FOR CREDIT FOR ALTERNATIVE**  
17 **FUELS AND MIXTURES DERIVED FROM COAL**  
18 **(INCLUDING PEAT) THROUGH THE FISCHER-**  
19 **TROPSCH PROCESS.**

20 (a) IN GENERAL.—Subsections (d)(4) and (e)(3) of  
21 section 6426 of the Internal Revenue Code of 1986 (relat-  
22 ing to termination of credits for alternative fuels and mix-  
23 tures) are each amended by inserting “and September 30,  
24 2020, in the case of any sale or use involving any liquid

1 fuel derived from coal (including peat) through the Fisch-  
2 er-Tropsch process” after “hydrogen”.

3 (b) FUELS NOT USED FOR TAXABLE PURPOSES.—

4 (1) IN GENERAL.—Paragraph (5) of section  
5 6427(e) of such Code (relating to termination) is  
6 amended by striking “and” at the end of subpara-  
7 graph (C), by striking the period at the end of sub-  
8 paragraph (D) and inserting “, and”, and by insert-  
9 ing after subparagraph (D) the following new sub-  
10 paragraph:

11 “(E) any alternative fuel or alternative fuel  
12 mixture (as so defined) involving fuel derived  
13 from coal (including peat) through the Fischer-  
14 Tropsch process sold or used after September  
15 30, 2020.”.

16 (2) CONFORMING AMENDMENT.—Section  
17 6427(e)(5)(C) is amended by striking “subpara-  
18 graph (D)” and inserting “subparagraphs (D) and  
19 (E)”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to any sale or use for any period  
22 after September 30, 2009.

1     **PART 3—OTHER CONSERVATION PROVISIONS**

2     **SEC. 251. QUALIFIED ENERGY CONSERVATION BONDS.**

3         (a) IN GENERAL.—Subpart I of part IV of sub-  
4 chapter A of chapter 1, as added by section 104, is amend-  
5 ed by adding at the end the following new section:

6     **“SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.**

7         “(a) QUALIFIED ENERGY CONSERVATION BOND.—  
8 For purposes of this subchapter, the term ‘qualified en-  
9 ergy conservation bond’ means any bond issued as part  
10 of an issue if—

11             “(1) 100 percent of the available project pro-  
12 ceeds of such issue are to be used for one or more  
13 qualified conservation purposes,

14             “(2) the bond is issued by a State or local gov-  
15 ernment, and

16             “(3) the issuer designates such bond for pur-  
17 poses of this section.

18         “(b) LIMITATION ON AMOUNT OF BONDS DES-  
19 IGNATED.—The maximum aggregate face amount of  
20 bonds which may be designated under subsection (a) by  
21 any issuer shall not exceed the limitation amount allocated  
22 to such issuer under subsection (d).

23         “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS  
24 DESIGNATED.—There is a national qualified energy con-  
25 servation bond limitation of \$3,600,000,000.

26         “(d) ALLOCATIONS.—

1           “(1) IN GENERAL.—The limitation applicable  
2 under subsection (c) shall be allocated by the Sec-  
3 retary among the States in proportion to the popu-  
4 lation of the States.

5           “(2) ALLOCATIONS TO LARGEST LOCAL GOV-  
6 ERNMENTS.—

7           “(A) IN GENERAL.—In the case of any  
8 State in which there is a large local govern-  
9 ment, each such local government shall be allo-  
10 cated a portion of such State’s allocation which  
11 bears the same ratio to the State’s allocation  
12 (determined without regard to this subpara-  
13 graph) as the population of such large local  
14 government bears to the population of such  
15 State.

16           “(B) ALLOCATION OF UNUSED LIMITATION  
17 TO STATE.—The amount allocated under this  
18 subsection to a large local government may be  
19 reallocated by such local government to the  
20 State in which such local government is located.

21           “(C) LARGE LOCAL GOVERNMENT.—For  
22 purposes of this section, the term ‘large local  
23 government’ means any municipality or county  
24 if such municipality or county has a population  
25 of 100,000 or more.

1           “(3) ALLOCATION TO ISSUERS; RESTRICTION  
2           ON PRIVATE ACTIVITY BONDS.—Any allocation  
3           under this subsection to a State or large local gov-  
4           ernment shall be allocated by such State or large  
5           local government to issuers within the State in a  
6           manner that results in not less than 70 percent of  
7           the allocation to such State or large local govern-  
8           ment being used to designate bonds which are not  
9           private activity bonds.

10          “(e) QUALIFIED CONSERVATION PURPOSE.—For  
11 purposes of this section—

12           “(1) IN GENERAL.—The term ‘qualified con-  
13           servation purpose’ means any of the following:

14           “(A) Capital expenditures incurred for  
15           purposes of—

16           “(i) reducing energy consumption in  
17           publicly-owned buildings by at least 20  
18           percent,

19           “(ii) implementing green community  
20           programs,

21           “(iii) rural development involving the  
22           production of electricity from renewable  
23           energy resources, or

24           “(iv) any qualified facility (as deter-  
25           mined under section 45(d) without regard

1 to paragraphs (8) and (10) thereof and  
2 without regard to any placed in service  
3 date).

4 “(B) Expenditures with respect to research  
5 facilities, and research grants, to support re-  
6 search in—

7 “(i) development of cellulosic ethanol  
8 or other nonfossil fuels,

9 “(ii) technologies for the capture and  
10 sequestration of carbon dioxide produced  
11 through the use of fossil fuels,

12 “(iii) increasing the efficiency of exist-  
13 ing technologies for producing nonfossil  
14 fuels,

15 “(iv) automobile battery technologies  
16 and other technologies to reduce fossil fuel  
17 consumption in transportation, or

18 “(v) technologies to reduce energy use  
19 in buildings.

20 “(C) Mass commuting facilities and related  
21 facilities that reduce the consumption of energy,  
22 including expenditures to reduce pollution from  
23 vehicles used for mass commuting.

24 “(D) Demonstration projects designed to  
25 promote the commercialization of—



1 “(i) green building technology,

2 “(ii) conversion of agricultural waste  
3 for use in the production of fuel or other-  
4 wise,

5 “(iii) advanced battery manufacturing  
6 technologies,

7 “(iv) technologies to reduce peak use  
8 of electricity, or

9 “(v) technologies for the capture and  
10 sequestration of carbon dioxide emitted  
11 from combusting fossil fuels in order to  
12 produce electricity.

13 “(E) Public education campaigns to pro-  
14 mote energy efficiency.

15 “(2) SPECIAL RULES FOR PRIVATE ACTIVITY  
16 BONDS.—For purposes of this section, in the case of  
17 any private activity bond, the term ‘qualified con-  
18 servation purposes’ shall not include any expenditure  
19 which is not a capital expenditure.

20 “(f) POPULATION.—

21 “(1) IN GENERAL.—The population of any  
22 State or local government shall be determined for  
23 purposes of this section as provided in section 146(j)  
24 for the calendar year which includes the date of the  
25 enactment of this section.

1           “(2) SPECIAL RULE FOR COUNTIES.—In deter-  
2           mining the population of any county for purposes of  
3           this section, any population of such county which is  
4           taken into account in determining the population of  
5           any municipality which is a large local government  
6           shall not be taken into account in determining the  
7           population of such county.

8           “(g) APPLICATION TO INDIAN TRIBAL GOVERN-  
9           MENTS.—An Indian tribal government shall be treated for  
10          purposes of this section in the same manner as a large  
11          local government, except that—

12                 “(1) an Indian tribal government shall be treat-  
13                 ed for purposes of subsection (d) as located within  
14                 a State to the extent of so much of the population  
15                 of such government as resides within such State,  
16                 and

17                 “(2) any bond issued by an Indian tribal gov-  
18                 ernment shall be treated as a qualified energy con-  
19                 servation bond only if issued as part of an issue the  
20                 available project proceeds of which are used for pur-  
21                 poses for which such Indian tribal government could  
22                 issue bonds to which section 103(a) applies.”.

23          (b) CONFORMING AMENDMENTS.—

24                 (1) Paragraph (1) of section 54A(d), as added  
25                 by section 104, is amended to read as follows:

1           “(1) QUALIFIED TAX CREDIT BOND.—The term  
2           ‘qualified tax credit bond’ means—

3                   “(A) a new clean renewable energy bond,  
4                   or

5                   “(B) a qualified energy conservation bond,  
6           which is part of an issue that meets requirements of  
7           paragraphs (2), (3), (4), (5), and (6).”.

8           (2) Subparagraph (C) of section 54A(d)(2), as  
9           added by section 104, is amended to read as follows:

10                   “(C) QUALIFIED PURPOSE.—For purposes  
11           of this paragraph, the term ‘qualified purpose’  
12           means—

13                           “(i) in the case of a new clean renew-  
14                           able energy bond, a purpose specified in  
15                           section 54B(a)(1), and

16                           “(ii) in the case of a qualified energy  
17                           conservation bond, a purpose specified in  
18                           section 54C(a)(1).”.

19           (3) The table of sections for subpart I of part  
20           IV of subchapter A of chapter 1 is amended by add-  
21           ing at the end the following new item:

          “Sec. 54C. Qualified energy conservation bonds.”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23           this section shall apply to obligations issued after the date  
24           of the enactment of this Act.

1 **SEC. 252. EXTENSION AND MODIFICATION OF CREDIT FOR**  
2 **NONBUSINESS ENERGY PROPERTY.**

3 (a) **EXTENSION OF CREDIT.**—Section 25C(g) (relat-  
4 ing to termination) is amended by striking “December 31,  
5 2007” and inserting “December 31, 2009”.

6 (b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

7 (1) **IN GENERAL.**—Section 25C(d)(3) is amend-  
8 ed—

9 (A) by striking “and” at the end of sub-  
10 paragraph (D),

11 (B) by striking the period at the end of  
12 subparagraph (E) and inserting “, and”, and

13 (C) by adding at the end the following new  
14 subparagraph:

15 “(F) a stove which uses the burning of bio-  
16 mass fuel to heat a dwelling unit located in the  
17 United States and used as a residence by the  
18 taxpayer, or to heat water for use in such a  
19 dwelling unit, and which has a thermal effi-  
20 ciency rating of at least 75 percent.”.

21 (2) **BIOMASS FUEL.**—Section 25C(d) (relating  
22 to residential energy property expenditures) is  
23 amended by adding at the end the following new  
24 paragraph:

25 “(6) **BIOMASS FUEL.**—The term ‘biomass fuel’  
26 means any plant-derived fuel available on a renew-

1       able or recurring basis, including agricultural crops  
2       and trees, wood and wood waste and residues (in-  
3       cluding wood pellets), plants (including aquatic  
4       plants), grasses, residues, and fibers.”.

5       (c) COORDINATION WITH CREDIT FOR QUALIFIED  
6 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

7           (1) IN GENERAL.—Paragraph (3) of section  
8       25C(d) is amended by striking subparagraph (C)  
9       and by redesignating subparagraphs (D) and (E) as  
10       subparagraphs (C) and (D), respectively.

11          (2) CONFORMING AMENDMENT.—Subparagraph  
12       (C) of section 25C(d)(2) is amended to read as fol-  
13       lows:

14           “(C) REQUIREMENTS AND STANDARDS  
15       FOR AIR CONDITIONERS AND HEAT PUMPS.—  
16       The standards and requirements prescribed by  
17       the Secretary under subparagraph (B) with re-  
18       spect to the energy efficiency ratio (EER) for  
19       central air conditioners and electric heat  
20       pumps—

21           “(i) shall require measurements to be  
22       based on published data which is tested by  
23       manufacturers at 95 degrees Fahrenheit,  
24       and

1           “(ii) may be based on the certified  
2           data of the Air Conditioning and Refrig-  
3           eration Institute that are prepared in part-  
4           nership with the Consortium for Energy  
5           Efficiency.”.

6           (d) EFFECTIVE DATE.—The amendments made this  
7           section shall apply to expenditures made after December  
8           31, 2007.

9           **SEC. 253. EXTENSION OF ENERGY EFFICIENT COMMERCIAL**  
10           **BUILDINGS DEDUCTION.**

11           Subsection (h) of section 179D (relating to termi-  
12           nation) is amended by striking “December 31, 2008” and  
13           inserting “December 31, 2013”.

14           **SEC. 254. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
15           **ANCE CREDIT FOR APPLIANCES PRODUCED**  
16           **AFTER 2007.**

17           (a) IN GENERAL.—Subsection (b) of section 45M (re-  
18           lating to applicable amount) is amended to read as follows:

19           “(b) APPLICABLE AMOUNT.—For purposes of sub-  
20           section (a)—

21           “(1) DISHWASHERS.—The applicable amount  
22           is—

23           “(A) \$45 in the case of a dishwasher which  
24           is manufactured in calendar year 2008 or 2009

1 and which uses no more than 324 kilowatt  
2 hours per year and 5.8 gallons per cycle, and

3 “(B) \$75 in the case of a dishwasher  
4 which is manufactured in calendar year 2008,  
5 2009, or 2010 and which uses no more than  
6 307 kilowatt hours per year and 5.0 gallons per  
7 cycle (5.5 gallons per cycle for dishwashers de-  
8 signed for greater than 12 place settings).

9 “(2) CLOTHES WASHERS.—The applicable  
10 amount is—

11 “(A) \$75 in the case of a residential top-  
12 loading clothes washer manufactured in cal-  
13 endar year 2008 which meets or exceeds a 1.72  
14 modified energy factor and does not exceed a  
15 8.0 water consumption factor,

16 “(B) \$125 in the case of a residential top-  
17 loading clothes washer manufactured in cal-  
18 endar year 2008 or 2009 which meets or ex-  
19 ceeds a 1.8 modified energy factor and does not  
20 exceed a 7.5 water consumption factor,

21 “(C) \$150 in the case of a residential or  
22 commercial clothes washer manufactured in cal-  
23 endar year 2008, 2009, or 2010 which meets or  
24 exceeds 2.0 modified energy factor and does not  
25 exceed a 6.0 water consumption factor, and

1           “(D) \$250 in the case of a residential or  
2 commercial clothes washer manufactured in cal-  
3 endar year 2008, 2009, or 2010 which meets or  
4 exceeds 2.2 modified energy factor and does not  
5 exceed a 4.5 water consumption factor.

6           “(3) REFRIGERATORS.—The applicable amount  
7 is—

8           “(A) \$50 in the case of a refrigerator  
9 which is manufactured in calendar year 2008,  
10 and consumes at least 20 percent but not more  
11 than 22.9 percent less kilowatt hours per year  
12 than the 2001 energy conservation standards,

13           “(B) \$75 in the case of a refrigerator  
14 which is manufactured in calendar year 2008 or  
15 2009, and consumes at least 23 percent but no  
16 more than 24.9 percent less kilowatt hours per  
17 year than the 2001 energy conservation stand-  
18 ards,

19           “(C) \$100 in the case of a refrigerator  
20 which is manufactured in calendar year 2008,  
21 2009, or 2010, and consumes at least 25 per-  
22 cent but not more than 29.9 percent less kilo-  
23 watt hours per year than the 2001 energy con-  
24 servation standards, and



1           “(D) \$200 in the case of a refrigerator  
2           manufactured in calendar year 2008, 2009, or  
3           2010 and which consumes at least 30 percent  
4           less energy than the 2001 energy conservation  
5           standards.”.

6           (b) ELIGIBLE PRODUCTION.—

7           (1) SIMILAR TREATMENT FOR ALL APPLI-  
8           ANCES.—Subsection (c) of section 45M (relating to  
9           eligible production) is amended—

10           (A) by striking paragraph (2),

11           (B) by striking “(1) IN GENERAL” and all  
12           that follows through “the eligible” and inserting  
13           “The eligible”, and

14           (C) by moving the text of such subsection  
15           in line with the subsection heading and redesign-  
16           ating subparagraphs (A) and (B) as para-  
17           graphs (1) and (2), respectively.

18           (2) MODIFICATION OF BASE PERIOD.—Para-  
19           graph (2) of section 45M(c), as amended by para-  
20           graph (1) of this section, is amended by striking “3-  
21           calendar year” and inserting “2-calendar year”.

22           (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—  
23           Subsection (d) of section 45M (defining types of energy  
24           efficient appliances) is amended to read as follows:

1       “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
2 For purposes of this section, the types of energy efficient  
3 appliances are—

4           “(1) dishwashers described in subsection (b)(1),

5           “(2) clothes washers described in subsection  
6 (b)(2), and

7           “(3) refrigerators described in subsection  
8 (b)(3).”.

9 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

10       (1) INCREASE IN LIMIT.—Paragraph (1) of sec-  
11 tion 45M(e) (relating to aggregate credit amount al-  
12 lowed) is amended to read as follows:

13           “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

14 The aggregate amount of credit allowed under sub-  
15 section (a) with respect to a taxpayer for any tax-  
16 able year shall not exceed \$75,000,000 reduced by  
17 the amount of the credit allowed under subsection  
18 (a) to the taxpayer (or any predecessor) for all prior  
19 taxable years beginning after December 31, 2007.”.

20       (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
21 AND CLOTHES WASHERS.—Paragraph (2) of section  
22 45M(e) is amended to read as follows:

23           “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
24 ERATORS AND CLOTHES WASHERS.—Refrigerators  
25 described in subsection (b)(3)(D) and clothes wash-

1       ers described in subsection (b)(2)(D) shall not be  
2       taken into account under paragraph (1).”.

3       (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

4             (1) IN GENERAL.—Paragraph (1) of section  
5       45M(f) (defining qualified energy efficient appliance)  
6       is amended to read as follows:

7             “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
8       ANCE.—The term ‘qualified energy efficient appli-  
9       ance’ means—

10            “(A) any dishwasher described in sub-  
11       section (b)(1),

12            “(B) any clothes washer described in sub-  
13       section (b)(2), and

14            “(C) any refrigerator described in sub-  
15       section (b)(3).”.

16            (2) CLOTHES WASHER.—Section 45M(f)(3) (de-  
17       fining clothes washer) is amended by inserting  
18       “commercial” before “residential” the second place  
19       it appears.

20            (3) TOP-LOADING CLOTHES WASHER.—Sub-  
21       section (f) of section 45M (relating to definitions) is  
22       amended by redesignating paragraphs (4), (5), (6),  
23       and (7) as paragraphs (5), (6), (7), and (8), respec-  
24       tively, and by inserting after paragraph (3) the fol-  
25       lowing new paragraph:

1           “(4) TOP-LOADING CLOTHES WASHER.—The  
2 term ‘top-loading clothes washer’ means a clothes  
3 washer which has the clothes container compartment  
4 access located on the top of the machine and which  
5 operates on a vertical axis.”

6           (4) REPLACEMENT OF ENERGY FACTOR.—Sec-  
7 tion 45M(f)(6), as redesignated by paragraph (3), is  
8 amended to read as follows:

9           “(6) MODIFIED ENERGY FACTOR.—The term  
10 ‘modified energy factor’ means the modified energy  
11 factor established by the Department of Energy for  
12 compliance with the Federal energy conservation  
13 standard.”

14           (5) GALLONS PER CYCLE; WATER CONSUMP-  
15 TION FACTOR.—Section 45M(f) (relating to defini-  
16 tions), as amended by paragraph (3), is amended by  
17 adding at the end the following:

18           “(9) GALLONS PER CYCLE.—The term ‘gallons  
19 per cycle’ means, with respect to a dishwasher, the  
20 amount of water, expressed in gallons, required to  
21 complete a normal cycle of a dishwasher.

22           “(10) WATER CONSUMPTION FACTOR.—The  
23 term ‘water consumption factor’ means, with respect  
24 to a clothes washer, the quotient of the total weight-

1 ed per-cycle water consumption divided by the cubic  
2 foot (or liter) capacity of the clothes washer.”.

3 (f) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to appliances produced after De-  
5 cember 31, 2007.

6 **SEC. 255. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR**  
7 **DEPRECIATION OF QUALIFIED ENERGY MAN-**  
8 **AGEMENT DEVICES.**

9 (a) IN GENERAL.—Section 168(e)(3)(B) (relating to  
10 5-year property) is amended by striking “and” at the end  
11 of clause (v), by striking the period at the end of clause  
12 (vi) and inserting “, and”, and by inserting after clause  
13 (vi) the following new clause:

14 “(vii) any qualified energy manage-  
15 ment device.”.

16 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-  
17 MENT DEVICE.—Section 168(i) (relating to definitions  
18 and special rules) is amended by inserting at the end the  
19 following new paragraph:

20 “(18) QUALIFIED ENERGY MANAGEMENT DE-  
21 VICE.—

22 “(A) IN GENERAL.—The term ‘qualified  
23 energy management device’ means any energy  
24 management device which is installed on real

1 property of a customer of the taxpayer and is  
2 placed in service by a taxpayer who—

3 “(i) is a supplier of electric energy or  
4 a provider of electric energy services, and

5 “(ii) provides all commercial and resi-  
6 dential customers of such supplier or pro-  
7 vider with net metering upon the request  
8 of such customer.

9 “(B) ENERGY MANAGEMENT DEVICE.—

10 For purposes of subparagraph (A), the term  
11 ‘energy management device’ means any time-  
12 based meter and related communication equip-  
13 ment which is capable of being used by the tax-  
14 payer as part of a system that—

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

19 “(ii) provides for the exchange of in-  
20 formation between supplier or provider and  
21 the customer’s energy management device  
22 in support of time-based rates or other  
23 forms of demand response, and

24 “(iii) provides data to such supplier or  
25 provider so that the supplier or provider

1 can provide energy usage information to  
2 customers electronically.

3 “(C) NET METERING.—For purposes of  
4 subparagraph (A), the term ‘net metering’  
5 means allowing customers a credit for providing  
6 electricity to the supplier or provider.”.

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

10 **SEC. 256. CLARIFICATION OF ELIGIBILITY FOR CERTAIN**  
11 **FUELS CREDITS FOR FUEL WITH INSUFFI-**  
12 **CIENT NEXUS TO THE UNITED STATES.**

13 (a) IN GENERAL.—

14 (1) ALCOHOL CREDIT.—Subsection (d) of sec-  
15 tion 40 is amended by adding at the end the fol-  
16 lowing new paragraph:

17 “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
18 TION TO THE UNITED STATES.—

19 “(A) ALCOHOL CREDIT.—No alcohol credit  
20 shall be determined under this section with re-  
21 spect to any alcohol unless such alcohol is pro-  
22 duced in the United States for consumption in  
23 the United States or entered into the United  
24 States for consumption in the United States.

1           “(B) ALCOHOL MIXTURE CREDIT.—No al-  
2           cohol mixture credit shall be determined under  
3           this section with respect to any mixture unless  
4           such mixture is produced in the United States  
5           for consumption in the United States or entered  
6           into the United States for consumption in the  
7           United States.

8           “(C) NO CREDITS FOR ALCOHOL DES-  
9           TINED FOR EXPORT.—No credit (other than the  
10          small ethanol producer credit) shall be deter-  
11          mined under this section with respect to any  
12          mixture or alcohol if such mixture or alcohol is  
13          destined for export from the United States (as  
14          determined by the Secretary).

15          “(D) SPECIAL RULE FOR SMALL PRO-  
16          DUCER CREDITS.—No small ethanol producer  
17          credit, small cellulosic alcohol producer credit,  
18          or small fossil free alcohol producer credit shall  
19          be determined under this section with respect to  
20          any alcohol unless such alcohol is produced in  
21          the United States.”.

22          (2) BIODIESEL CREDIT.—Subsection (d) of sec-  
23          tion 40A is amended by adding at the end the fol-  
24          lowing new paragraph:



1           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
2           TION TO THE UNITED STATES.—

3           “(A) BIODIESEL CREDIT.—No biodiesel  
4           credit shall be determined under this section  
5           with respect to any biodiesel unless such bio-  
6           diesel is produced in the United States for con-  
7           sumption in the United States or is entered into  
8           the United States for consumption in the  
9           United States.

10          “(B) BIODIESEL MIXTURE CREDIT.—No  
11          biodiesel mixture credit shall be determined  
12          under this section with respect to any mixture  
13          unless such mixture is produced in the United  
14          States for consumption in the United States or  
15          is entered into the United States for consump-  
16          tion in the United States.

17          “(C) NO CREDITS FOR BIODIESEL DES-  
18          TINED FOR EXPORT.—No credit (other than the  
19          small agri-biodiesel producer credit) shall be de-  
20          termined under this section with respect to any  
21          mixture or biodiesel if such mixture or biodiesel  
22          is destined for export from the United States  
23          (as determined by the Secretary).

24          “(D) SPECIAL RULE FOR SMALL AGRI-BIO-  
25          DIESEL PRODUCER CREDIT.—No small agri-bio-

1 diesel producer credit shall be determined under  
2 this section with respect to any agri-biodiesel  
3 unless such agri-biodiesel is produced in the  
4 United States.”.

5 (3) EXCISE TAX CREDITS.—Section 6426 is  
6 amended by adding at the end the following new  
7 subsection:

8 “(h) LIMITATION TO FUELS WITH CONNECTION TO  
9 THE UNITED STATES.—

10 “(1) MIXTURE CREDITS.—No credit shall be  
11 determined under this section with respect to any  
12 mixture unless such mixture is produced in the  
13 United States for consumption in the United States  
14 or is entered into the United States for consumption  
15 in the United States.

16 “(2) ALTERNATIVE FUEL CREDIT.—No alter-  
17 native fuel credit shall be determined under this sec-  
18 tion with respect to any alternative fuel unless such  
19 alternative fuel is produced in the United States for  
20 consumption in the United States or is entered into  
21 the United States for consumption in the United  
22 States.

23 “(3) NO CREDITS FOR FUELS DESTINED FOR  
24 EXPORT.—No credit shall be determined under this  
25 section with respect to any mixture or alternative

1 fuel if such mixture or alternative fuel is destined  
2 for export from the United States (as determined by  
3 the Secretary).”.

4 (4) PAYMENTS.—Subsection (e) of section 6427  
5 is amended by redesignating paragraph (5) as para-  
6 graph (6) and by inserting after paragraph (4) the  
7 following new paragraph:

8 “(5) LIMITATION TO FUELS WITH CONNECTION  
9 TO THE UNITED STATES.—No amount shall be pay-  
10 able under paragraph (1) or (2) with respect to any  
11 mixture or alternative fuel if credit is not allowed  
12 with respect to such mixture or alternative fuel by  
13 reason of section 6426(h).”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to fuel sold or used after the date  
16 of the enactment of this Act.

## 17 **TITLE III—RESEARCH AND** 18 **DEVELOPMENT**

### 19 **SEC. 301. BLENDED FUELS.**

20 The Secretary shall carry out a program of research,  
21 development, and demonstration as it relates to the blend-  
22 ing of transportation fuels derived from coal-to-liquids and  
23 the blending thereof with transportation fuels derived  
24 from renewable sources, including biomass (as defined in

1 section 932 of the Energy Policy Act of 2005). The pro-  
2 gram shall focus on—

3 (1) maximizing the fungibility and supply of  
4 blended transportation fuels;

5 (2) the viability of the blend as a cost competi-  
6 tive replacement for transportation fuels;

7 (3) evaluation of the environmental con-  
8 sequences of the blend on evaporative and exhaust  
9 emissions from on-road and off-road engines;

10 (4) the quality of the resultant blend at varying  
11 concentrations of biofuel; and

12 (5) other areas the Secretary considers appro-  
13 priate.

14 **SEC. 302. CELLULOSIC ETHANOL.**

15 (a) **BIOENERGY RESEARCH CENTERS.**—The Sec-  
16 retary of Energy shall maintain 4 Bioenergy Research  
17 Centers to address scientific problems that are inherently  
18 interdisciplinary and will require scientific expertise and  
19 technological capabilities that span the physical and bio-  
20 logical sciences, including genomics, microbial and plant  
21 biology, analytical chemistry, computational biology and  
22 bioinformatics, and engineering. Universities, national lab-  
23 oratories, nonprofit agencies, and private firms, as well as  
24 consortia comprising of partnerships of two or more such

1 institutions, will be eligible for funding to establish and  
2 operate a Research Center.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated for the Bioenergy Re-  
5 search Centers described in subsection (a) \$25,000,000  
6 for each of the fiscal years 2009 through 2013.

○