

110TH CONGRESS
2D SESSION

H. R. 6566

To bring down energy prices by increasing safe, domestic production, encouraging the development of alternative and renewable energy, and promoting conservation.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2008

Mr. BOEHNER (for himself, Mr. BLUNT, Mr. PUTNAM, Mr. McCOTTER, Ms. GRANGER, Mr. CARTER, Mr. COLE of Oklahoma, Mr. CANTOR, Mr. DREIER, Mr. BARTON of Texas, Mr. ENGLISH of Pennsylvania, Mr. DAVID DAVIS of Tennessee, Mrs. MYRICK, Mrs. MILLER of Michigan, Mr. SESSIONS, Mrs. SCHMIDT, Mrs. CUBIN, Mr. WILSON of South Carolina, Mr. LATTA, Mr. ISSA, Mr. DUNCAN, Mr. ROGERS of Michigan, Mr. NEUGEBAUER, Mr. GINGREY, Mr. BACHUS, Mr. BUYER, Mr. NUNES, Mrs. BLACKBURN, Ms. FALLIN, Mr. WAMP, Mrs. DRAKE, Mr. ROYCE, Mr. RADANOVICH, Mr. CHABOT, Mr. BRADY of Texas, Mr. SCALISE, Mr. ADERHOLT, Mr. WESTMORELAND, Mr. BONNER, Mr. McHUGH, Mr. LINDER, Mrs. McMORRIS RODGERS, Mr. KING of New York, Mr. SHIMKUS, Mr. SMITH of Nebraska, Mr. ROGERS of Kentucky, Mr. SMITH of Texas, Mr. WOLF, Mr. BOUSTANY, Mr. ROHRABACHER, Mr. TIBERI, Mr. ROGERS of Alabama, Ms. FOXX, Mr. CULBERSON, Mr. KUHLMAN of New York, Mr. PICKERING, Mr. GOODE, Mr. GOHMERT, Mr. MARCHANT, Mr. DAVIS of Kentucky, Mr. MCCARTHY of California, Mrs. CAPITO, Mr. CALVERT, Mrs. BACHMANN, Mr. McCAUL of Texas, Mr. SHUSTER, Mr. BISHOP of Utah, Mr. EVERETT, Mr. BURTON of Indiana, Mr. BOOZMAN, Mr. LATOURETTE, Mr. TERRY, Mr. FORTENBERRY, Mr. KING of Iowa, Mr. MANZULLO, Mr. HALL of Texas, Mr. HOEKSTRA, Mr. PLATTS, Mr. JONES of North Carolina, Mr. GRAVES, Mr. LAMBORN, Mr. KLINE of Minnesota, Mr. SALI, and Mr. PENCE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Ways and Means, Energy and Commerce, Armed Services, Oversight and Government Reform, 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

A BILL

To bring down energy prices by increasing safe, domestic production, encouraging the development of alternative and renewable energy, and promoting conservation.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—AMERICAN ENERGY

Subtitle A—OCS

Sec. 101. Short title.

Sec. 102. Policy.

Sec. 103. Definitions under the Submerged Lands Act.

Sec. 104. Seaward boundaries of States.

Sec. 105. Exceptions from confirmation and establishment of States’ title,
 power, and rights.

Sec. 106. Definitions under the Outer Continental Shelf Lands Act.

Sec. 107. Determination of adjacent zones and planning areas.

Sec. 108. Administration of leasing.

Sec. 109. Grant of leases by Secretary.

Sec. 110. Disposition of receipts.

Sec. 111. Reservation of lands and rights.

Sec. 112. Outer Continental Shelf leasing program.

Sec. 113. Coordination with adjacent States.

Sec. 114. Environmental studies.

Sec. 115. Termination of effect of laws prohibiting the spending of appro-
 priated funds for certain purposes.

Sec. 116. Outer Continental Shelf incompatible use.

Sec. 117. Repurchase of certain leases.

Sec. 118. Offsite environmental mitigation.

Sec. 119. OCS regional headquarters.

Sec. 120. Leases for areas located within 100 miles of California or Florida.

Sec. 121. Coastal impact assistance.

Sec. 122. Repeal of the Gulf of Mexico Energy Security Act of 2006.

Subtitle B—ANWR

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

Subtitle C—Oil Shale

- Sec. 161. Repeal.

TITLE II—CONSERVATION AND EFFICIENCY

Subtitle A—Tax Incentives for Fuel Efficiency

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

Subtitle B—Tapping America’s Ingenuity and Creativity

- Sec. 211. Definitions.
- Sec. 212. Statement of policy.
- Sec. 213. Prize authority.
- Sec. 214. Eligibility.
- Sec. 215. Intellectual property.
- Sec. 216. Waiver of liability.
- Sec. 217. Authorization of appropriations.
- Sec. 218. Next generation automobile prize program.
- Sec. 219. Advanced battery manufacturing incentive program.

Subtitle C—Home and Business Tax Incentives

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

Subtitle D—Refinery Permit Process Schedule

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

TITLE III—NEW AND EXPANDING TECHNOLOGIES

Subtitle A—Alternative Fuels

Sec. 301. Repeal.

Sec. 302. Government auction of long term put option contracts on coal-to-liquid fuel produced by qualified coal-to-liquid facilities.

Sec. 303. Standby loans for qualifying coal-to-liquids projects.

Subtitle B—Tax Provisions

Sec. 311. Extension of renewable electricity, refined coal, and Indian coal production credit.

Sec. 312. Extension of energy credit.

Sec. 313. Extension and modification of credit for clean renewable energy bonds.

Sec. 314. Extension of credits for biodiesel and renewable diesel.

Subtitle C—Nuclear

Sec. 321. Use of funds for recycling.

Sec. 322. Rulemaking for licensing of spent nuclear fuel recycling facilities.

Sec. 323. Nuclear waste fund budget status.

Sec. 324. Waste Confidence.

Sec. 325. ASME Nuclear Certification credit.

Subtitle D—American Renewable and Alternative Energy Trust Fund

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

1 **TITLE I—AMERICAN ENERGY**2 **Subtitle A—OCS**3 **SEC. 101. SHORT TITLE.**

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

6 **SEC. 102. POLICY.**

7 It is the policy of the United States that—

8 (1) the United States is blessed with abundant
9 energy resources on the outer Continental Shelf and
10 has developed a comprehensive framework of envi-
11 ronmental laws and regulations and fostered the de-
12 velopment of state-of-the-art technology that allows

1 for the responsible development of these resources
2 for the benefit of its citizenry;

3 (2) Adjacent States are required by the cir-
4 cumstances to commit significant resources in sup-
5 port of exploration, development, and production ac-
6 tivities for mineral resources on the outer Conti-
7 nental Shelf, and it is fair and proper for a portion
8 of the receipts from such activities to be shared with
9 Adjacent States and their local coastal governments;

10 (3) the existing laws governing the leasing and
11 production of the mineral resources of the outer
12 Continental Shelf have reduced the production of
13 mineral resources, have preempted Adjacent States
14 from being sufficiently involved in the decisions re-
15 garding the allowance of mineral resource develop-
16 ment, and have been harmful to the national inter-
17 est;

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

22 (5) it is not reasonably foreseeable that explo-
23 ration of a leased tract located more than 25 miles
24 seaward of the coastline, development and produc-
25 tion of a natural gas discovery located more than 25

1 miles seaward of the coastline, or development and
2 production of an oil discovery located more than 50
3 miles seaward of the coastline will adversely affect
4 resources near the coastline;

5 (6) transportation of oil from a leased tract
6 might reasonably be foreseen, under limited cir-
7 cumstances, to have the potential to adversely affect
8 resources near the coastline if the oil is within 50
9 miles of the coastline, but such potential to adversely
10 affect such resources is likely no greater, and prob-
11 ably less, than the potential impacts from tanker
12 transportation because tanker spills usually involve
13 large releases of oil over a brief period of time; and

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

22 **SEC. 103. DEFINITIONS UNDER THE SUBMERGED LANDS**
23 **ACT.**

24 Section 2 of the Submerged Lands Act (43 U.S.C.
25 1301) is amended—

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

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

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

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

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

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

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

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

22 (2) by striking all after the first sentence and inserting the following: “Extension and delineation of lateral offshore State boundaries under the provisions of this Act shall follow the lines used to deter-

1 mine the Adjacent Zones of coastal States under the
 2 Outer Continental Shelf Lands Act to the extent
 3 such lines extend twelve nautical miles for the near-
 4 est coastline.”

5 **SEC. 105. EXCEPTIONS FROM CONFIRMATION AND ESTAB-**
 6 **LISHMENT OF STATES’ TITLE, POWER, AND**
 7 **RIGHTS.**

8 Section 5 of the Submerged Lands Act (43 U.S.C.
 9 1313) is amended—

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

12 (2) by inserting “(a)” before “There is ex-
 13 cepted”; and

14 (3) by inserting at the end the following:

15 “(b) EXCEPTION OF OIL AND GAS MINERAL
 16 RIGHTS.—There is excepted from the operation of sections
 17 3 and 4 all of the oil and gas mineral rights for lands
 18 beneath the navigable waters that are located within the
 19 expanded offshore State seaward boundaries established
 20 under this Act. These oil and gas mineral rights shall re-
 21 main Federal property and shall be considered to be part
 22 of the Federal outer Continental Shelf for purposes of the
 23 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
 24 seq.) and subject to leasing under the authority of that
 25 Act and to laws applicable to the leasing of the oil and

1 gas resources of the Federal outer Continental Shelf. All
 2 existing Federal oil and gas leases within the expanded
 3 offshore State seaward boundaries shall continue un-
 4 changed by the provisions of this Act, except as otherwise
 5 provided herein. However, a State may exercise all of its
 6 sovereign powers of taxation within the entire extent of
 7 its expanded offshore State boundaries.”.

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

10 Section 2 of the Outer Continental Shelf Lands Act
 11 (43 U.S.C. 1331) is amended—

12 (1) by amending paragraph (f) to read as fol-
 13 lows:

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

16 (2) by striking the semicolon at the end of each
 17 of paragraphs (a) through (o) and inserting a pe-
 18 riod;

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

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

22 “(r) The term ‘Adjacent State’ means, with respect
 23 to any program, plan, lease sale, leased tract or other ac-
 24 tivity, proposed, conducted, or approved pursuant to the
 25 provisions of this Act, any State the laws of which are

1 declared, pursuant to section 4(a)(2), to be the law of the
2 United States for the portion of the outer Continental
3 Shelf on which such program, plan, lease sale, leased tract
4 or activity appertains or is, or is proposed to be, con-
5 ducted. For purposes of this paragraph, the term ‘State’
6 includes the Commonwealth of Puerto Rico, the Common-
7 wealth of the Northern Mariana Islands, the Virgin Is-
8 lands, American Samoa, Guam, and the other Territories
9 of the United States.

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

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

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

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

24 (5) in paragraph (a), by inserting after “con-
25 trol” the following: “or lying within the United

1 States exclusive economic zone adjacent to the Terri-
2 tories of the United States”.

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

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

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

21 Section 5 of the Outer Continental Shelf Lands Act
22 (43 U.S.C. 1334) is amended by adding at the end the
23 following:

24 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A
25 LEASE.—Any lessee of a producing lease may relinquish

1 to the Secretary any portion of a lease that the lessee has
2 no interest in producing and that the Secretary finds is
3 geologically prospective. In return for any such relinquish-
4 ment, the Secretary shall provide to the lessee a royalty
5 incentive for the portion of the lease retained by the lessee,
6 in accordance with regulations promulgated by the Sec-
7 retary to carry out this subsection. The Secretary shall
8 publish final regulations implementing this subsection
9 within 365 days after the date of the enactment of the
10 Deep Ocean Energy Resources Act of 2008.

11 “(1) NATURAL GAS LEASE REGULATIONS.—Not later
12 than July 1, 2010, the Secretary shall publish a final regu-
13 lation that shall—

14 “(1) establish procedures for entering into nat-
15 ural gas leases;

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

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

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

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

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

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

16 Section 8 of the Outer Continental Shelf Lands Act
17 (43 U.S.C. 1337) is amended—

18 (1) in subsection (a)(1) by inserting after the
19 first sentence the following: “Further, the Secretary
20 may grant natural gas leases in a manner similar to
21 the granting of oil and gas leases and under the var-
22 ious bidding systems available for oil and gas
23 leases.”;

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

1 “The Secretary may issue more than one lease for
2 a given tract if each lease applies to a separate and dis-
3 tinct range of vertical depths, horizontal surface area, or
4 a combination of the two. The Secretary may issue regula-
5 tions that the Secretary determines are necessary to man-
6 age such leases consistent with the purposes of this Act.”;

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

9 “(B) The Secretary shall provide for the
10 payment to coastal States, and their local coast-
11 al governments, of 75 percent of Federal re-
12 cepts from projects authorized under this sec-
13 tion located partially or completely within the
14 area extending seaward of State submerged
15 lands out to 4 marine leagues from the coast-
16 line, and the payment to coastal States of 50
17 percent of the receipts from projects completely
18 located in the area more than 4 marine leagues
19 from the coastline. Payments shall be based on
20 a formula established by the Secretary by rule-
21 making no later than 180 days after the date
22 of the enactment of the Deep Ocean Energy
23 Resources Act of 2008 that provides for equi-
24 table distribution, based on proximity to the
25 project, among coastal States that have coast-

1 line that is located within 200 miles of the geo-
2 graphic center of the project.”.

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

4 “(q) NATURAL GAS LEASES.—

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

13 “(2) CRUDE OIL.—A lessee of a natural gas
14 lease may not produce crude oil from the lease un-
15 less the Governor of the Adjacent State agrees to
16 such production.

17 “(3) ESTIMATES OF BTU CONTENT.—The Sec-
18 retary shall make estimates of the natural gas Btu
19 content of discovered fields on a natural gas lease
20 only after the completion of at least one exploration
21 well, the data from which has been tied to the re-
22 sults of a three-dimensional seismic survey of the
23 field. The Secretary may not require the lessee to
24 further delineate any discovered field prior to mak-
25 ing such estimates.

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

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

19 “(s) ROYALTY SUSPENSION PROVISIONS.—After the
20 date of the enactment of the Deep Ocean Energy Re-
21 sources Act of 2008, price thresholds shall apply to any
22 royalty suspension volumes granted by the Secretary. Un-
23 less otherwise set by Secretary by regulation or for a par-
24 ticular lease sale, the price thresholds shall be \$40.50 for

1 oil (January 1, 2006 dollars) and \$6.75 for natural gas
2 (January 1, 2006 dollars).

3 “(t) CONSERVATION OF RESOURCES FEES.—Not
4 later than one year after the date of the enactment of the
5 Deep Ocean Energy Resources Act of 2008, the Secretary
6 by regulation shall establish a conservation of resources
7 fee for nonproducing leases that will apply to new and ex-
8 isting leases which shall be set at \$3.75 per acre per year.
9 This fee shall apply from and after October 1, 2008, and
10 shall be treated as offsetting receipts.”;

11 (5) by striking subsection (a)(3)(A) and redес-
12 ignating the subsequent subparagraphs as subpara-
13 graphs (A) and (B), respectively;

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

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

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

22 (B) by striking the last sentence of para-
23 graph (3); and

24 (C) by striking “(3)”.

1 **SEC. 110. DISPOSITION OF RECEIPTS.**

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

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

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

9 (3) by adding the following:

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

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

16 “(2) PHASED-IN RECEIPTS SHARING.—

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

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

1 “(ii) Lease tracts in production prior
2 to October 1, 2008, completely beyond 4
3 marine leagues from any coastline and
4 completely within 100 miles of any coast-
5 line located on portions of the OCS that
6 were not available for leasing under the
7 2002–2007 5-Year OCS Oil and Gas Leas-
8 ing Program.

9 “(iii) Lease tracts for which leases are
10 issued prior to October 1, 2008, located in
11 the Alaska OCS Region completely beyond
12 4 marine leagues from any coastline and
13 completely within 100 miles of the coast-
14 line.

15 “(B) The Secretary shall share the fol-
16 lowing percentages of OCS Receipts from the
17 leases described in subparagraph (A) derived
18 during the fiscal year indicated:

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

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

21 “(iii) For fiscal year 2011, 11 per-
22 cent.

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

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

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

1 “(vii) For fiscal year 2015, 23 per-
2 cent.

3 “(viii) For fiscal year 2016, 26 per-
4 cent.

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

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

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

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

10 “(C) The provisions of this paragraph shall
11 not apply to leases that could not have been
12 issued but for section 5(k) of this Act or section
13 6(2) of the Deep Ocean Energy Resources Act
14 of 2008.

15 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
16 ning October 1, 2008, the Secretary shall share
17 37.50 percent of OCS Receipts derived from all
18 leases located completely beyond 4 marine leagues
19 from any coastline and completely within 100 miles
20 of any coastline not included within the provisions of
21 paragraph (2), and 90 percent of the balance of
22 such OCS Receipts shall be deposited into the Amer-
23 ican Renewable and Alternative Energy Trust Fund
24 established by section 331 of the American Energy
25 Act.

1 “(4) RECEIPTS SHARING FROM TRACTS WITHIN
2 4 MARINE LEAGUES OF ANY COASTLINE.—

3 “(A) AREAS DESCRIBED IN PARAGRAPH
4 (2).—Beginning October 1, 2008, and con-
5 tinuing through September 30, 2010, the Sec-
6 retary shall share 25 percent of OCS Receipts
7 derived from all leases located within 4 marine
8 leagues from any coastline within areas de-
9 scribed in paragraph (2). For each fiscal year
10 after September 30, 2010, the Secretary shall
11 increase the percent shared in 5 percent incre-
12 ments each fiscal year until the sharing rate for
13 all leases located within 4 marine leagues from
14 any coastline within areas described in para-
15 graph (2) becomes 75 percent.

16 “(B) AREAS NOT DESCRIBED IN PARA-
17 GRAPH (2).—Beginning October 1, 2008, the
18 Secretary shall share 75 percent of OCS re-
19 ceipts derived from all leases located completely
20 or partially within 4 marine leagues from any
21 coastline within areas not described paragraph
22 (2).

23 “(5) ALLOCATIONS.—The Secretary shall allo-
24 cate the OCS Receipts deposited into the separate

1 account established by paragraph (1) that are
2 shared under paragraphs (2), (3), and (4) as follows:

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

7 “(B) ROYALTIES.—Deposits derived from
8 royalties from a leased tract, including interest
9 thereon, shall be allocated at the end of each
10 fiscal year to the Adjacent State and any other
11 producing State or States with a leased tract
12 within its Adjacent Zone within 100 miles of its
13 coastline that generated royalties during the fis-
14 cal year, if the other producing or States have
15 a coastline point within 300 miles of any por-
16 tion of the leased tract, in which case the
17 amount allocated for the leased tract shall be—

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

19 and

20 “(ii) two-thirds to each producing
21 State, including the Adjacent State, in-
22 versely proportional to the distance be-
23 tween the nearest point on the coastline of
24 the producing State and the geographic
25 center of the leased tract.

1 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS
2 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE
3 COASTLINE.—

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

8 “(2) PHASED-IN RECEIPTS SHARING.—

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

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

18 “(ii) Lease tracts in production prior
19 to October 1, 2008, partially or completely
20 beyond 100 miles of any coastline located
21 on portions of the OCS that were not
22 available for leasing under the 2002–2007
23 5-Year OCS Oil and Gas Leasing Pro-
24 gram.

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

5 “(B) The Secretary shall share the fol-
6 lowing percentages of OCS Receipts from the
7 leases described in subparagraph (A) derived
8 during the fiscal year indicated:

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

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

11 “(iii) For fiscal year 2011, 11 per-
12 cent.

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

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

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

16 “(vii) For fiscal year 2015, 23 per-
17 cent.

18 “(viii) For fiscal year 2016, 26 per-
19 cent.

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

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

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

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

1 “(C) The provisions of this paragraph shall
2 not apply to leases that could not have been
3 issued but for section 5(k) of this Act or section
4 106(2) of the Deep Ocean Energy Resources
5 Act of 2008.

6 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
7 ning October 1, 2008, the Secretary shall share 37.5
8 percent of OCS Receipts derived on and after Octo-
9 ber 1, 2008, from all leases located partially or com-
10 pletely beyond 100 miles of any coastline not in-
11 cluded within the provisions of paragraph (2), except
12 that the Secretary shall only share 25 percent of
13 such OCS Receipts derived from all such leases
14 within a State’s Adjacent Zone if no leasing is al-
15 lowed within any portion of that State’s Adjacent
16 Zone located completely within 100 miles of any
17 coastline.

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

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

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

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

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

21 “(d) TRANSMISSION OF ALLOCATIONS.—

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

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

5 “(B) to each coastal county-equivalent and
6 municipal political subdivisions of such State a
7 total of 40 percent of such State’s allocations
8 under subsections (b)(5)(A), (b)(5)(B),
9 (c)(4)(A), and (c)(4)(B), together with all ac-
10 crued interest thereon; and

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

14 “(2) ALLOCATIONS TO COASTAL COUNTY-
15 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
16 retary shall make an initial allocation of the OCS
17 Receipts to be shared under paragraph (1)(B) as fol-
18 lows:

19 “(A) 25 percent shall be allocated to coast-
20 al county-equivalent political subdivisions that
21 are completely more than 25 miles landward of
22 the coastline and at least a part of which lies
23 not more than 75 miles landward from the
24 coastline, with the allocation among such coast-

1 al county-equivalent political subdivisions based
2 on population.

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

9 “(i) 25 percent shall be allocated
10 based on the ratio of such coastal county-
11 equivalent political subdivision’s population
12 to the coastal population of all coastal
13 county-equivalent political subdivisions in
14 the State.

15 “(ii) 25 percent shall be allocated
16 based on the ratio of such coastal county-
17 equivalent political subdivision’s coastline
18 miles to the coastline miles of all coastal
19 county-equivalent political subdivisions in
20 the State as calculated by the Secretary.
21 In such calculations, coastal county-equa-
22 lent political subdivisions without a coast-
23 line shall be considered to have 50 percent
24 of the average coastline miles of the coast-

1 al county-equivalent political subdivisions
2 that do have coastlines.

3 “(iii) 25 percent shall be allocated to
4 all coastal county-equivalent political sub-
5 divisions having a coastline point within
6 300 miles of the leased tract for which
7 OCS Receipts are being shared based on a
8 formula that allocates the funds based on
9 such coastal county-equivalent political
10 subdivision’s relative distance from the
11 leased tract.

12 “(iv) 25 percent shall be allocated to
13 all coastal county-equivalent political sub-
14 divisions having a coastline point within
15 300 miles of the leased tract for which
16 OCS Receipts are being shared based on
17 the relative level of outer Continental Shelf
18 oil and gas activities in a coastal political
19 subdivision compared to the level of outer
20 Continental Shelf activities in all coastal
21 political subdivisions in the State. The Sec-
22 retary shall define the term ‘outer Conti-
23 nental Shelf oil and gas activities’ for pur-
24 poses of this subparagraph to include, but
25 not be limited to, construction of vessels,

1 drillships, and platforms involved in explo-
2 ration, production, and development on the
3 outer Continental Shelf; support and sup-
4 ply bases, ports, and related activities; of-
5 fices of geologists, geophysicists, engineers,
6 and other professionals involved in support
7 of exploration, production, and develop-
8 ment of oil and gas on the outer Conti-
9 nental Shelf; pipelines and other means of
10 transporting oil and gas production from
11 the outer Continental Shelf; and processing
12 and refining of oil and gas production from
13 the outer Continental Shelf. For purposes
14 of this subparagraph, if a coastal county-
15 equivalent political subdivision does not
16 have a coastline, its coastal point shall be
17 the point on the coastline closest to it.

18 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
19 LITICAL SUBDIVISIONS.—The initial allocation to
20 each coastal county-equivalent political subdivision
21 under paragraph (2) shall be further allocated to the
22 coastal county-equivalent political subdivision and
23 any coastal municipal political subdivisions located
24 partially or wholly within the boundaries of the

1 coastal county-equivalent political subdivision as fol-
2 lows:

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

5 “(B) Two-thirds shall be allocated on a per
6 capita basis to the municipal political subdivi-
7 sions and the county-equivalent political sub-
8 division, with the allocation to the latter based
9 upon its population not included within the
10 boundaries of a municipal political subdivision.

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

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

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

24 “(2) To make transportation infrastructure im-
25 provements.

1 “(3) To reduce taxes.

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

3 “(A) coastal or environmental restoration;

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

6 “(C) waterways construction and mainte-
7 nance;

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

10 “(E) marine and oceanographic education
11 and research.

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

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

16 “(B) energy demonstration projects;

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

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

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

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

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

5 “(H) energy efficiency and conservation
6 programs; and

7 “(I) front-end engineering and design for
8 facilities that produce liquid fuels from hydro-
9 carbons and other biological matter.

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

11 “(A) historic preservation programs and
12 projects;

13 “(B) natural disaster planning and re-
14 sponse; and

15 “(C) hurricane and natural disaster insur-
16 ance programs.

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

19 “(g) NO ACCOUNTING REQUIRED.—No recipient of
20 funds under this section shall be required to account to
21 the Federal Government for the expenditure of such
22 funds, except as otherwise may be required by law. How-
23 ever, States may enact legislation providing for accounting
24 for and auditing of such expenditures. Further, funds allo-
25 cated under this section to States and political subdivi-

1 sions may be used as matching funds for other Federal
2 programs.

3 “(h) EFFECT OF FUTURE LAWS.—Enactment of any
4 future Federal statute that has the effect, as determined
5 by the Secretary, of restricting any Federal agency from
6 spending appropriated funds, or otherwise preventing it
7 from fulfilling its pre-existing responsibilities as of the
8 date of enactment of the statute, unless such responsibil-
9 ities have been reassigned to another Federal agency by
10 the statute with no prevention of performance, to issue
11 any permit or other approval impacting on the OCS oil
12 and gas leasing program, or any lease issued thereunder,
13 or to implement any provision of this Act shall automati-
14 cally prohibit any sharing of OCS Receipts under this sec-
15 tion directly with the States, and their coastal political
16 subdivisions, for the duration of the restriction. The Sec-
17 retary shall make the determination of the existence of
18 such restricting effects within 30 days of a petition by any
19 outer Continental Shelf lessee or producing State.

20 “(i) DEFINITIONS.—In this section:

21 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
22 SUBDIVISION.—The term ‘coastal county-equivalent
23 political subdivision’ means a political jurisdiction
24 immediately below the level of State government, in-
25 cluding a county, parish, borough in Alaska, inde-

1 pendent municipality not part of a county, parish, or
2 borough in Alaska, or other equivalent subdivision of
3 a coastal State, that lies within the coastal zone.

4 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
5 SION.—The term ‘coastal municipal political subdivi-
6 sion’ means a municipality located within and part
7 of a county, parish, borough in Alaska, or other
8 equivalent subdivision of a State, all or part of which
9 coastal municipal political subdivision lies within the
10 coastal zone.

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

15 “(4) COASTAL ZONE.—The term ‘coastal zone’
16 means that portion of a coastal State, including the
17 entire territory of any coastal county-equivalent po-
18 litical subdivision at least a part of which lies, within
19 75 miles landward from the coastline, or a greater
20 distance as determined by State law enacted to im-
21 plement this section.

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

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

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

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

13 **SEC. 111. RESERVATION OF LANDS AND RIGHTS.**

14 Section 12 of the Outer Continental Shelf Lands Act
 15 (43 U.S.C. 1341) is amended—

16 (1) in subsection (a) by adding at the end the
 17 following: “The President may partially or com-
 18 pletely revise or revoke any prior withdrawal made
 19 by the President under the authority of this section.
 20 The President may not revise or revoke a withdrawal
 21 that is extended by a State under subsection (h), nor
 22 may the President withdraw from leasing any area
 23 for which a State failed to prohibit, or petition to
 24 prohibit, leasing under subsection (g). Further, in
 25 the area of the outer Continental Shelf more than

1 100 miles from any coastline, not more than 25 per-
 2 cent of the acreage of any OCS Planning Area may
 3 be withdrawn from leasing under this section at any
 4 point in time. A withdrawal by the President may be
 5 for a term not to exceed 10 years. When considering
 6 potential uses of the outer Continental Shelf, to the
 7 maximum extent possible, the President shall accom-
 8 modate competing interests and potential uses.”;

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

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

12 “(1) PROHIBITION AGAINST LEASING.—

13 “(A) UNAVAILABLE FOR LEASING WITH-
 14 OUT STATE REQUEST.—Except as otherwise
 15 provided in this subsection, from and after en-
 16 actment of the Deep Ocean Energy Resources
 17 Act of 2008, the Secretary shall not offer for
 18 leasing for oil and gas, or natural gas, any area
 19 within 50 miles of the coastline that was with-
 20 drawn from disposition by leasing in the Atlan-
 21 tic OCS Region or the Pacific OCS Region, or
 22 the Gulf of Mexico OCS Region Eastern Plan-
 23 ning Area, as depicted on the maps referred to
 24 in this subparagraph, under the ‘Memorandum
 25 on Withdrawal of Certain Areas of the United

1 States Outer Continental Shelf from Leasing
2 Disposition’, 34 Weekly Comp. Pres. Doc.
3 1111, dated June 12, 1998, or any area within
4 50 miles of the coastline not withdrawn under
5 that Memorandum that is included within the
6 Gulf of Mexico OCS Region Eastern Planning
7 Area as indicated on the map entitled ‘Gulf of
8 Mexico OCS Region State Adjacent Zones and
9 OCS Planning Areas’ or the Florida Straits
10 Planning Area as indicated on the map entitled
11 ‘Atlantic OCS Region State Adjacent Zones and
12 OCS Planning Areas’, both of which are dated
13 September 2005 and on file in the Office of the
14 Director, Minerals Management Service.

15 “(B) AREAS BETWEEN 50 AND 100 MILES
16 FROM THE COASTLINE.—Unless an Adjacent
17 State petitions under subsection (h) within one
18 year after the date of the enactment of the
19 Deep Ocean Energy Resources Act of 2008 for
20 natural gas leasing or by June 30, 2010, for oil
21 and gas leasing, the Secretary shall offer for
22 leasing any area more than 50 miles but less
23 than 100 miles from the coastline that was
24 withdrawn from disposition by leasing in the
25 Atlantic OCS Region, the Pacific OCS Region,

1 or the Gulf of Mexico OCS Region Eastern
2 Planning Area, as depicted on the maps re-
3 ferred to in this subparagraph, under the
4 ‘Memorandum on Withdrawal of Certain Areas
5 of the United States Outer Continental Shelf
6 from Leasing Disposition’, 34 Weekly Comp.
7 Pres. Doc. 1111, dated June 12, 1998, or any
8 area more than 50 miles but less than 100
9 miles of the coastline not withdrawn under that
10 Memorandum that is included within the Gulf
11 of Mexico OCS Region Eastern Planning Area
12 as indicated on the map entitled ‘Gulf of Mexico
13 OCS Region State Adjacent Zones and OCS
14 Planning Areas’ or within the Florida Straits
15 Planning Area as indicated on the map entitled
16 ‘Atlantic OCS Region State Adjacent Zones and
17 OCS Planning Areas’, both of which are dated
18 September 2005 and on file in the Office of the
19 Director, Minerals Management Service.

20 “(2) PETITION FOR LEASING.—

21 “(A) IN GENERAL.—The Governor of the
22 State, upon concurrence of its legislature, may
23 submit to the Secretary a petition requesting
24 that the Secretary make available any area that
25 is within the State’s Adjacent Zone, included

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

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

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

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

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

14 “(iv) limiting some tracts to being
15 produced from shore or from platforms lo-
16 cated on other tracts; or

17 “(v) other conditions that the Adja-
18 cent State may deem appropriate as long
19 as the Secretary does not determine that
20 production is made economically or tech-
21 nically impracticable or otherwise impos-
22 sible.

23 “(C) ACTION BY SECRETARY.—Not later
24 than 90 days after receipt of a petition under
25 subparagraph (A), the Secretary shall approve

1 the petition, unless the Secretary determines
2 that leasing the area would probably cause seri-
3 ous harm or damage to the marine resources of
4 the State's Adjacent Zone. Prior to approving
5 the petition, the Secretary shall complete an en-
6 vironmental assessment that documents the an-
7 ticipated environmental effects of leasing in the
8 area included within the scope of the petition.

9 “(D) FAILURE TO ACT.—If the Secretary
10 fails to approve or deny a petition in accordance
11 with subparagraph (C) the petition shall be con-
12 sidered to be approved 90 days after receipt of
13 the petition.

14 “(E) AMENDMENT OF THE 5-YEAR LEAS-
15 ING PROGRAM.—Notwithstanding section 18,
16 within 180 days of the approval of a petition
17 under subparagraph (C) or (D), after the expi-
18 ration of the time limits in paragraph (1)(B),
19 the Secretary shall amend the current 5-Year
20 Outer Continental Shelf Oil and Gas Leasing
21 Program to include a lease sale or sales for at
22 least 75 percent of the associated areas, unless
23 there are, from the date of approval, expiration
24 of such time limits, as applicable, fewer than 12
25 months remaining in the current 5-Year Leas-

1 ing Program in which case the Secretary shall
2 include the associated areas within lease sales
3 under the next 5-Year Leasing Program. For
4 purposes of amending the 5-Year Program in
5 accordance with this section, further consulta-
6 tions with States shall not be required. For
7 purposes of this section, an environmental as-
8 sessment performed under the provisions of the
9 National Environmental Policy Act of 1969 to
10 assess the effects of approving the petition shall
11 be sufficient to amend the 5-Year Leasing Pro-
12 gram.

13 “(h) OPTION TO EXTEND WITHDRAWAL FROM
14 LEASING WITHIN CERTAIN AREAS OF THE OUTER CON-
15 TINENTAL SHELF.—A State, through its Governor and
16 upon the concurrence of its legislature, may extend for a
17 period of time of up to 5 years for each extension the with-
18 drawal from leasing for all or part of any area within the
19 State’s Adjacent Zone located more than 50 miles, but less
20 than 100 miles, from the coastline that is subject to sub-
21 section (g)(1)(B). A State may extend multiple times for
22 any particular area but not more than once per calendar
23 year for any particular area. A State must prepare sepa-
24 rate extensions, with separate votes by its legislature, for
25 oil and gas leasing and for natural gas leasing. An exten-

1 sion by a State may affect some areas to be withdrawn
 2 from all leasing and some areas to be withdrawn only from
 3 one type of leasing.

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

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

20 “(1) Notwithstanding any other provision of
 21 law, from and after the enactment of the Deep
 22 Ocean Energy Resources Act of 2008, prior to Janu-
 23 ary 1, 2022, no area of the outer Continental Shelf
 24 located in the Gulf of Mexico east of the military
 25 mission line may be offered for leasing for oil and

1 gas or natural gas unless a waiver is issued by the
2 Secretary of Defense. If such a waiver is granted,
3 62.5 percent of the OCS Receipts from a lease with-
4 in such area issued because of such waiver shall be
5 paid annually to the National Guards of all States
6 having a point within 1000 miles of such a lease, al-
7 located among the States on a per capita basis using
8 the entire population of such States.

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

14 **SEC. 112. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

15 Section 18 of the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1344) is amended—

17 (1) in subsection (a), by adding at the end of
18 paragraph (3) the following: “The Secretary shall, in
19 each 5-Year Program, include lease sales that when
20 viewed as a whole propose to offer for oil and gas
21 or natural gas leasing at least 75 percent of the
22 available unleased acreage within each OCS Plan-
23 ning Area. Available unleased acreage is that portion
24 of the outer Continental Shelf that is not under
25 lease at the time of the proposed lease sale, and has

1 not otherwise been made unavailable for leasing by
2 law.”;

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

5 “(c)(1) During the preparation of any proposed leas-
6 ing program under this section, the Secretary shall con-
7 sider and analyze leasing throughout the entire outer Con-
8 tinental Shelf without regard to any other law affecting
9 such leasing. During this preparation the Secretary shall
10 invite and consider suggestions from any interested Fed-
11 eral agency, including the Attorney General, in consulta-
12 tion with the Federal Trade Commission, and from the
13 Governor of any coastal State. The Secretary may also in-
14 vite or consider any suggestions from the executive of any
15 local government in a coastal State that have been pre-
16 viously submitted to the Governor of such State, and from
17 any other person. Further, the Secretary shall consult
18 with the Secretary of Defense regarding military oper-
19 ational needs in the outer Continental Shelf. The Sec-
20 retary shall work with the Secretary of Defense to resolve
21 any conflicts that might arise regarding offering any area
22 of the outer Continental Shelf for oil and gas or natural
23 gas leasing. If the Secretaries are not able to resolve all
24 such conflicts, any unresolved issues shall be elevated to
25 the President for resolution.

1 “(2) After the consideration and analysis required by
2 paragraph (1), including the consideration of the sugges-
3 tions received from any interested Federal agency, the
4 Federal Trade Commission, the Governor of any coastal
5 State, any local government of a coastal State, and any
6 other person, the Secretary shall publish in the Federal
7 Register a proposed leasing program accompanied by a
8 draft environmental impact statement prepared pursuant
9 to the National Environmental Policy Act of 1969. After
10 the publishing of the proposed leasing program and during
11 the comment period provided for on the draft environ-
12 mental impact statement, the Secretary shall submit a
13 copy of the proposed program to the Governor of each af-
14 fected State for review and comment. The Governor may
15 solicit comments from those executives of local govern-
16 ments in the Governor’s State that the Governor, in the
17 discretion of the Governor, determines will be affected by
18 the proposed program. If any comment by such Governor
19 is received by the Secretary at least 15 days prior to sub-
20 mission to the Congress pursuant to paragraph (3) and
21 includes a request for any modification of such proposed
22 program, the Secretary shall reply in writing, granting or
23 denying such request in whole or in part, or granting such
24 request in such modified form as the Secretary considers
25 appropriate, and stating the Secretary’s reasons therefor.

1 All such correspondence between the Secretary and the
2 Governor of any affected State, together with any addi-
3 tional information and data relating thereto, shall accom-
4 pany such proposed program when it is submitted to the
5 Congress.”; and

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

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

14 “(1) provide to each Adjacent State a current
15 estimate of proven and potential oil and gas re-
16 sources located within the State’s Adjacent Zone;
17 and

18 “(2) provide to each Adjacent State, and coast-
19 al political subdivisions thereof, a best-efforts projec-
20 tion of the OCS Receipts that the Secretary expects
21 will be shared with each Adjacent State, and its
22 coastal political subdivisions, using the assumption
23 that the unleased tracts within the State’s Adjacent
24 Zone are fully made available for leasing, including
25 long-term projected OCS Receipts. In addition, the

1 Secretary shall include a macroeconomic estimate of
2 the impact of such leasing on the national economy
3 and each State's economy, including investment,
4 jobs, revenues, personal income, and other cat-
5 egories.”.

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

7 Section 19 of the Outer Continental Shelf Lands Act
8 (43 U.S.C. 1345) is amended—

9 (1) in subsection (a) in the first sentence by in-
10 serting “, for any tract located within the Adjacent
11 State's Adjacent Zone,” after “government”; and

12 (2) by adding the following:

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

24 “(2) No State may prohibit the construction within
25 its Adjacent Zone or its State waters of a natural gas pipe-

1 line that will transport natural gas produced from the
 2 outer Continental Shelf. However, an Adjacent State may
 3 prevent a proposed natural gas pipeline landing location
 4 if it proposes two alternate landing locations in the Adja-
 5 cent State, acceptable to the Adjacent State, located with-
 6 in 50 miles on either side of the proposed landing loca-
 7 tion.”.

8 **SEC. 114. ENVIRONMENTAL STUDIES.**

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

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

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

13 “(2) For all programs, lease sales, leases, and
 14 actions under this Act, the following shall apply re-
 15 garding the application of the National Environ-
 16 mental Policy Act of 1969:

17 “(A) Granting or directing lease suspen-
 18 sions and the conduct of all preliminary activi-
 19 ties on outer Continental Shelf tracts, including
 20 seismic activities, are categorically excluded
 21 from the need to prepare either an environ-
 22 mental assessment or an environmental impact
 23 statement, and the Secretary shall not be re-
 24 quired to analyze whether any exceptions to a

1 categorical exclusion apply for activities con-
2 ducted under the authority of this Act.

3 “(B) The environmental impact statement
4 developed in support of each 5-Year Oil and
5 Gas Leasing Program provides the environ-
6 mental analysis for all lease sales to be con-
7 ducted under the program and such sales shall
8 not be subject to further environmental anal-
9 ysis.

10 “(C) Exploration plans shall not be subject
11 to any requirement to prepare an environmental
12 impact statement, and the Secretary may find
13 that exploration plans are eligible for categor-
14 ical exclusion due to the impacts already being
15 considered within an environmental impact
16 statement or due to mitigation measures in-
17 cluded within the plan.

18 “(D) Within each OCS Planning Area,
19 after the preparation of the first development
20 and production plan environmental impact
21 statement for a leased tract within the Area, fu-
22 ture development and production plans for
23 leased tracts within the Area shall only require
24 the preparation of an environmental assessment
25 unless the most recent development and produc-

1 tion plan environmental impact statement with-
2 in the Area was finalized more than 10 years
3 prior to the date of the approval of the plan, in
4 which case an environmental impact statement
5 shall be required.”.

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

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

14 **SEC. 116. OUTER CONTINENTAL SHELF INCOMPATIBLE**
15 **USE.**

16 (a) IN GENERAL.—No Federal agency may permit
17 construction or operation (or both) of any facility, or des-
18 ignate or maintain a restricted transportation corridor or
19 operating area on the Federal outer Continental Shelf or
20 in State waters, that will be incompatible with, as deter-
21 mined by the Secretary of the Interior, oil and gas or nat-
22 ural gas leasing and substantially full exploration and pro-
23 duction of tracts that are geologically prospective for oil
24 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. 117. 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 were subject to litiga-
 20 tion in the Court of Federal Claims on January 1, 2006,
 21 if the Secretary finds that such lease qualifies for repur-
 22 chase and cancellation under the regulations authorized
 23 by this 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. 118. 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. 119. OCS REGIONAL HEADQUARTERS.**

21 Not later than July 1, 2010, the Secretary of the In-
22 terior shall establish the headquarters for the Atlantic
23 OCS Region, the headquarters for the Gulf of Mexico OCS
24 Region, and the headquarters for the Pacific OCS Region
25 within a State bordering the Atlantic OCS Region, a State

1 bordering the Gulf of Mexico OCS Region, and a State
 2 bordering the Pacific OCS Region, respectively, from
 3 among the States bordering those Regions, that petitions
 4 by no later than January 1, 2010, for leasing, for oil and
 5 gas or natural gas, covering at least 40 percent of the area
 6 of its Adjacent Zone within 100 miles of the coastline.
 7 Such Atlantic and Pacific OCS Regions headquarters shall
 8 be located within 25 miles of the coastline and each MMS
 9 OCS regional headquarters shall be the permanent duty
 10 station for all Minerals Management Service personnel
 11 that on a daily basis spend on average 60 percent or more
 12 of their time in performance of duties in support of the
 13 activities of the respective Region, except that the Min-
 14 erals Management Service may house regional inspection
 15 staff in other locations. Each OCS Region shall each be
 16 led by a Regional Director who shall be an employee with-
 17 in the Senior Executive Service.

18 **SEC. 120. LEASES FOR AREAS LOCATED WITHIN 100 MILES**
 19 **OF CALIFORNIA OR FLORIDA.**

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

24 (1) AUTHORITY.—Within 2 years after the date
 25 of enactment of this Act, the lessee of an existing oil

1 and gas lease for an area located completely within
2 100 miles of the coastline within the California or
3 Florida Adjacent Zones shall have the option, with-
4 out compensation, of exchanging such lease for a
5 new oil and gas lease having a primary term of 5
6 years. For the area subject to the new lease, the les-
7 see may select any unleased tract on the outer Con-
8 tinental Shelf that is in an area available for leasing.
9 Further, with the permission of the relevant Gov-
10 ernor, such a lessee may convert its existing oil and
11 gas lease into a natural gas lease having a primary
12 term of 5 years and covering the same area as the
13 existing lease or another area within the same
14 State's Adjacent Zone within 100 miles of the coast-
15 line.

16 (2) ADMINISTRATIVE PROCESS.—The Secretary
17 of the Interior shall establish a reasonable adminis-
18 trative process to implement paragraph (1). Ex-
19 changes and conversions under subsection (a), in-
20 cluding the issuance of new leases, shall not be con-
21 sidered to be major Federal actions for purposes of
22 the National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.). Further, such actions con-
24 ducted in accordance with this section are deemed to

1 be in compliance all provisions of the Outer Conti-
2 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

8 (4) PRIORITY.—The Secretary shall give pri-
9 ority in the lease exchange process based on the
10 amount of the original bonus bid paid for the
11 issuance of each lease to be exchanged. The Sec-
12 retary shall allow leases covering partial tracts to be
13 exchanged for leases covering full tracts conditioned
14 upon payment of additional bonus bids on a per-acre
15 basis as determined by the average per acre of the
16 original bonus bid per acre for the partial tract
17 being exchanged.

18 (5) EXPLORATION PLANS.—Any exploration
19 plan submitted to the Secretary of the Interior after
20 the date of the enactment of this Act and before
21 July 1, 2012, for an oil and gas lease for an area
22 wholly within 100 miles of the coastline within the
23 California Adjacent Zone or Florida Adjacent Zone
24 shall not be treated as received by the Secretary
25 until the earlier of July 1, 2012, or the date on

1 which a petition by the Adjacent State for oil and
2 gas leasing covering the area within which is located
3 the area subject to the oil and gas lease was ap-
4 proved.

5 (b) FURTHER LEASE CANCELLATION AND EX-
6 CHANGE PROVISIONS.—

7 (1) CANCELLATION OF LEASE.—As part of the
8 lease exchange process under this section, the Sec-
9 retary shall cancel a lease that is exchanged under
10 this section.

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

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

19 (4) PLUGGING AND ABANDONMENT.—The plug-
20 ging and abandonment requirements for any wells
21 located on any lease to be cancelled and exchanged
22 under this section must be complied with by the les-
23 sees prior to the cancellation and exchange.

24 (c) AREA PARTIALLY WITHIN 100 MILES OF FLOR-
25 IDA.—An existing oil and gas lease for an area located

1 partially within 100 miles of the coastline within the Flor-
2 ida Adjacent Zone may only be developed and produced
3 using wells drilled from well-head locations at least 100
4 miles from the coastline to any bottom-hole location on
5 the area of the lease. This subsection shall not apply if
6 Florida has petitioned for leasing closer to the coastline
7 than 100 miles.

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

12 **SEC. 121. COASTAL IMPACT ASSISTANCE.**

13 Section 31 of the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1356a) is repealed.

15 **SEC. 122. REPEAL OF THE GULF OF MEXICO ENERGY SECU-**
16 **RITY ACT OF 2006.**

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

19 **Subtitle B—ANWR**

20 **SEC. 141. SHORT TITLE.**

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

23 **SEC. 142. DEFINITIONS.**

24 In this subtitle:

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

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

7 **SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE**
8 **COASTAL PLAIN.**

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

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

20 (2) to administer the provisions of this subtitle
21 through regulations, lease terms, conditions, restric-
22 tions, prohibitions, stipulations, and other provisions
23 that ensure the oil and gas exploration, development,
24 and production activities on the Coastal Plain will
25 result in no significant adverse effect on fish and

1 wildlife, their habitat, subsistence resources, and the
2 environment, including, in furtherance of this goal,
3 by requiring the application of the best commercially
4 available technology for oil and gas exploration, de-
5 velopment, and production to all exploration, devel-
6 opment, and production operations under this sub-
7 title in a manner that ensures the receipt of fair
8 market value by the public for the mineral resources
9 to be leased.

10 (b) REPEAL.—

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

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

17 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
18 TAIN OTHER LAWS.—

19 (1) COMPATIBILITY.—For purposes of the Na-
20 tional Wildlife Refuge System Administration Act of
21 1966 (16 U.S.C. 668dd et seq.), the oil and gas
22 leasing program and activities authorized by this
23 section in the Coastal Plain are deemed to be com-
24 patible with the purposes for which the Arctic Na-
25 tional Wildlife Refuge was established, and no fur-

1 ther findings or decisions are required to implement
2 this determination.

3 (2) ADEQUACY OF THE DEPARTMENT OF THE
4 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
5 STATEMENT.—The “Final Legislative Environ-
6 mental Impact Statement” (April 1987) on the
7 Coastal Plain prepared pursuant to section 1002 of
8 the Alaska National Interest Lands Conservation
9 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
10 of the National Environmental Policy Act of 1969
11 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
12 quirements under the National Environmental Policy
13 Act of 1969 that apply with respect to prelease ac-
14 tivities, including actions authorized to be taken by
15 the Secretary to develop and promulgate the regula-
16 tions for the establishment of a leasing program au-
17 thorized by this subtitle before the conduct of the
18 first lease sale.

19 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
20 TIONS.—Before conducting the first lease sale under
21 this subtitle, the Secretary shall prepare an environ-
22 mental impact statement under the National Envi-
23 ronmental Policy Act of 1969 with respect to the ac-
24 tions authorized by this subtitle that are not re-
25 ferred to in paragraph (2). Notwithstanding any

1 other law, the Secretary is not required to identify
2 nonleasing alternative courses of action or to analyze
3 the environmental effects of such courses of action.
4 The Secretary shall only identify a preferred action
5 for such leasing and a single leasing alternative, and
6 analyze the environmental effects and potential miti-
7 gation measures for those two alternatives. The
8 identification of the preferred action and related
9 analysis for the first lease sale under this subtitle
10 shall be completed within 18 months after the date
11 of enactment of this Act. The Secretary shall only
12 consider public comments that specifically address
13 the Secretary's preferred action and that are filed
14 within 20 days after publication of an environmental
15 analysis. Notwithstanding any other law, compliance
16 with this paragraph is deemed to satisfy all require-
17 ments for the analysis and consideration of the envi-
18 ronmental effects of proposed leasing under this sub-
19 title.

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

23 (e) SPECIAL AREAS.—

24 (1) IN GENERAL.—The Secretary, after con-
25 sultation with the State of Alaska, the city of

1 Kaktovik, and the North Slope Borough, may des-
2 ignate up to a total of 45,000 acres of the Coastal
3 Plain as a Special Area if the Secretary determines
4 that the Special Area is of such unique character
5 and interest so as to require special management
6 and regulatory protection. The Secretary shall des-
7 ignate as such a Special Area the Sadlerochit Spring
8 area, comprising approximately 4,000 acres.

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

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

20 (4) DIRECTIONAL DRILLING.—Notwithstanding
21 the other provisions of this subsection, the Secretary
22 may lease all or a portion of a Special Area under
23 terms that permit the use of horizontal drilling tech-
24 nology from sites on leases located outside the Spe-
25 cial Area.

1 (f) LIMITATION ON CLOSED AREAS.—The Sec-
2 retary's sole authority to close lands within the Coastal
3 Plain to oil and gas leasing and to exploration, develop-
4 ment, and production is that set forth in this subtitle.

5 (g) REGULATIONS.—

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

13 (2) REVISION OF REGULATIONS.—The Sec-
14 retary shall periodically review and, if appropriate,
15 revise the rules and regulations issued under sub-
16 section (a) to reflect any significant biological, envi-
17 ronmental, or engineering data that come to the Sec-
18 retary's attention.

19 **SEC. 144. LEASE SALES.**

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

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

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

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

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

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

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

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

20 (1) conduct the first lease sale under this sub-
21 title within 22 months after the date of the enact-
22 ment of this Act;

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

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

4 **SEC. 145. GRANT OF LEASES BY THE SECRETARY.**

5 (a) IN GENERAL.—The Secretary may grant to the
6 highest responsible qualified bidder in a lease sale con-
7 ducted pursuant to section 144 any lands to be leased on
8 the Coastal Plain upon payment by the lessee of such
9 bonus as may be accepted by the Secretary.

10 (b) SUBSEQUENT TRANSFERS.—No lease issued
11 under this subtitle may be sold, exchanged, assigned, sub-
12 let, or otherwise transferred except with the approval of
13 the Secretary. Prior to any such approval the Secretary
14 shall consult with, and give due consideration to the views
15 of, the Attorney General.

16 **SEC. 146. LEASE TERMS AND CONDITIONS.**

17 (a) IN GENERAL.—An oil or gas lease issued pursu-
18 ant to this subtitle shall—

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

24 (2) provide that the Secretary may close, on a
25 seasonal basis, portions of the Coastal Plain to ex-

1 ploratory drilling activities as necessary to protect
2 caribou calving areas and other species of fish and
3 wildlife;

4 (3) require that the lessee of lands within the
5 Coastal Plain shall be fully responsible and liable for
6 the reclamation of lands within the Coastal Plain
7 and any other Federal lands that are adversely af-
8 fected in connection with exploration, development,
9 production, or transportation activities conducted
10 under the lease and within the Coastal Plain by the
11 lessee or by any of the subcontractors or agents of
12 the lessee;

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

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

1 (6) contain terms and conditions relating to
2 protection of fish and wildlife, their habitat, subsist-
3 ence resources, and the environment as required
4 pursuant to section 143(a)(2);

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

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

16 (9) contain such other provisions as the Sec-
17 retary determines necessary to ensure compliance
18 with the provisions of this subtitle and the regula-
19 tions issued under this subtitle.

20 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
21 as a term and condition of each lease under this subtitle
22 and in recognizing the Government's proprietary interest
23 in labor stability and in the ability of construction labor
24 and management to meet the particular needs and condi-
25 tions of projects to be developed under the leases issued

1 pursuant to this subtitle and the special concerns of the
2 parties to such leases, shall require that the lessee and
3 its agents and contractors negotiate to obtain a project
4 labor agreement for the employment of laborers and me-
5 chanics on production, maintenance, and construction
6 under the lease.

7 **SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

14 (1) ensure the oil and gas exploration, develop-
15 ment, and production activities on the Coastal Plain
16 will result in no significant adverse effect on fish
17 and wildlife, their habitat, and the environment;

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

23 (3) ensure that the maximum amount of sur-
24 face acreage covered by production and support fa-
25 cilities, including airstrips and any areas covered by

1 gravel berms or piers for support of pipelines, does
2 not exceed 2,000 acres on the Coastal Plain.

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

4 The Secretary shall also require, with respect to any pro-
5 posed drilling and related activities, that—

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

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

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

17 (c) REGULATIONS TO PROTECT COASTAL PLAIN
18 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
19 AND THE ENVIRONMENT.—Before implementing the leas-
20 ing program authorized by this subtitle, the Secretary
21 shall prepare and promulgate regulations, lease terms,
22 conditions, restrictions, prohibitions, stipulations, and
23 other measures designed to ensure that the activities un-
24 dertaken on the Coastal Plain under this subtitle are con-

1 ducted in a manner consistent with the purposes and envi-
2 ronmental requirements of this subtitle.

3 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
4 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
5 proposed regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations for the leasing program
7 under this subtitle shall require compliance with all appli-
8 cable provisions of Federal and State environmental law,
9 and shall also require the following:

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

15 (2) Seasonal limitations on exploration, develop-
16 ment, and related activities, where necessary, to
17 avoid significant adverse effects during periods of
18 concentrated fish and wildlife breeding, denning,
19 nesting, spawning, and migration.

20 (3) That exploration activities, except for sur-
21 face geological studies, be limited to the period be-
22 tween approximately November 1 and May 1 each
23 year and that exploration activities shall be sup-
24 ported, if necessary, by ice roads, winter trails with
25 adequate snow cover, ice pads, ice airstrips, and air

1 transport methods, except that such exploration ac-
2 tivities may occur at other times if the Secretary
3 finds that such exploration will have no significant
4 adverse effect on the fish and wildlife, their habitat,
5 and the environment of the Coastal Plain.

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

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

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

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

17 (6) Stringent reclamation and rehabilitation re-
18 quirements, consistent with the standards set forth
19 in this subtitle, requiring the removal from the
20 Coastal Plain of all oil and gas development and
21 production facilities, structures, and equipment upon
22 completion of oil and gas production operations, ex-
23 cept that the Secretary may exempt from the re-
24 quirements of this paragraph those facilities, struc-
25 tures, or equipment that the Secretary determines

1 would assist in the management of the Arctic Na-
2 tional Wildlife Refuge and that are donated to the
3 United States for that purpose.

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

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

8 (9) Consolidation of facility siting.

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

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

17 (12) Avoidance or minimization of air traffic-re-
18 lated disturbance to fish and wildlife.

19 (13) Treatment and disposal of hazardous and
20 toxic wastes, solid wastes, reserve pit fluids, drilling
21 muds and cuttings, and domestic wastewater, includ-
22 ing an annual waste management report, a haz-
23 ardous materials tracking system, and a prohibition
24 on chlorinated solvents, in accordance with applica-
25 ble Federal and State environmental law.

1 (14) Fuel storage and oil spill contingency plan-
2 ning.

3 (15) Research, monitoring, and reporting re-
4 quirements.

5 (16) Field crew environmental briefings.

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

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

11 (19) Appropriate seasonal and safety zone des-
12 ignations around well sites, within which subsistence
13 hunting and trapping shall be limited.

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

16 (21) All other protective environmental stipula-
17 tions, restrictions, terms, and conditions deemed
18 necessary by the Secretary.

19 (e) CONSIDERATIONS.—In preparing and promul-
20 gating regulations, lease terms, conditions, restrictions,
21 prohibitions, and stipulations under this section, the Sec-
22 retary shall consider the following:

23 (1) The stipulations and conditions that govern
24 the National Petroleum Reserve-Alaska leasing pro-
25 gram, as set forth in the 1999 Northeast National

1 Petroleum Reserve-Alaska Final Integrated Activity
2 Plan/Environmental Impact Statement.

3 (2) The environmental protection standards
4 that governed the initial Coastal Plain seismic explo-
5 ration program under parts 37.31 to 37.33 of title
6 50, Code of Federal Regulations.

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

12 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

21 (A) Avoiding unnecessary duplication of fa-
22 cilities and activities.

23 (B) Encouraging consolidation of common
24 facilities and activities.

1 (C) Locating or confining facilities and ac-
2 tivities to areas that will minimize impact on
3 fish and wildlife, their habitat, and the environ-
4 ment.

5 (D) Utilizing existing facilities wherever
6 practicable.

7 (E) Enhancing compatibility between wild-
8 life values and development activities.

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

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

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

18 **SEC. 148. EXPEDITED JUDICIAL REVIEW.**

19 (a) FILING OF COMPLAINT.—

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

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

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

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

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

1 wise by clear and convincing evidence to the con-
2 trary.

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

7 **SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVE-**
8 **NUES.**

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

13 (1) 50 percent shall be paid to the State of
14 Alaska; and

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

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

21 **SEC. 150. 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 143(g) provisions granting
21 rights-of-way and easements described in subsection (a)
22 of this section.

23 **SEC. 151. 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. 152. 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—Oil Shale**

7 **SEC. 161. REPEAL.**

8 Section 433 of the Consolidated Appropriations Act,
 9 2008 is repealed.

10 **TITLE II—CONSERVATION AND** 11 **EFFICIENCY**

12 **Subtitle A—Tax Incentives for Fuel** 13 **Efficiency**

14 **SEC. 201. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC** 15 **DRIVE MOTOR VEHICLES.**

16 (a) IN GENERAL.—Subpart B of part IV of sub-
 17 chapter A of chapter 1 of the Internal Revenue Code of
 18 1986 is amended by adding at the end the following new
 19 section:

20 **“SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE** 21 **MOTOR VEHICLES.**

22 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 23 lowed as a credit against the tax imposed by this chapter
 24 for the taxable year an amount equal to the sum of the
 25 credit amounts determined under subsection (b) with re-

1 spect to each new qualified plug-in electric drive motor ve-
 2 hicle placed in service by the taxpayer during the taxable
 3 year.

4 “(b) PER VEHICLE DOLLAR LIMITATION.—

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

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

12 “(3) BATTERY CAPACITY.—In the case of a ve-
 13 hicle which draws propulsion energy from a battery
 14 with not less than 5 kilowatt hours of capacity, the
 15 amount determined under this paragraph is \$200,
 16 plus \$200 for each kilowatt hour of capacity in ex-
 17 cess of 5 kilowatt hours. The amount determined
 18 under this paragraph shall not exceed \$2,000.

19 “(c) APPLICATION WITH OTHER CREDITS.—

20 “(1) BUSINESS CREDIT TREATED AS PART OF
 21 GENERAL BUSINESS CREDIT.—So much of the credit
 22 which would be allowed under subsection (a) for any
 23 taxable year (determined without regard to this sub-
 24 section) that is attributable to property of a char-
 25 acter subject to an allowance for depreciation shall

1 be treated as a credit listed in section 38(b) for such
2 taxable year (and not allowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—

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

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

16 “(i) the sum of the regular tax liabil-
17 ity (as defined in section 26(b)) plus the
18 tax imposed by section 55, over

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

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

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

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

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

8 “(C) which is made by a manufacturer,

9 “(D) which has a gross vehicle weight rat-
10 ing of less than 14,000 pounds,

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

18 “(F) which is propelled to a significant ex-
19 tent by an electric motor which draws electricity
20 from a battery which—

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

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

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

6 “(3) OTHER TERMS.—The terms ‘passenger
7 automobile’, ‘light truck’, and ‘manufacturer’ have
8 the meanings given such terms in regulations pre-
9 scribed by the Administrator of the Environmental
10 Protection Agency for purposes of the administra-
11 tion of title II of the Clean Air Act (42 U.S.C. 7521
12 et seq.).

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

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

22 “(1) IN GENERAL.—In the case of a new quali-
23 fied plug-in electric drive motor vehicle sold during
24 the phaseout period, only the applicable percentage

1 of the credit otherwise allowable under subsection
2 (a) shall be allowed.

3 “(2) PHASEOUT PERIOD.—For purposes of this
4 subsection, the phaseout period is the period begin-
5 ning with the second calendar quarter following the
6 calendar quarter which includes the first date on
7 which the number of new qualified plug-in electric
8 drive motor vehicles manufactured by the manufac-
9 turer of the vehicle referred to in paragraph (1) sold
10 for use in the United States after the date of the en-
11 actment of this section, is at least 60,000.

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

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

16 “(B) 25 percent for the 3d and 4th cal-
17 endar quarters of the phaseout period, and

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

20 “(4) CONTROLLED GROUPS.—Rules similar to
21 the rules of section 30B(f)(4) shall apply for pur-
22 poses of this subsection.

23 “(f) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any
25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such
 2 credit (determined without regard to subsection (c)).

3 “(2) RECAPTURE.—The Secretary shall, by reg-
 4 ulations, provide for recapturing the benefit of any
 5 credit allowable under subsection (a) with respect to
 6 any property which ceases to be property eligible for
 7 such credit.

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

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

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

23 (b) COORDINATION WITH ALTERNATIVE MOTOR VE-
 24 HICLE CREDIT.—Section 30B(d)(3) of such Code is

1 amended by adding at the end the following new subpara-
2 graph:

3 “(D) EXCLUSION OF PLUG-IN VEHICLES.—

4 Any vehicle with respect to which a credit is al-
5 lowable under section 30D (determined without
6 regard to subsection (c) thereof) shall not be
7 taken into account under this section.”.

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

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

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

14 (3) by striking the period at the end of para-
15 graph (31) and inserting “, plus”, and

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

18 “(32) the portion of the new qualified plug-in
19 electric drive motor vehicle credit to which section
20 30D(c)(1) applies.”.

21 (d) CONFORMING AMENDMENTS.—

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

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

3 (C) Section 25B(g)(2) of such Code is amended
4 by striking “and 25D” and inserting “, 25D, and
5 30D”.

6 (D) Section 26(a)(1) of such Code is amended
7 by striking “and 25D” and inserting “25D, and
8 30D”.

9 (E) Section 1400C(d)(2) of such Code is
10 amended by striking “and 25D” and inserting
11 “25D, and 30D”.

12 (2) Section 1016(a) of such Code is amended
13 by striking “and” at the end of paragraph (35), by
14 striking the period at the end of paragraph (36) and
15 inserting “, and”, and by adding at the end the fol-
16 lowing new paragraph:

17 “(37) to the extent provided in section
18 30D(f)(1).”.

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

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

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

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

3 (1) IN GENERAL.—Paragraph (2) of section
4 30B(g) of such Code is amended to read as follows:

5 “(2) PERSONAL CREDIT.—The credit allowed
6 under subsection (a) for any taxable year (after ap-
7 plication of paragraph (1)) shall be treated as a
8 credit allowable under subpart A for such taxable
9 year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (A) of section 30C(d)(2)
12 of such Code is amended by striking “sections
13 27, 30, and 30B” and inserting “sections 27
14 and 30”.

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

17 (f) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, the amendments made by
20 this section shall apply to taxable years beginning
21 after December 31, 2008.

22 (2) TREATMENT OF ALTERNATIVE MOTOR VE-
23 HICLE CREDIT AS PERSONAL CREDIT.—The amend-
24 ments made by subsection (e) shall apply to taxable
25 years beginning after December 31, 2007.

1 (g) APPLICATION OF EGTRRA SUNSET.—The
 2 amendment made by subsection (d)(1)(A) shall be subject
 3 to title IX of the Economic Growth and Tax Relief Rec-
 4 onciliation Act of 2001 in the same manner as the provi-
 5 sion of such Act to which such amendment relates.

6 **SEC. 202. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL**
 7 **VEHICLES.**

8 Paragraph (4) of section 30B(j) of the Internal Rev-
 9 enue Code of 1986 is amended by striking “December 31,
 10 2010” and inserting “December 31, 2014”.

11 **SEC. 203. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**
 12 **FUELING PROPERTY CREDIT.**

13 Paragraph (1) of section 30C(g) of the Internal Rev-
 14 enue Code of 1986 is amended by striking “hydrogen,”
 15 inserting “hydrogen or alternative fuels (as defined in sec-
 16 tion 30B(e)(4)(B)),”.

17 **Subtitle B—Tapping America’s**
 18 **Ingenuity and Creativity**

19 **SEC. 211. DEFINITIONS.**

20 In this subtitle:

21 (1) ADMINISTERING ENTITY.—The term “ad-
 22 ministering entity” means the entity with which the
 23 Secretary enters into an agreement under section
 24 214(c).

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

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

5 **SEC. 212. STATEMENT OF POLICY.**

6 It is the policy of the United States to provide incen-
7 tives to encourage the development and implementation of
8 innovative energy technologies and new energy sources
9 that will reduce our reliance on foreign energy.

10 **SEC. 213. PRIZE AUTHORITY.**

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

16 (b) ADVERTISING AND SOLICITATION OF COMPETI-
17 TORS.—

18 (1) ADVERTISING.—The Secretary shall widely
19 advertise prize competitions to encourage broad par-
20 ticipation in the program carried out under sub-
21 section (a), including individuals, universities, com-
22 munities, and large and small businesses.

23 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
24 ISTER NOTICE.—The Secretary shall announce each
25 prize competition by publishing a notice in the Fed-

1 eral Register. This notice shall include essential ele-
2 ments of the competition such as the subject of the
3 competition, the duration of the competition, the eli-
4 gibility requirements for participation in the com-
5 petition, the process for participants to register for
6 the competition, the amount of the prize, and the
7 criteria for awarding the prize.

8 (c) ADMINISTERING THE COMPETITION.—The Sec-
9 retary may enter into an agreement with a private, non-
10 profit entity to administer the prize competitions, subject
11 to the provisions of this subtitle. The administering entity
12 shall perform the following functions:

13 (1) Advertise the competition and its results.

14 (2) Raise funds from private entities and indi-
15 viduals to pay for administrative costs and cash
16 prizes.

17 (3) Develop, in consultation with and subject to
18 the final approval of the Secretary, criteria to select
19 winners based upon the goal of safely and ade-
20 quately storing nuclear used fuel.

21 (4) Determine, in consultation with and subject
22 to the final approval of the Secretary, the appro-
23 priate amount of the awards.

24 (5) Protect against the administering entity's
25 unauthorized use or disclosure of a registered par-

1 ticipant’s intellectual property, trade secrets, and
2 confidential business information. Any information
3 properly identified as trade secrets or confidential
4 business information that is submitted by a partici-
5 pant as part of a competitive program under this
6 subtitle may be withheld from public disclosure.

7 (6) Develop and promulgate sufficient rules to
8 define the parameters of designing and proposing in-
9 novative energy technologies and new energy sources
10 with input from industry, citizens, and corporations
11 familiar with such activities.

12 (d) FUNDING SOURCES.—Prizes under this subtitle
13 may consist of Federal appropriated funds, funds provided
14 by the administering entity, or funds raised through
15 grants or donations. The Secretary may accept funds from
16 other Federal agencies for such cash prizes and, notwith-
17 standing section 3302(b) of title 31, United States Code,
18 may use such funds for the cash prize program. Other
19 than publication of the names of prize sponsors, the Sec-
20 retary may not give any special consideration to any pri-
21 vate sector entity or individual in return for a donation
22 to the Secretary or administering entity.

23 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
24 may not publish a notice required by subsection (b)(2)
25 until all the funds needed to pay out the announced

1 amount of the prize have been appropriated to the Depart-
2 ment or the Department has received from the admin-
3 istering entity a written commitment to provide all nec-
4 essary funds.

5 **SEC. 214. ELIGIBILITY.**

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

8 (1) shall notify the administering entity of in-
9 tent to submit ideas and intent to collect the prize
10 upon selection;

11 (2) shall comply with all the requirements stat-
12 ed in the Federal Register notice required under sec-
13 tion 213(b)(2);

14 (3) in the case of a private entity, shall be in-
15 corporated in and maintain a primary place of busi-
16 ness in the United States, and in the case of an in-
17 dividual, whether participating singly or in a group,
18 shall be a citizen of the United States;

19 (4) shall not be a Federal entity, a Federal em-
20 ployee acting within the scope of his or her employ-
21 ment, or an employee of a national laboratory acting
22 within the scope of employment;

23 (5) shall not use Federal funding or other Fed-
24 eral resources to compete for the prize; and

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

3 **SEC. 215. INTELLECTUAL PROPERTY.**

4 The Federal Government shall not, by virtue of offer-
5 ing or awarding a prize under this subtitle, be entitled to
6 any intellectual property rights derived as a consequence
7 of, or in direct relation to, the participation by a registered
8 participant in a competition authorized by this subtitle.
9 This section shall not be construed to prevent the Federal
10 Government from negotiating a license for the use of intel-
11 lectual property developed for a prize competition under
12 this subtitle. The Federal Government may seek assur-
13 ances that technologies for which prizes are awarded
14 under this subtitle are offered for commercialization in the
15 event an award recipient does not take, or is not expected
16 to take within a reasonable time, effective steps to achieve
17 practical application of the technology.

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

19 The Secretary may require registered participants to
20 waive claims against the Federal Government and the ad-
21 ministering entity (except claims for willful misconduct)
22 for any injury, death, damage, or loss of property, revenue,
23 or profits arising from the registered participants' partici-
24 pation in a competition under this subtitle. The Secretary
25 shall give notice of any waiver required under this section

1 in the notice required by section 213(b)(2). The Secretary
2 may not require a registered participant to waive claims
3 against the administering entity arising out of the unau-
4 thorized use or disclosure by the administering entity of
5 the registered participant's intellectual property, trade se-
6 crets, or confidential business information.

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

8 (a) AWARDS.—40 percent of amounts in the Amer-
9 ican Energy Trust Fund shall be available without further
10 appropriation to carry out specified provisions of this sec-
11 tion.

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

15 (c) ADMINISTRATION.—In addition to the amounts
16 authorized under subsection (a), there are authorized to
17 be appropriated to the Secretary for each of fiscal years
18 2009 through 2020 \$2,000,000 for the administrative
19 costs of carrying out this subtitle.

20 (d) CARRYOVER OF FUNDS.—Funds appropriated for
21 prize awards under this subtitle shall remain available
22 until expended and may be transferred, reprogrammed, or
23 expended for other purposes only after the expiration of
24 11 fiscal years after the fiscal year for which the funds
25 were originally appropriated. No provision in this subtitle

1 permits obligation or payment of funds in violation of sec-
2 tion 1341 of title 31, United States Code.

3 **SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PRO-**
4 **GRAM.**

5 The Secretary of Energy shall establish a program
6 to award a prize in the amount of \$500,000,000 to the
7 first automobile manufacturer incorporated in the United
8 States to manufacture and sell in the United States
9 50,000 midsize sedan automobiles which operate on gaso-
10 line and can travel 100 miles per gallon.

11 **SEC. 219. ADVANCED BATTERY MANUFACTURING INCEN-**
12 **TIVE PROGRAM.**

13 (a) DEFINITIONS.—In this section:

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

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

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

22 (B) design of tooling and equipment and
23 developing manufacturing processes and mate-
24 rial suppliers for production facilities that

1 produce qualifying components or advanced bat-
2 teries.

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

9 (c) PERIOD OF AVAILABILITY.—An award under sub-
10 section (b) shall apply to—

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

13 (2) engineering integration costs incurred dur-
14 ing the period beginning on the date of enactment
15 of this Act and ending on December 30, 2020.

16 (d) DIRECT LOAN PROGRAM.—

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

24 (2) SELECTION OF ELIGIBLE PROJECTS.—The
25 Secretary shall select eligible projects to receive

1 loans under this subsection in cases in which, as de-
2 termined by the Secretary, the award recipient—

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

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

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

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

14 (A) shall have an interest rate that, as of
15 the date on which the loan is made, is equal to
16 the cost of funds to the Department of the
17 Treasury for obligations of comparable matu-
18 rity;

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

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

25 (ii) 25 years;

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

6 (D) shall be made by the Federal Financ-
7 ing Bank.

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

10 (f) SET ASIDE FOR SMALL MANUFACTURERS.—

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

14 (A) employs fewer than 500 individuals;
15 and

16 (B) manufactures automobiles or compo-
17 nents of automobiles.

18 (2) SET ASIDE.—Of the amount of funds used
19 to provide awards for each fiscal year under sub-
20 section (b), the Secretary shall use not less than 10
21 percent to provide awards to covered firms or con-
22 sortia led by a covered firm.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated from the American En-

1 ergy Trust Fund such sums as are necessary to carry out
 2 this section for each of fiscal years 2009 through 2013.

3 **Subtitle C—Home and Business** 4 **Tax Incentives**

5 **SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT** 6 **APPLIANCES.**

7 (a) IN GENERAL.—Subsection (b) of section 45M of
 8 the Internal Revenue Code of 1986 (relating to applicable
 9 amount) is amended by striking “calendar year 2006 or
 10 2007” each place it appears in paragraphs (1)(A)(i),
 11 (1)(B)(i), (1)(C)(ii)(I), and (1)(C)(iii)(I), and inserting
 12 “calendar year 2006, 2007, 2008, 2009, 2010, 2011,
 13 2012, or 2013”.

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

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to appliances produced after De-
 21 cember 31, 2007.

22 **SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS EN-** 23 **ERGY PROPERTY.**

24 (a) IN GENERAL.—Section 25C(g) of the Internal
 25 Revenue Code of 1986 (relating to termination) is amend-

1 ed by striking “December 31, 2007” and inserting “De-
2 cember 31, 2013”.

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

6 **SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL EN-**
7 **ERGY EFFICIENT PROPERTY.**

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

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

13 Subsection (g) of section 45L of the Internal Revenue
14 Code of 1986 (relating to termination) is amended by
15 striking “December 31, 2008” and inserting “December
16 31, 2013”.

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

19 Section 179D(h) of the Internal Revenue Code of
20 1986 (relating to termination) is amended by striking
21 “December 31, 2008” and inserting “December 31,
22 2013”.

1 **SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
2 **FERC AND STATE ELECTRIC RESTRUC-**
3 **TURING POLICY.**

4 (a) IN GENERAL.—Paragraph (3) of section 451(i)
5 of the Internal Revenue Code of 1986 is amended by strik-
6 ing “January 1, 2008” and inserting “January 1, 2014”.

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

13 (c) EFFECTIVE DATES.—

14 (1) EXTENSION.—The amendments made by
15 subsection (a) shall apply to transactions after De-
16 cember 31, 2007.

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

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

22 (a) IN GENERAL.—Subpart A of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 is amended by inserting after section 25D the fol-
25 lowing new section:

1 **“SEC. 25E. HOME ENERGY AUDITS.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this chapter for the taxable year an amount equal to
5 50 percent of the amount of qualified energy audit paid
6 or incurred by the taxpayer during the taxable year.

7 “(b) LIMITATIONS.—

8 “(1) DOLLAR LIMITATION.—The amount al-
9 lowed as a credit under subsection (a) with respect
10 to a residence of the taxpayer for a taxable year
11 shall not exceed \$400.

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

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

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

22 “(c) QUALIFIED ENERGY AUDIT.—For purposes of
23 this section, the term ‘qualified energy audit’ means an
24 energy audit of the principal residence of the taxpayer per-
25 formed by a qualified energy auditor through a com-
26 prehensive site visit. Such audit may include a blower door

1 test, an infra-red camera test, and a furnace combustion
2 efficiency test. In addition, such audit shall include such
3 substitute tests for the tests specified in the preceding sen-
4 tence, and such additional tests, as the Secretary may by
5 regulation require. A principal residence shall not be taken
6 into consideration under this subparagraph unless such
7 residence is located in the United States.

8 “(d) PRINCIPAL RESIDENCE.—For purposes of this
9 section, the term ‘principal residence’ has the same mean-
10 ing as when used in section 121.

11 “(e) QUALIFIED ENERGY AUDITOR.—

12 “(1) IN GENERAL.—The Secretary shall specify
13 by regulations the qualifications required to be a
14 qualified energy auditor for purposes of this section.
15 Such regulations shall include rules prohibiting con-
16 flicts-of-interest, including the disallowance of com-
17 missions or other payments based on goods or non-
18 audit services purchased by the taxpayer from the
19 auditor.

20 “(2) CERTIFICATION.—The Secretary shall pre-
21 scribe the procedures and methods for certifying
22 that an auditor is a qualified energy auditor. To the
23 maximum extent practicable, such procedures and
24 methods shall provide for a variety of sources to ob-
25 tain certifications.”.

1 (b) CONFORMING AMENDMENTS.—

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

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

7 (3) Section 24(b)(3)(B) of such Code is amend-
8 ed by striking “and 25B” and inserting “, 25B, and
9 25E”.

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

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

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

18 (7) Section 25D(c)(2) of such Code is amended
19 by striking “and 25B” and inserting “25B, and
20 25E”.

21 (8) The table of sections for subpart A of part
22 IV of subchapter A chapter 1 of such Code is
23 amended by inserting after the item relating to sec-
24 tion 25D the following new item:

“Sec. 25E. Home energy audits.”.

25 (c) EFFECTIVE DATE.—

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

5 (2) APPLICATION OF EGTRRA SUNSET.—The
 6 amendments made by paragraphs (1) and (3) of
 7 subsection (b) shall be subject to title IX of the Eco-
 8 nomic Growth and Tax Relief Reconciliation Act of
 9 2001 in the same manner as the provisions of such
 10 Act to which such amendments relate.

11 **SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRE-**
 12 **CIATION OF SMART METERS.**

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

18 “(vii) any qualified smart electric
 19 meter.”.

20 (b) DEFINITION.—Section 168(i) of such Code is
 21 amended by inserting at the end the following new para-
 22 graph:

23 “(18) QUALIFIED SMART ELECTRIC METERS.—

24 “(A) IN GENERAL.—The term ‘qualified
 25 smart electric meter’ means any smart electric

meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

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

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

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

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

“(iv) provides net metering.”.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section

1 168(b) of such Code is amended by striking “or” at the
 2 end of subparagraph (B), by redesignating subparagraph
 3 (C) as subparagraph (D), and by inserting after subpara-
 4 graph (B) the following new subparagraph:

5 “(C) any property (other than property de-
 6 scribed in paragraph (3)) which is a qualified
 7 smart electric meter, or”.

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

11 **Subtitle D—Refinery Permit** 12 **Process Schedule**

13 **SEC. 231. SHORT TITLE.**

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

16 **SEC. 232. DEFINITIONS.**

17 For purposes of this subtitle—

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

20 (2) the term “applicant” means a person who
 21 (with the approval of the governor of the State, or
 22 in the case of Native American tribes or tribal terri-
 23 tories the designated leader of the tribe or tribal
 24 community, where the proposed refinery would be lo-
 25 cated) is seeking a Federal refinery authorization;

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

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

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

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

15 (5) the term “refinery” means—

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

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

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

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

16 **SEC. 233. STATE ASSISTANCE.**

17 (a) STATE ASSISTANCE.—At the request of a gov-
18 ernor of a State, or in the case of Native American tribes
19 or tribal territories the designated leader of the tribe or
20 tribal community, the Administrator is authorized to pro-
21 vide financial assistance to that State or tribe or tribal
22 community to facilitate the hiring of additional personnel
23 to assist the State or tribe or tribal community with exper-
24 tise in fields relevant to consideration of Federal refinery
25 authorizations.

1 (b) OTHER ASSISTANCE.—At the request of a gov-
 2 ernor of a State, or in the case of Native American tribes
 3 or tribal territories the designated leader of the tribe or
 4 tribal community, a Federal agency responsible for a Fed-
 5 eral refinery authorization shall provide technical, legal,
 6 or other nonfinancial assistance to that State or tribe or
 7 tribal community to facilitate its consideration of Federal
 8 refinery authorizations.

9 **SEC. 234. REFINERY PROCESS COORDINATION AND PROCE-**
 10 **DURES.**

11 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

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

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

20 (b) FEDERAL REFINERY AUTHORIZATIONS.—

21 (1) MEETING PARTICIPANTS.—Not later than
 22 30 days after receiving a notification from an appli-
 23 cant that the applicant is seeking a Federal refinery
 24 authorization pursuant to Federal law, the Federal
 25 coordinator appointed under subsection (a) shall

1 convene a meeting of representatives from all Fed-
2 eral and State agencies responsible for a Federal re-
3 finery authorization with respect to the refinery. The
4 governor of a State shall identify each agency of
5 that State that is responsible for a Federal refinery
6 authorization with respect to that refinery.

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

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

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

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

25 (d) REMEDIES.—

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

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

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

1 failure to act would jeopardize timely completion of
2 the entire schedule as established in the memo-
3 randum of agreement, the Court shall establish a
4 new schedule that is the most expeditious coordi-
5 nated schedule possible for completion of pro-
6 ceedings, consistent with the full substantive and
7 procedural review required by Federal law. The
8 court may issue orders to enforce any schedule it es-
9 tablishes under this paragraph.

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

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

18 **SEC. 235. DESIGNATION OF CLOSED MILITARY BASES.**

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

1 (b) REDEVELOPMENT AUTHORITY.—The redevelop-
2 ment authority for each installation designated under sub-
3 section (a), in preparing or revising the redevelopment
4 plan for the installation, shall consider the feasibility and
5 practicability of siting a refinery on the installation.

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

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

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

1 alignment Act (Public Law 100–526; 10 U.S.C.
2 2687 note); and

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

6 **SEC. 236. SAVINGS CLAUSE.**

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

11 **SEC. 237. REFINERY REVITALIZATION REPEAL.**

12 Subtitle H of title III of the Energy Policy Act of
13 2005 and the items relating thereto in the table of con-
14 tents of such Act are repealed.

15 **TITLE III—NEW AND EXPANDING**
16 **TECHNOLOGIES**

17 **Subtitle A—Alternative Fuels**

18 **SEC. 301. REPEAL.**

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

1 **SEC. 302. GOVERNMENT AUCTION OF LONG TERM PUT OP-**
2 **TION CONTRACTS ON COAL-TO-LIQUID FUEL**
3 **PRODUCED BY QUALIFIED COAL-TO-LIQUID**
4 **FACILITIES.**

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

9 (b) CONSULTATION WITH SECRETARY OF EN-
10 ERGY.—The Secretary shall consult with the Secretary of
11 Energy regarding—

- 12 (1) the frequency of the auctions;
13 (2) the strike prices specified in the contracts;
14 (3) the number of contracts to be auctioned
15 with a given strike price and expiration date; and
16 (4) the capacity of existing or planned facilities
17 to produce coal-to-liquid fuel.

18 (c) DEFINITIONS.—In this section:

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

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

1 (A) gives the holder the right (but not the
2 obligation) to sell to the Government of the
3 United States a certain quantity of a specific
4 type of coal-to-liquid fuel produced by a quali-
5 fied coal-to-liquid facility specified in the con-
6 tract, at a strike price specified in the contract,
7 on or before an expiration date specified in the
8 contract; and

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

11 (3) QUALIFIED COAL-TO-LIQUID FACILITY.—
12 The term “qualified coal-to-liquid facility” means a
13 manufacturing facility that has the capacity to
14 produce at least 10,000 barrels per day of transpor-
15 tation grade liquid fuels from a feedstock that is pri-
16 marily domestic coal (including peat and any prop-
17 erty which allows for the capture, transportation, or
18 sequestration of by-products resulting from such
19 process, including carbon emissions).

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

22 (5) STRIKE PRICE.—The term “strike price”
23 means, with respect to a put option contract, the
24 price at which the holder of the contract has the

1 right to sell the fuel which is the subject of the con-
 2 tract.

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

6 (e) EFFECTIVE DATE.—This section shall take effect
 7 1 year after the date of the enactment of this Act.

8 **SEC. 303. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQ-**
 9 **UIDS PROJECTS.**

10 Section 1702 of the Energy Policy Act of 2005 (42
 11 U.S.C. 16512) is amended by adding at the end the fol-
 12 lowing new subsection:

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

15 “(1) DEFINITIONS.—For purposes of this sub-
 16 section:

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

21 “(B) FULL TERM.—The term ‘full term’
 22 means the full term of a standby loan agree-
 23 ment, as specified in the agreement, which shall
 24 not exceed the lesser of 30 years or 90 percent

1 of the projected useful life of the project (as de-
2 termined by the Secretary).

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

7 “(D) MINIMUM PRICE.—The term ‘min-
8 imum price’ means a market price specified in
9 the standby loan agreement below which the
10 United States is obligated to make disburse-
11 ments to the project.

12 “(E) OUTPUT.—The term ‘output’ means
13 some or all of the liquid or gaseous transpor-
14 tation fuels produced from the project, as speci-
15 fied in the loan agreement.

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

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

1 “(i) a commercial-scale project that
2 converts coal to one or more liquid or gas-
3 eous transportation fuels; or

4 “(ii) not more than one project at a
5 facility that converts petroleum refinery
6 waste products, including petroleum coke,
7 into one or more liquids or gaseous trans-
8 portation fuels,

9 that demonstrates the capture, and sequestra-
10 tion or disposal or use of, the carbon dioxide
11 produced in the conversion process, and that,
12 on the basis of a carbon dioxide sequestration
13 plan prepared by the applicant, is certified by
14 the Administrator of the Environmental Protec-
15 tion Agency, in consultation with the Secretary,
16 as producing fuel with life cycle carbon dioxide
17 emissions at or below the average life cycle car-
18 bon dioxide emissions for the same type of fuel
19 produced at traditional petroleum based facili-
20 ties with similar annual capacities.

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

24 “(2) STANDBY LOANS.—

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

7 “(i) shall provide that the Secretary
8 will make a direct loan (within the mean-
9 ing of section 502(1) of the Federal Credit
10 Reform Act of 1990) to the qualifying
11 CTL project; and

12 “(ii) shall set a cap price and a min-
13 imum price for the primary term of the
14 agreement.

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

24 “(C) LOAN REPAYMENTS.—The Secretary
25 shall establish terms and conditions, including

1 interest rates and amortization schedules, for
2 the repayment of such loan within the full term
3 of the agreement, subject to the following limi-
4 tations:

5 “(i) If in any calendar quarter during
6 the primary term of the agreement the
7 market price is less than the cap price, the
8 project may elect to defer some or all of its
9 repayment obligations due in that quarter.
10 Any unpaid obligations will continue to ac-
11 crue interest.

12 “(ii) If in any calendar quarter during
13 the primary term of the agreement the
14 market price is greater than the cap price,
15 the project shall meet its scheduled repay-
16 ment obligation plus deferred repayment
17 obligations, but shall not be required to
18 pay in that quarter an amount that is
19 more than the excess of the market price
20 over the cap price, times the output of the
21 project.

22 “(iii) At the end of the primary term
23 of the agreement, the cumulative amount
24 of any deferred repayment obligations, to-
25 gether with accrued interest, shall be am-

1 authorized (with interest) over the remainder
2 of the full term of the agreement.

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

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

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

15 “(4) COMPLIANCE WITH FEDERAL CREDIT RE-
16 FORM ACT.—

17 “(A) UPFRONT PAYMENT OF COST OF
18 LOAN.—No standby loan agreement may be en-
19 tered into under this subsection unless the
20 project makes a payment to the United States
21 that the Office of Management and Budget de-
22 termines is equal to the cost of such loan (de-
23 termined under 502(5)(B) of the Federal Credit
24 Reform Act of 1990). Such payment shall be

1 made at the time the standby loan agreement is
2 executed.

3 “(B) MINIMIZATION OF RISK TO THE GOV-
4 ERNMENT.—In making the determination of the
5 cost of the loan for purposes of setting the pay-
6 ment for a standby loan under subparagraph
7 (A), the Secretary and the Office of Manage-
8 ment and Budget shall take into consideration
9 the extent to which the minimum price and the
10 cap price reflect historical patterns of volatility
11 in actual oil prices relative to projections of fu-
12 ture oil prices, based upon publicly available
13 data from the Energy Information Administra-
14 tion, and employing statistical methods and
15 analyses that are appropriate for the analysis of
16 volatility in energy prices.

17 “(C) TREATMENT OF PAYMENTS.—The
18 value to the United States of a payment under
19 subparagraph (A) and any profit-sharing pay-
20 ments under paragraph (3) shall be taken into
21 account for purposes of section 502(5)(B)(iii) of
22 the Federal Credit Reform Act of 1990 in de-
23 termining the cost to the Federal Government
24 of a standby loan made under this subsection.
25 If a standby loan has no cost to the Federal

1 Government, the requirements of section 504(b)
 2 of such Act shall be deemed to be satisfied.

3 “(5) OTHER PROVISIONS.—

4 “(A) NO DOUBLE BENEFIT.—A project re-
 5 ceiving a loan under this subsection may not,
 6 during the primary term of the loan agreement,
 7 receive a Federal loan guarantee under sub-
 8 section (a) of this section, or under other laws.

9 “(B) SUBROGATION, ETC.—Subsections
 10 (g)(2) (relating to subrogation), (h) (relating to
 11 fees), and (j) (relating to full faith and credit)
 12 shall apply to standby loans under this sub-
 13 section to the same extent they apply to loan
 14 guarantees.”.

15 **Subtitle B—Tax Provisions**

16 **SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, RE-** 17 **FINED COAL, AND INDIAN COAL PRODUCTION** 18 **CREDIT.**

19 (a) CREDIT MADE PERMANENT.—

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

23 (A) by striking “and before January 1,
 24 2009” each place it occurs,

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

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

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

8 “(A) IN GENERAL.—In the case of a facil-
9 ity using open-loop biomass to produce elec-
10 tricity, the term ‘qualified facility’ means any
11 facility owned by the taxpayer which is origi-
12 nally placed in service after October 22, 2004.”.

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

17 (b) SALES OF NET ELECTRICITY TO REGULATED
18 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED
19 PERSONS.—Paragraph (4) of section 45(e) of such Code
20 is amended by adding at the end the following new sen-
21 tence: “The net amount of electricity sold by any taxpayer
22 to a regulated public utility (as defined in section
23 7701(a)(33)) shall be treated as sold to an unrelated per-
24 son.”.

1 (c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
2 TAX.—

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

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall apply to taxable years begin-
11 ning after the date of the enactment of this Act.

12 **SEC. 312. EXTENSION OF ENERGY CREDIT.**

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

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

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

1 (d) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
2 TAX.—

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

9 “(iv) the credit determined under sec-
10 tion 48, and”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall apply to taxable years begin-
13 ning after the date of the enactment of this Act.

14 **SEC. 313. EXTENSION AND MODIFICATION OF CREDIT FOR**
15 **CLEAN RENEWABLE ENERGY BONDS.**

16 (a) EXTENSION.—Section 54(m) of the Internal Rev-
17 enue Code of 1986 (relating to termination) is amended
18 by striking “December 31, 2008” and inserting “Decem-
19 ber 31, 2013”.

20 (b) INCREASE IN NATIONAL LIMITATION.—Section
21 54(f) of such Code (relating to limitation on amount of
22 bonds designated) is amended—

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

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

3 (c) MODIFICATION OF RATABLE PRINCIPAL AMORTI-
4 ZATION REQUIREMENT.—

5 (1) IN GENERAL.—Paragraph (5) of section
6 54(l) of such Code is amended to read as follows:

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

14 (2) TECHNICAL AMENDMENT.—The third sen-
15 tence of section 54(e)(2) of such Code is amended
16 by striking “subsection (l)(6)” and inserting “sub-
17 section (l)(5)”.

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

21 **SEC. 314. EXTENSION OF CREDITS FOR BIODIESEL AND RE-**
22 **NEWABLE DIESEL.**

23 (a) IN GENERAL.—Sections 40A(g), 6426(e)(6), and
24 6427(e)(5)(B) of the Internal Revenue Code of 1986 are

1 each amended by striking “December 31, 2008” and in-
 2 serting “December 31, 2013”.

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

6 **Subtitle C—Nuclear**

7 **SEC. 321. USE OF FUNDS FOR RECYCLING.**

8 Section 302 of the Nuclear Waste Policy Act of 1982
 9 (42 U.S.C. 10222) is amended—

10 (1) in subsection (d), by striking “The Sec-
 11 retary may” and inserting “Except as provided in
 12 subsection (f), the Secretary may”; and

13 (2) by adding at the end the following new sub-
 14 section:

15 “(f) RECYCLING.—

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

21 “(2) COMPETITIVE SELECTION.—Grants and
 22 contracts authorized under paragraph (1) shall be
 23 awarded on the basis of a competitive bidding proc-
 24 ess that—

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

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

6 “(C) ensures adequate protection against
7 the proliferation of nuclear materials that could
8 be used in the manufacture of nuclear weap-
9 ons.”.

10 **SEC. 322. RULEMAKING FOR LICENSING OF SPENT NU-**
11 **CLEAR FUEL RECYCLING FACILITIES.**

12 (a) REQUIREMENT.—The Nuclear Regulatory Com-
13 mission shall, as expeditiously as possible, but in no event
14 later than 2 years after the date of enactment of this Act,
15 complete a rulemaking establishing a process for the li-
16 censing by the Nuclear Regulatory Commission, under the
17 Atomic Energy Act of 1954, of facilities for the recycling
18 of spent nuclear fuel.

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

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

2 Section 302(e) of the Nuclear Waste Policy Act of
3 1982 (42 U.S.C. 10222(e)) is amended by adding at the
4 end the following new paragraph:

5 “(7) The receipts and disbursements of the
6 Waste Fund shall not be counted as new budget au-
7 thority, outlays, receipts, or deficits or surplus for
8 purposes of—

9 “(A) the budget of the United States Gov-
10 ernment as submitted by the President;

11 “(B) the congressional budget; or

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

14 **SEC. 324. WASTE CONFIDENCE.**

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

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

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1 (relating to business related cred-
25 its) is amended by adding at the end the following new
26 section:

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

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

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

10 “(1) obtaining a certification under the Amer-
11 ican Society of Mechanical Engineers Nuclear Com-
12 ponent Certification program, or

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

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

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

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

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

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

4 “(d) SPECIAL RULES.—

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

11 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
12 tion shall be allowed under this chapter for any
13 amount taken into account in determining the credit
14 under this section.

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

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

23 “(32) the ASME Nuclear Certification credit
24 determined under section 45O(a).”.

1 (2) Subsection (a) of section 1016 (relating to adjust-
 2 ments to basis) is amended by striking “and” at the end
 3 of paragraph (36), by striking the period at the end of
 4 paragraph (37) and inserting “, and”, and by adding at
 5 the end the following new paragraph:

6 “(38) to the extent provided in section
 7 450(e)(1).”.

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

11 **Subtitle D—American Renewable** 12 **and Alternative Energy Trust Fund**

13 **SEC. 331. AMERICAN RENEWABLE AND ALTERNATIVE EN-** 14 **ERGY TRUST FUND.**

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

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

24 (1) IN GENERAL.—Amounts in the American
 25 Renewable and Alternative Energy Trust Fund shall

1 be available without further appropriation to carry
2 out specified provisions of the Energy Policy Act of
3 2005 (Public Law 109–58; in this section referred to
4 as “EPAAct2005”) and the Energy Independence and
5 Security Act of 2007 (Public Law 110–140; in this
6 section referred to as “EISAct2007”), as follows:

7 (A) Grants to improve the commercial
8 value of forest biomass for electric energy, use-
9 ful heat, transportation fuels, and other com-
10 mercial purposes, section 210 of EPAAct2005, 3
11 percent

12 (B) Hydroelectric production incentives,
13 section 242 of EPAAct2005, 2 percent.

14 (C) Oil shale, tar sands, and other stra-
15 tegic unconventional fuels, section 369 of
16 EPAAct2005, 3 percent.

17 (D) Clean Coal Power Initiative, section
18 401 of EPAAct2005, 7 percent.

19 (E) Solar and wind technologies, section
20 812 of EPAAct2005, 7 percent.

21 (F) Renewable Energy, section 931 of
22 EPAAct2005, 20 percent.

23 (G) Production incentives for cellulosic
24 biofuels, section 942 of EPAAct2005, 2.5 per-
25 cent.

1 (H) Coal and related technologies pro-
2 gram, section 962 of EPAAct2005, 4 percent.

3 (I) Methane hydrate research, section 968
4 of EPAAct2005, 2.5 percent.

5 (J) Incentives for Innovative Technologies,
6 section 1704 of EPAAct2005, 7 percent.

7 (K) Grants for production of advanced
8 biofuels, section 207 of EISAct2007, 16 per-
9 cent.

10 (L) Photovoltaic demonstration program,
11 section 607 EISAct2007, 2.5 percent.

12 (M) Geothermal Energy, title VI, subtitle
13 B of EISAct2007, 4 percent.

14 (N) Marine and Hydrokinetic Renewable
15 Energy Technologies, title VI, subtitle C of
16 EISAct2007, 2.5 percent.

17 (O) Energy storage competitiveness, sec-
18 tion 641 of EISAct2007, 10 percent.

19 (P) Smart grid technology research, devel-
20 opment, and demonstration, section 1304 of
21 EISAct2007, 7 percent.

22 (2) APPORTIONMENT OF EXCESS AMOUNT.—
23 Notwithstanding paragraph (1), any amounts allo-
24 cated under paragraph (1) that are in excess of the
25 amounts authorized in the applicable cited section or

1 subtitle of EPAct2005 and EISAct2007 shall be re-
2 allocated to the remaining sections and subtitles
3 cited in paragraph (1), up to the amounts otherwise
4 authorized by law to carry out such sections and
5 subtitles, in proportion to the amounts authorized by
6 law to be appropriated for such other sections and
7 subtitles.

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