

111TH CONGRESS  
1ST SESSION

# H. R. 2250

To immediately provide for domestic energy production and jobs and to pursue alternatives in renewable energy.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2009

Mr. BURTON of Indiana introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Science and Technology, Natural Resources, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To immediately provide for domestic energy production and jobs and to pursue alternatives in renewable energy.

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 “Energy Independence Now Act of 2009”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.

## TITLE I—REFINERIES

## Subtitle A—Tax Incentives

- Sec. 101. Issuance of guidance.
- Sec. 102. Tax-exempt financing of domestic use oil refinery facilities.
- Sec. 103. Designation and availability of Federal lands for oil and natural gas refineries.

## Subtitle B—Availability of Federal Lands

- Sec. 111. Definitions.
- Sec. 112. State participation and presidential designation.
- Sec. 113. Process coordination and rules of procedure.
- Sec. 114. Alternative uses of land.

## TITLE II—NUCLEAR ENERGY

- Sec. 201. Waste confidence.
- Sec. 202. ASME Nuclear Certification credit.

## TITLE III—DRILLING

## Subtitle A—Tax Provisions

- Sec. 301. Credit for producing fuel from nonconventional sources to apply to gas produced onshore from formations more than 15,000 feet deep.
- Sec. 302. Tax credit for carbon dioxide captured from industrial sources and used in enhanced oil and natural gas recovery.

## Subtitle B—Termination of Congressional Moratoria on Oil and Gas Development on the Outer Continental Shelf

- Sec. 311. Termination of laws prohibiting expenditures for oil and natural gas leasing and preleasing activities regarding areas of the Outer Continental Shelf.

## Subtitle C—Oil and Gas Development on the Coastal Plain of Alaska

- Sec. 321. Short title.
- Sec. 322. Definitions.
- Sec. 323. Leasing program for lands within the Coastal Plain.
- Sec. 324. Lease sales.
- Sec. 325. Grant of leases by the Secretary.
- Sec. 326. Lease terms and conditions.
- Sec. 327. Coastal plain environmental protection.
- Sec. 328. Expedited judicial review.
- Sec. 329. Federal and State distribution of revenues.
- Sec. 330. Rights-of-way across the Coastal Plain.
- Sec. 331. Conveyance.
- Sec. 332. Local government impact aid and community service assistance.

## TITLE IV—OTHER PROVISIONS

- Sec. 401. Modification of renewable electricity production credit for biomass facilities.
- Sec. 402. Elimination of other restrictions on use of energy alternatives.

Sec. 403. Increased credit for certain vehicles acquired from domestic corporations.

#### TITLE V—COAL-TO-LIQUID FUEL

##### Subtitle A—Coal-to-Liquid Fuel Activities

- Sec. 501. Short title.  
 Sec. 502. Definitions.  
 Sec. 503. Coal-to-liquid fuel loan guarantee program.  
 Sec. 504. Coal-to-liquid facilities loan program.  
 Sec. 505. Location of coal-to-liquid manufacturing facilities.  
 Sec. 506. Strategic Petroleum Reserve.  
 Sec. 507. Authorization to conduct research, development, testing, and evaluation of assured domestic fuels.  
 Sec. 508. Coal-to-liquid long-term fuel procurement and Department of Defense development.  
 Sec. 509. Report on emissions of Fischer-Tropsch products used as transportation fuels.

##### Subtitle B—Amendments to the Internal Revenue Code of 1986

- Sec. 511. Credit for investment in coal-to-liquid fuels projects.  
 Sec. 512. Temporary expensing for equipment used in coal-to-liquid fuels process.  
 Sec. 513. Extension of alternative fuel credit for fuel derived from coal through the Fischer-Tropsch process.  
 Sec. 514. Modifications to enhanced oil recovery credit.  
 Sec. 515. Allowance of enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit against the alternative minimum tax.

#### TITLE VI—INCENTIVIZING THE EXTRACTION AND PROCESSING OF OIL SHALE

- Sec. 601. Incentives for extraction and processing of oil shale.

#### TITLE VII—LAND FOR BIOFUEL PRODUCTION

- Sec. 701. Lease of public lands for production of renewable biomass for biofuels.

### 1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Over the course of the past few years, gas  
 4 prices have fluctuated from a cost as low as \$2 per  
 5 gallon to as high as over \$4 per gallon.

6 (2) Volatile fuel costs present daunting chal-  
 7 lenges to American families, small businesses and

1 corporations making it difficult to budget and plan  
2 efficiently.

3 (3) Hidden taxes on American oil companies  
4 provide an unfair advantage to foreign competitors.  
5 This serves only to increase dependence on foreign  
6 oil and eliminate domestic jobs.

7 (4) The Federal regulations that restrict drill-  
8 ing impose prohibitive costs on the development of  
9 new sources of energy, artificially inflating the price  
10 of oil and gasoline.

11 (5) It has been estimated that oil shale deposits  
12 in Colorado, Utah, and Wyoming hold as little as 1.8  
13 trillion barrels of oil and as many as 8 trillion bar-  
14 rels.

15 (6) The United States is the only Nation in the  
16 world that has gone to such great lengths to restrict  
17 its own energy supply.

18 (7) It is estimated that 19 billion barrels of oil  
19 exist untouched within areas that the United States  
20 has restricted from drilling. This is equivalent to  
21 nearly 30 years worth of current imports of oil from  
22 our second largest foreign source of oil, Saudi Ara-  
23 bia.

1           (8) The Federal gasoline tax contributes to the  
2           burden of high prices for American families, busi-  
3           ness, and truckers.

4           (9) While many oil companies do hold leases on  
5           various plots of land, the most promising areas for  
6           oil and gas development, such as the Arctic National  
7           Wildlife Refuge and the Outer Continental Shelf, are  
8           currently off limits.

9           (10) Expanding drilling in these areas would  
10          create an upwards of 750,000 well-paying, long-  
11          term, privately funded American jobs.

12          (11) Allowing private parties to delay, or even  
13          halt, the construction of new refineries through liti-  
14          gation over the National Environmental Policy Act  
15          of 1969's Environmental Impact Statement require-  
16          ment reduces the supply of gas thus raising gas  
17          prices.

18          (12) Food sources should not be used for the  
19          production of fuel, driving up food prices. Rather, it  
20          is essential to designate specific land for biofuels  
21          while investing in technology that can produce eth-  
22          anol from nonfood sources.

23          (13) It is necessary to invest in emission-free  
24          energy sources, such as wind and solar energy tech-  
25          nologies, to prepare for the future.



1 (15) and inserting “, and”, and by inserting at the  
2 end the following new paragraph:

3 “(16) domestic use oil refinery facilities.”.

4 (2) DOMESTIC USE OIL REFINERY FACILI-  
5 TIES.—Section 142 of such Code is amended by  
6 adding at the end the following new subsection:

7 “(n) DOMESTIC USE OIL REFINERY FACILITIES.—

8 “(1) IN GENERAL.—For purposes of subsection  
9 (a)(16), the term ‘domestic use oil refinery facility’  
10 means any facility in the United States—

11 “(A) which processes liquid fuel from  
12 crude oil, and

13 “(B) all of the output of which it is rea-  
14 sonably certain ultimate consumption will occur  
15 in the United States.

16 “(2) ELECTION TO TERMINATE TAX-EXEMPT  
17 BOND FINANCING BY CERTAIN REFINERIES.—In the  
18 case of a facility financed with bonds which would  
19 cease to be tax-exempt by reason of the failure to  
20 meet the domestic use requirement of this sub-  
21 section, rules similar to the rules of subsection (f)(4)  
22 shall apply for purposes of this section.”.

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

1 **SEC. 103. DESIGNATION AND AVAILABILITY OF FEDERAL**  
2 **LANDS FOR OIL AND NATURAL GAS REFIN-**  
3 **ERIES.**

4 (a) DESIGNATION.—Within 18 months after the date  
5 of enactment of this Act, the President shall designate at  
6 least ten sites on Federal lands that are suitable for the  
7 siting of an oil refinery or natural gas refinery (or both).

8 (b) AVAILABILITY OF LANDS.—Within 24 months  
9 after the date of enactment of this Act, the President shall  
10 make each site designated under subsection (a) available  
11 to the private sector for construction of an oil refinery or  
12 natural gas refinery (or both), as appropriate.

13 **Subtitle B—Availability of Federal**  
14 **Lands**

15 **SEC. 111. DEFINITIONS.**

16 For purposes of this subtitle—

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

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

1           (3) the term “designated refinery” means a re-  
2 refinery designated under section 112(a);

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

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

9                 (B) includes any permits, special use au-  
10 thorizations, certifications, opinions, or other  
11 approvals required under Federal law with re-  
12 spect to siting, construction, expansion, or oper-  
13 ation of a refinery;

14          (5) the term “refinery” means—

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

24                 (B) a facility designed and operated to re-  
25 ceive, load, unload, store, transport, process,

1 and refine coal by any chemical or physical  
2 process, including liquefaction, in order to  
3 produce gasoline, diesel, or other liquid fuel as  
4 its primary output;

5 (6) the term “Secretary” means the Secretary  
6 of Energy; and

7 (7) the term “State” means a State, the Dis-  
8 trict of Columbia, the Commonwealth of Puerto  
9 Rico, and any other territory or possession of the  
10 United States.

11 **SEC. 112. STATE PARTICIPATION AND PRESIDENTIAL DES-**  
12 **IGNATION.**

13 (a) DESIGNATION REQUIREMENT.—Not later than  
14 90 days after the date of enactment of this Act, the Presi-  
15 dent shall designate no less than 3 closed military installa-  
16 tions, or portions thereof, subject to subsection (c)(2), that  
17 are appropriate for the purposes of siting a refinery.

18 (b) ANALYSIS OF REFINERY SITES.—In considering  
19 any site for possible designation under subsection (a), the  
20 President shall conduct an analysis of—

21 (1) the availability of crude oil supplies to the  
22 site, including supplies from domestic production of  
23 shale oil and tar sands and other strategic uncon-  
24 ventional fuels;

1           (2) the distribution of the Nation's refined pe-  
2           troleum product demand;

3           (3) whether such site is in close proximity to  
4           substantial pipeline infrastructure, including both  
5           crude oil and refined petroleum product pipelines,  
6           and potential infrastructure feasibility;

7           (4) the need to diversify the geographical loca-  
8           tion of the domestic refining capacity;

9           (5) the effect that increased refined petroleum  
10          products from a refinery on that site may have on  
11          the price and supply of gasoline to consumers;

12          (6) the impact of locating a refinery on the site  
13          on the readiness and operations of the Armed  
14          Forces; and

15          (7) such other factors as the President con-  
16          siders appropriate.

17          (c) SALE OR DISPOSAL.—

18           (1) DESIGNATION.—Except as provided in  
19           paragraph (2), until the expiration of 2 years after  
20           the date of enactment of this Act, the Federal Gov-  
21           ernment shall not sell or otherwise dispose of the  
22           military installations designated pursuant to sub-  
23           section (a).

24           (2) GOVERNOR'S OBJECTION.—No site may be  
25           used for a refinery under this subtitle if, not later

1 than 60 days after designation of the site under sub-  
2 section (a), the Governor of the State in which the  
3 site is located transmits to the President an objec-  
4 tion to the designation, unless, not later than 60  
5 days after the President receives such objection, the  
6 Congress has by law overridden the objection.

7 (d) REDEVELOPMENT AUTHORITY.—With respect to  
8 a closed military installation, or portion thereof, des-  
9 igned by the President as a potentially suitable refinery  
10 site pursuant to subsection (a)—

11 (1) the redevelopment authority for the installa-  
12 tion, in preparing or revising the redevelopment plan  
13 for the installation, shall consider the feasibility and  
14 practicability of siting a refinery on the installation;  
15 and

16 (2) the Secretary of Defense, in managing and  
17 disposing of real property at the installation pursu-  
18 ant to the base closure law applicable to the installa-  
19 tion, shall give substantial deference to the rec-  
20 ommendations of the redevelopment authority, as  
21 contained in the redevelopment plan for the installa-  
22 tion, regarding the siting of a refinery on the instal-  
23 lation.

1 **SEC. 113. PROCESS COORDINATION AND RULES OF PROCE-**  
2 **DURE.**

3 (a) DESIGNATION AS LEAD AGENCY.—

4 (1) IN GENERAL.—The Department of Energy  
5 shall act as the lead agency for the purposes of co-  
6 ordinating all applicable Federal refinery authoriza-  
7 tions and related environmental reviews with respect  
8 to a designated refinery.

9 (2) OTHER AGENCIES.—Each Federal and  
10 State agency or official required to provide a Fed-  
11 eral refinery authorization shall cooperate with the  
12 Secretary and comply with the deadlines established  
13 by the Secretary.

14 (b) SCHEDULE.—

15 (1) SECRETARY'S AUTHORITY TO SET SCHED-  
16 ULE.—The Secretary shall establish a schedule for  
17 all Federal refinery authorizations with respect to a  
18 designated refinery. In establishing the schedule, the  
19 Secretary shall—

20 (A) ensure expeditious completion of all  
21 such proceedings; and

22 (B) accommodate the applicable schedules  
23 established by Federal law for such proceedings.

24 (2) FAILURE TO MEET SCHEDULE.—If a Fed-  
25 eral or State administrative agency or official does  
26 not complete a proceeding for an approval that is re-

1       quired for a Federal refinery authorization in ac-  
2       cordance with the schedule established by the Sec-  
3       retary under this subsection, the applicant may pur-  
4       sue remedies under subsection (d).

5       (c) CONSOLIDATED RECORD.—The Secretary shall,  
6       with the cooperation of Federal and State administrative  
7       agencies and officials, maintain a complete consolidated  
8       record of all decisions made or actions taken by the Sec-  
9       retary or by a Federal administrative agency or officer (or  
10      State administrative agency or officer acting under dele-  
11      gated Federal authority) with respect to any Federal re-  
12      finery authorization. Such record shall be the record for  
13      judicial review under subsection (d) of decisions made or  
14      actions taken by Federal and State administrative agen-  
15      cies and officials, except that, if the Court determines that  
16      the record does not contain sufficient information, the  
17      Court may remand the proceeding to the Secretary for fur-  
18      ther development of the consolidated record.

19      (d) JUDICIAL REVIEW.—

20           (1) IN GENERAL.—The United States Court of  
21      Appeals for the District of Columbia shall have  
22      original and exclusive jurisdiction over any civil ac-  
23      tion for the review of—

1 (A) an order or action, related to a Federal  
2 refinery authorization, by a Federal or State  
3 administrative agency or official; and

4 (B) an alleged failure to act by a Federal  
5 or State administrative agency or official acting  
6 pursuant to a Federal refinery authorization.

7 The failure of an agency or official to act on a Fed-  
8 eral refinery authorization in accordance with the  
9 Secretary's schedule established pursuant to sub-  
10 section (b) shall be considered inconsistent with Fed-  
11 eral law for the purposes of paragraph (2) of this  
12 subsection.

13 (2) COURT ACTION.—If the Court finds that an  
14 order or action described in paragraph (1)(A) is in-  
15 consistent with the Federal law governing such Fed-  
16 eral refinery authorization, or that a failure to act  
17 as described in paragraph (1)(B) has occurred, and  
18 the order, action, or failure to act would prevent the  
19 siting, construction, expansion, or operation of the  
20 designated refinery, the Court shall remand the pro-  
21 ceeding to the agency or official to take appropriate  
22 action consistent with the order of the Court. If the  
23 Court remands the order, action, or failure to act to  
24 the Federal or State administrative agency or offi-

1 cial, the Court shall set a reasonable schedule and  
2 deadline for the agency or official to act on remand.

3 (3) SECRETARY'S ACTION.—For any civil action  
4 brought under this subsection, the Secretary shall  
5 promptly file with the Court the consolidated record  
6 compiled by the Secretary pursuant to subsection  
7 (c).

8 (4) EXPEDITED REVIEW.—The Court shall set  
9 any civil action brought under this subsection for ex-  
10 pedited consideration.

11 (5) ATTORNEY'S FEES.—In any action chal-  
12 lenging a Federal refinery authorization that has  
13 been granted, reasonable attorney's fees and other  
14 expenses of litigation shall be awarded to the pre-  
15 vailing party. This paragraph shall not apply to any  
16 action seeking remedies for denial of a Federal refin-  
17 ery authorization or failure to act on an application  
18 for a Federal refinery authorization.

19 **SEC. 114. ALTERNATIVE USES OF LAND.**

20 Any land designated under section 112(a) that has  
21 not been used for an oil refinery within 10 years after  
22 such designation shall be made available for leasing for  
23 renewable energy development purposes, such as wind or  
24 solar energy installations or an ethanol refinery.

1       **TITLE II—NUCLEAR ENERGY**

2       **SEC. 201. WASTE CONFIDENCE.**

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

10       **SEC. 202. ASME NUCLEAR CERTIFICATION CREDIT.**

11           (a) IN GENERAL.—Subpart D of part IV of sub-  
12 chapter A of chapter 1 of the Internal Revenue Code of  
13 1986 (relating to business related credits) is amended by  
14 adding at the end the following new section:

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

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

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

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

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

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

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

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

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

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

19          “(d) SPECIAL RULES.—

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

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

5           “(e) TERMINATION.—This section shall not apply to  
6           any expenditures paid or incurred in taxable years begin-  
7           ning after December 31, 2021.”.

8           (b) CONFORMING AMENDMENTS.—(1) Subsection (b)  
9           of section 38 is amended by striking “plus” at the end  
10          of paragraph (34), by striking the period at the end of  
11          paragraph (35) and inserting “, plus”, and by adding at  
12          the end the following new paragraph:

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

15          (2) Subsection (a) of section 1016 (relating to adjust-  
16          ments to basis) is amended by striking “and” at the end  
17          of paragraph (36), by striking the period at the end of  
18          paragraph (37) and inserting “, and”, and by adding at  
19          the end the following new paragraph:

20                 “(38) to the extent provided in section  
21                 45R(e)(1).”.

22          (c) CLERICAL AMENDMENT.—The table of sections  
23          for subpart B of part IV of subchapter A of chapter 1  
24          of such Code (relating to other credits) is amended by add-  
25          ing at the end the following new item:

“Sec. 45R. Credit for carbon dioxide captured from industrial sources and used as a tertiary injectant in enhanced oil and natural gas recovery.”.

1 (d) **EFFECTIVE DATE.**—The amendments made by  
 2 this section shall apply to expenditures paid or incurred  
 3 in taxable years beginning after December 31, 2009.

## 4 **TITLE III—DRILLING**

### 5 **Subtitle A—Tax Provisions**

6 **SEC. 301. CREDIT FOR PRODUCING FUEL FROM NON-**  
 7 **CONVENTIONAL SOURCES TO APPLY TO GAS**  
 8 **PRODUCED ONSHORE FROM FORMATIONS**  
 9 **MORE THAN 15,000 FEET DEEP.**

10 (a) **IN GENERAL.**—Subparagraph (B) of section  
 11 45K(c)(1) of the Internal Revenue Code of 1986 is amend-  
 12 ed by striking “or” at the end of clause (i), by striking  
 13 “and” at the end of clause (ii) and inserting “or”, and  
 14 by inserting after clause (ii) the following new clause:

15 “(iii) an onshore well from a forma-  
 16 tion more than 15,000 feet deep, and”.

17 (b) **ELIGIBLE DEEP GAS WELLS.**—Section 45K of  
 18 such Code is amended by adding at the end the following  
 19 new subsection:

20 “(h) **ELIGIBLE DEEP GAS WELLS.**—In the case of  
 21 a well producing qualified fuel described in subsection  
 22 (c)(1)(B)(iii)—

23 “(1) for purposes of subsection (e)(1)(A), such  
 24 well shall be treated as drilled before January 1,

1 1993, if such well is drilled after the date of the en-  
2 actment of this subsection, and

3 “(2) subsection (e)(2) shall not apply.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years ending after the  
6 date of the enactment of this Act.

7 **SEC. 302. TAX CREDIT FOR CARBON DIOXIDE CAPTURED**  
8 **FROM INDUSTRIAL SOURCES AND USED IN**  
9 **ENHANCED OIL AND NATURAL GAS RECOV-**  
10 **ERY.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-  
12 chapter A of chapter 1 of the Internal Revenue Code of  
13 1986 (relating to business credits), as amended by this  
14 Act, is amended by adding at the end the following new  
15 section:

16 **“SEC. 45S. CREDIT FOR CARBON DIOXIDE CAPTURED FROM**  
17 **INDUSTRIAL SOURCES AND USED AS A TER-**  
18 **TIARY INJECTANT IN ENHANCED OIL AND**  
19 **NATURAL GAS RECOVERY.**

20 “(a) GENERAL RULE.—For purposes of section 38,  
21 the captured carbon dioxide tertiary injectant credit for  
22 any taxable year is an amount equal to the product of—

23 “(1) the credit amount, and

24 “(2) the qualified carbon dioxide captured from  
25 industrial sources and used as a tertiary injectant in

1 qualified enhanced oil and natural gas recovery  
2 which is attributable to the taxpayer.

3 “(b) CREDIT AMOUNT.—For purposes of this sec-  
4 tion—

5 “(1) IN GENERAL.—The credit amount is \$0.75  
6 per 1,000 standard cubic feet.

7 “(2) INFLATION ADJUSTMENT.—In the case of  
8 any taxable year beginning in a calendar year after  
9 2007, there shall be substituted for the \$0.75  
10 amount under paragraph (1) an amount equal to the  
11 product of—

12 “(A) \$0.75, multiplied by

13 “(B) the inflation adjustment factor for  
14 such calendar year determined under section  
15 43(b)(3)(B) for such calendar year, determined  
16 by substituting ‘2006’ for ‘1990’.

17 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of  
18 this section—

19 “(1) IN GENERAL.—The term ‘qualified carbon  
20 dioxide’ means carbon dioxide captured from an an-  
21 thropogenic source that—

22 “(A) would otherwise be released into the  
23 atmosphere as industrial emission of green-  
24 house gas,

1           “(B) is measurable at the source of cap-  
2           ture,

3           “(C) is compressed, treated, and trans-  
4           ported via pipeline,

5           “(D) is sold as a tertiary injectant in  
6           qualified enhanced oil and natural gas recovery,  
7           and

8           “(E) is permanently sequestered in geologi-  
9           cal formations as a result of the enhanced oil  
10          and natural gas recovery process.

11          “(2) ANTHROPOGENIC SOURCE.—An anthropo-  
12          genic source of carbon dioxide is an industrial  
13          source, including any of the following types of  
14          plants, and facilities related to such plant—

15                 “(A) a coal and natural gas fired electrical  
16                 generating power station,

17                 “(B) a natural gas processing and treating  
18                 plant,

19                 “(C) an ethanol plant,

20                 “(D) a fertilizer plant, and

21                 “(E) a chemical plant.

22          “(3) DEFINITIONS.—

23                 “(A) QUALIFIED ENHANCED OIL AND NAT-  
24                 URAL GAS RECOVERY.—The term ‘qualified en-

1           hanced oil and natural gas recovery’ has the  
2           meaning given such term by section 43(c)(2).

3           “(B) TERTIARY INJECTANT.—The term  
4           ‘tertiary injectant’ has the same meaning as  
5           when used within section 193(b)(1).

6           “(d) OTHER DEFINITIONS AND SPECIAL RULES.—  
7           For purposes of this section—

8           “(1) ONLY CARBON DIOXIDE CAPTURED WITH-  
9           IN THE UNITED STATES TAKEN INTO ACCOUNT.—  
10          Sales shall be taken into account under this section  
11          only with respect to qualified carbon dioxide of  
12          which is within—

13                 “(A) the United States (within the mean-  
14                 ing of section 638(1)), or

15                 “(B) a possession of the United States  
16                 (within the meaning of section 638(2)).

17          “(2) RECYCLED CARBON DIOXIDE.—The term  
18          ‘qualified carbon dioxide’ includes the initial deposit  
19          of captured carbon dioxide used as a tertiary  
20          injectant. Such term does not include carbon dioxide  
21          that is re-captured, recycled, and re-injected as part  
22          of the enhanced oil and natural gas recovery process.

23          “(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—  
24          Any credit under this section shall be attributable to  
25          the person that captures, treats, compresses, trans-

1       ports and sells the carbon dioxide for use as a ter-  
2       tiary injectant in enhanced oil and natural gas re-  
3       covery, except to the extent provided in regulations  
4       prescribed by the Secretary.”.

5       (b) CONFORMING AMENDMENT.—Section 38(b) of  
6       such Code (relating to general business credit), as amend-  
7       ed by this Act, is amended by striking “plus” at the end  
8       of paragraph (35), by striking the period at the end of  
9       paragraph (36) and inserting “, plus”, and by adding at  
10      the end of following new paragraph:

11               “(37) the captured carbon dioxide tertiary  
12      injectant credit determined under section 45S(a).”.

13      (c) CLERICAL AMENDMENT.—The table of sections  
14      for subpart B of part IV of subchapter A of chapter 1  
15      of such Code (relating to other credits) is amended by add-  
16      ing at the end the following new item:

    “Sec. 45S. Credit for carbon dioxide captured from industrial sources and used  
        as a tertiary injectant in enhanced oil and natural gas recov-  
        ery.”.

17      (d) EFFECTIVE DATE.—The amendments made by  
18      this section shall apply to taxable years beginning after  
19      the date of the enactment of this Act.

1 **Subtitle B—Termination of Con-**  
2 **gressional Moratoria on Oil and**  
3 **Gas Development on the Outer**  
4 **Continental Shelf**

5 **SEC. 311. TERMINATION OF LAWS PROHIBITING EXPENDI-**  
6 **TURES FOR OIL AND NATURAL GAS LEASING**  
7 **AND PRELEASING ACTIVITIES REGARDING**  
8 **AREAS OF THE OUTER CONTINENTAL SHELF.**

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 for any area of the  
12 Outer Continental Shelf shall have no force or effect.

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

16 **SEC. 321. SHORT TITLE.**

17 This subtitle may be cited as the “American-Made  
18 Energy and Good Jobs Act”.

19 **SEC. 322. DEFINITIONS.**

20 In this subtitle:

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

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

4 **SEC. 323. LEASING PROGRAM FOR LANDS WITHIN THE**  
5 **COASTAL PLAIN.**

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

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

17          (2) to administer the provisions of this subtitle  
18          through regulations, lease terms, conditions, restric-  
19          tions, prohibitions, stipulations, and other provisions  
20          that ensure the oil and gas exploration, development,  
21          and production activities on the Coastal Plain will  
22          result in no significant adverse effect on fish and  
23          wildlife, their habitat, subsistence resources, and the  
24          environment, including, in furtherance of this goal,  
25          by requiring the application of the best commercially

1 available technology for oil and gas exploration, de-  
2 velopment, and production to all exploration, devel-  
3 opment, and production operations under this sub-  
4 title in a manner that ensures the receipt of fair  
5 market value by the public for the mineral resources  
6 to be leased.

7 (b) REPEAL.—

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

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

14 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
15 TAIN OTHER LAWS.—

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

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

17           (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
18 TIONS.—Before conducting the first lease sale under  
19 this subtitle, the Secretary shall prepare an environ-  
20 mental impact statement under the National Envi-  
21 ronmental Policy Act of 1969 with respect to the ac-  
22 tions authorized by this Act that are not referred to  
23 in paragraph (2). Notwithstanding any other law,  
24 the Secretary is not required to identify nonleasing  
25 alternative courses of action or to analyze the envi-

1       ronmental effects of such courses of action. The Sec-  
2       retary shall only identify a preferred action for such  
3       leasing and a single leasing alternative, and analyze  
4       the environmental effects and potential mitigation  
5       measures for those two alternatives. The identifica-  
6       tion of the preferred action and related analysis for  
7       the first lease sale under this subtitle shall be com-  
8       pleted within 18 months after the date of enactment  
9       of this Act. The Secretary shall only consider public  
10      comments that specifically address the Secretary's  
11      preferred action and that are filed within 20 days  
12      after publication of an environmental analysis. Not-  
13      withstanding any other law, compliance with this  
14      paragraph is deemed to satisfy all requirements for  
15      the analysis and consideration of the environmental  
16      effects of proposed leasing under this subtitle.

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

20      (e) SPECIAL AREAS.—

21           (1) IN GENERAL.—The Secretary, after con-  
22      sultation with the State of Alaska, the city of  
23      Kaktovik, and the North Slope Borough, may des-  
24      ignate up to a total of 45,000 acres of the Coastal  
25      Plain as a Special Area if the Secretary determines

1 that the Special Area is of such unique character  
2 and interest so as to require special management  
3 and regulatory protection. The Secretary shall des-  
4 ignate as such a Special Area the Sadlerochit Spring  
5 area, comprising approximately 4,000 acres.

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

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

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

23 (f) LIMITATION ON CLOSED AREAS.—The Sec-  
24 retary’s sole authority to close lands within the Coastal

1 Plain to oil and gas leasing and to exploration, develop-  
2 ment, and production is that set forth in this subtitle.

3 (g) REGULATIONS.—

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

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

17 **SEC. 324. LEASE SALES.**

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

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

24 (1) receipt and consideration of sealed nomina-  
25 tions for any area in the Coastal Plain for inclusion

1 in, or exclusion (as provided in subsection (e)) from,  
2 a lease sale;

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

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

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

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

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

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

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

1 **SEC. 325. GRANT OF LEASES BY THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary may grant to the  
3 highest responsible qualified bidder in a lease sale con-  
4 ducted pursuant to section 424 any lands to be leased on  
5 the Coastal Plain upon payment by the lessee of such  
6 bonus as may be accepted by the Secretary.

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

13 **SEC. 326. LEASE TERMS AND CONDITIONS.**

14 An oil or gas lease issued pursuant to this subtitle  
15 shall—

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

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

1 under the lease and within the Coastal Plain by the  
2 lessee or by any of the subcontractors or agents of  
3 the lessee;

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

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

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

20 (6) prohibit the export of oil produced under  
21 the lease; and

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

1 **SEC. 327. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

4 The Secretary shall, consistent with the requirements of  
5 section 423, administer the provisions of this subtitle  
6 through regulations, lease terms, conditions, restrictions,  
7 prohibitions, stipulations, and other provisions that—

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

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

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

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

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

25 (1) a site-specific analysis be made of the prob-  
26 able effects, if any, that the drilling or related activi-

1       ties will have on fish and wildlife, their habitat, sub-  
2       sistence resources, and the environment;

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

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

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

20       (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
21 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
22 proposed regulations, lease terms, conditions, restrictions,  
23 prohibitions, and stipulations for the leasing program  
24 under this subtitle shall require compliance with all appli-

1 cable provisions of Federal and State environmental law,  
2 and shall also require the following:

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

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

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

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

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

22 (4) Prohibitions on general public access and  
23 use on all pipeline access and service roads.

24 (5) Stringent reclamation and rehabilitation re-  
25 quirements, consistent with the standards set forth

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

11 (6) Appropriate prohibitions or restrictions on  
12 access by all modes of transportation.

13 (7) Appropriate prohibitions or restrictions on  
14 sand and gravel extraction.

15 (8) Consolidation of facility siting.

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

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

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

1           (12) Treatment and disposal of hazardous and  
2 toxic wastes, solid wastes, reserve pit fluids, drilling  
3 muds and cuttings, and domestic wastewater, includ-  
4 ing an annual waste management report, a haz-  
5 arduous materials tracking system, and a prohibition  
6 on chlorinated solvents, in accordance with applica-  
7 ble Federal and State environmental law.

8           (13) Fuel storage and oil spill contingency plan-  
9 ning.

10          (14) Research, monitoring, and reporting re-  
11 quirements.

12          (15) Field crew environmental briefings.

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

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

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

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

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

1 (e) CONSIDERATIONS.—In preparing and promul-  
2 gating regulations, lease terms, conditions, restrictions,  
3 prohibitions, and stipulations under this section, the Sec-  
4 retary shall consider the following:

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

10 (2) The environmental protection standards  
11 that governed the initial Coastal Plain seismic explo-  
12 ration program under parts 37.31 to 37.33 of title  
13 50, Code of Federal Regulations.

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

19 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

3                   (A) Avoiding unnecessary duplication of fa-  
4                   cilities and activities.

5                   (B) Encouraging consolidation of common  
6                   facilities and activities.

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

11                  (D) Utilizing existing facilities wherever  
12                  practicable.

13                  (E) Enhancing compatibility between wild-  
14                  life values and development activities.

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

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

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

24 **SEC. 328. EXPEDITED JUDICIAL REVIEW.**

25           (a) FILING OF COMPLAINT.—

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

5                   (A) except as provided in subparagraph

6                   (B), within the 90-day period beginning on the  
7 date of the action being challenged; or

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

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

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

1 to enable leasing to proceed and the Secretary's  
2 analysis of environmental effects under this subtitle  
3 shall be presumed to be correct unless shown other-  
4 wise by clear and convincing evidence to the con-  
5 trary.

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

10 **SEC. 329. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
11 **NUES.**

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

16 (1) 25 percent shall be paid to the State of  
17 Alaska; and

18 (2) except as provided in section 432(d), the  
19 balance shall be deposited into the Treasury as mis-  
20 cellaneous receipts.

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

1 **SEC. 330. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

5 (1) except as provided in paragraph (2), under  
6 section 28 of the Mineral Leasing Act (30 U.S.C.  
7 185), without regard to title XI of the Alaska Na-  
8 tional Interest Lands Conservation Act (30 U.S.C.  
9 3161 et seq.); and

10 (2) under title XI of the Alaska National Inter-  
11 est Lands Conservation Act (30 U.S.C. 3161 et  
12 seq.), for access authorized by sections 1110 and  
13 1111 of that Act (16 U.S.C. 3170 and 3171).

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

23 (c) REGULATIONS.—The Secretary shall include in  
24 regulations under section 423(g) provisions granting  
25 rights-of-way and easements described in subsection (a)  
26 of this section.

1 **SEC. 331. CONVEYANCE.**

2 In order to maximize Federal revenues by removing  
3 clouds on title to lands and clarifying land ownership pat-  
4 terns within the Coastal Plain, the Secretary, notwith-  
5 standing the provisions of section 1302(h)(2) of the Alas-  
6 ka National Interest Lands Conservation Act (16 U.S.C.  
7 3192(h)(2)), shall convey—

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

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

24 **SEC. 332. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
25 **NITY SERVICE ASSISTANCE.**

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

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

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

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

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

23           (2) implementing mitigation plans and main-  
24 taining mitigation projects;

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

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

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

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

19           (c) APPLICATION.—

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

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

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

11          (d) ESTABLISHMENT OF FUND.—

12           (1) IN GENERAL.—There is established in the  
13          Treasury the Coastal Plain Local Government Im-  
14          pact Aid Assistance Fund.

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

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

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

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

4           (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
5           vide financial assistance under this section there is author-  
6           ized to be appropriated to the Secretary from the Coastal  
7           Plain Local Government Impact Aid Assistance Fund  
8           \$5,000,000 for each fiscal year.

## 9           **TITLE IV—OTHER PROVISIONS**

### 10          **SEC. 401. MODIFICATION OF RENEWABLE ELECTRICITY**

#### 11                           **PRODUCTION CREDIT FOR BIOMASS FACILI-** 12                           **TIES.**

13           (a) IN GENERAL.—Subsection (e) of section 45 of the  
14           Internal Revenue Code of 1986 is amended by adding at  
15           the end the following new paragraph:

16                           “(12) CREDIT ALLOWED FOR ELECTRICITY  
17           PRODUCED FROM BIOMASS FOR ON-SITE USE.—In  
18           the case of electricity produced after December 31,  
19           2008, at any facility described in paragraph (2) or  
20           (3) of subsection (d) which is equipped with a meter-  
21           ing device to determine electricity consumption or  
22           sale, subsection (a)(2) shall be applied without re-  
23           gard to subparagraph (B) thereof with respect to  
24           such electricity produced and consumed at such fa-  
25           cility.”.

1 (b) CREDIT PERIOD FOR ELECTRICITY PRODUCED  
2 FROM OPEN-LOOP BIOMASS FOR ON-SITE USE.—Sub-  
3 paragraph (B) of section 45(b)(4) of the Internal Revenue  
4 Code of 1986 is amended—

5 (1) by striking “clause (ii) or clause (iii)” in  
6 clause (i) and inserting “clause (ii), (iii), or (iv)”,

7 (2) by redesignating clause (iii) as clause (iv),  
8 and

9 (3) by inserting after clause (ii) the following  
10 new clause:

11 “(iii) ELECTRICITY PRODUCED FOR  
12 ON-SITE USE AT CERTAIN OPEN-LOOP BIO-  
13 MASS FACILITIES.—In the case of elec-  
14 tricity produced and consumed as de-  
15 scribed in subsection (e)(12) at any facility  
16 described in subsection (d)(3)(A)(ii) which  
17 is placed in service before the date of the  
18 enactment of this clause, the 5-year period  
19 beginning on January 1, 2009, shall be  
20 substituted for the 10-year period in sub-  
21 section (a)(2)(A)(ii).”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 of this Act.

1 **SEC. 402. ELIMINATION OF OTHER RESTRICTIONS ON USE**  
2 **OF ENERGY ALTERNATIVES.**

3 (a) RENEWABLE BIOMASS.—Section 211(o)(1)(I) of  
4 the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) is amended  
5 effective January 1, 2009—

6 (1) in clause (ii), by striking “on non-federal  
7 land”; and

8 (2) in clause (iv), by striking “that are from  
9 non-federal forestlands, including forestlands” and  
10 inserting “from forestlands, including those on pub-  
11 lic lands and those”.

12 (b) ALTERNATIVE FUELS.—Section 526 of the En-  
13 ergy Independence and Security Act of 2007 (42 U.S.C.  
14 17142) is repealed.

15 (c) LIMITATION ON NUMBER OF NEW QUALIFIED  
16 HYBRID ADVANCED LEAN-BURN TECHNOLOGY VEHI-  
17 CLES.—Section 30B of the Internal Revenue Code of 1986  
18 is amended by striking subsection (f).

19 **SEC. 403. INCREASED CREDIT FOR CERTAIN VEHICLES AC-**  
20 **QUIRED FROM DOMESTIC CORPORATIONS.**

21 (a) ALTERNATIVE MOTOR VEHICLE CREDIT.—Sec-  
22 tion 30B of the Internal Revenue Code of 1986 is amend-  
23 ed by redesignating subsections (j) and (k) as subsections  
24 (k) and (l) and by inserting after subsection (i) the fol-  
25 lowing new subsection:

1       “(j) INCREASED CREDIT FOR ACQUISITION FROM  
2 DOMESTIC CORPORATIONS.—In the case of a vehicle with  
3 respect to which credit is allowable to the taxpayer under  
4 this section, the amount of such credit shall be increased  
5 by \$500 if such vehicle is acquired (for use or lease) by  
6 the taxpayer from a domestic corporation.”.

7       (b) NEW QUALIFIED PLUG-IN ELECTRIC MOTOR VE-  
8 HICLE CREDIT.—

9           (1) IN GENERAL.—Subsection (b) of section  
10 30D of the Internal Revenue Code is amended by  
11 adding at the end the following new paragraph:

12           “(4) DOMESTIC ACQUISITION.—In the case of a  
13 vehicle acquired (for use or lease) by the taxpayer  
14 from a domestic corporation, \$500.”.

15           (2) CONFORMING AMENDMENT.—Paragraph (1)  
16 of section 30D(b) of such Code is amended by strik-  
17 ing “and (3)” and inserting “, (3), and (4)”.

18       (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to vehicles acquired (for use or  
20 lease) after the date of the enactment of this Act.

1 **TITLE V—COAL-TO-LIQUID FUEL**  
2 **Subtitle A—Coal-to-Liquid Fuel**  
3 **Activities**

4 **SEC. 501. SHORT TITLE.**

5 This subtitle may be cited as the “Coal-to-Liquid  
6 Fuel Promotion Act of 2009”.

7 **SEC. 502. DEFINITIONS.**

8 In this subtitle:

9 (1) COAL-TO-LIQUID.—The term “coal-to-liq-  
10 uid” means—

11 (A) with respect to a process or tech-  
12 nology, the use of a feedstock, the majority of  
13 which is the coal resources of the United  
14 States, using the class of reactions known as  
15 Fischer-Tropsch, to produce synthetic fuel suit-  
16 able for transportation; and

17 (B) with respect to a facility, the portion  
18 of a facility related to producing the inputs to  
19 the Fischer-Tropsch process, the Fischer-  
20 Tropsch process, finished fuel production, or  
21 the capture, transportation, or sequestration of  
22 byproducts of the use of a feedstock that is pri-  
23 marily domestic coal at the Fischer-Tropsch fa-  
24 cility, including carbon emissions.

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

3 **SEC. 503. COAL-TO-LIQUID FUEL LOAN GUARANTEE PRO-**  
4 **GRAM.**

5           (a) ELIGIBLE PROJECTS.—Section 1703(b) of the  
6 Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is  
7 amended by adding at the end the following:

8           “(11) Large-scale coal-to-liquid facilities (as de-  
9 fined in section 502 of the Coal-to-Liquid Fuel Pro-  
10 motion Act of 2009) that use a feedstock, the major-  
11 ity of which is the coal resources of the United  
12 States, to produce not less than 10,000 barrels a  
13 day of liquid transportation fuel.”.

14           (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
15 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514)  
16 is amended by adding at the end the following:

17           “(c) COAL-TO-LIQUID PROJECTS.—

18           “(1) IN GENERAL.—There are authorized to be  
19 appropriated such sums as are necessary to provide  
20 the cost of guarantees for projects involving large-  
21 scale coal-to-liquid facilities under section  
22 1703(b)(11).

23           “(2) ALTERNATIVE FUNDING.—If no appropria-  
24 tions are made available under paragraph (1), an eli-  
25 gible applicant may elect to provide payment to the

1 Secretary, to be delivered if and at the time the ap-  
2 plication is approved, in the amount of the estimated  
3 cost of the loan guarantee to the Federal Govern-  
4 ment, as determined by the Secretary.

5 “(3) LIMITATIONS.—

6 “(A) IN GENERAL.—No loan guarantees  
7 shall be provided under this title for projects  
8 described in paragraph (1) after (as determined  
9 by the Secretary)—

10 “(i) the tenth such loan guarantee is  
11 issued under this title; or

12 “(ii) production capacity covered by  
13 such loan guarantees reaches 100,000 bar-  
14 rels per day of coal-to-liquid fuel.

15 “(B) INDIVIDUAL PROJECTS.—

16 “(i) IN GENERAL.—A loan guarantee  
17 may be provided under this title for any  
18 large-scale coal-to-liquid facility described  
19 in paragraph (1) that produces no more  
20 than 20,000 barrels of coal-to-liquid fuel  
21 per day.

22 “(ii) NON-FEDERAL FUNDING RE-  
23 QUIREMENT.—To be eligible for a loan  
24 guarantee under this title, a large-scale  
25 coal-to-liquid facility described in para-

1 graph (1) that produces more than 20,000  
2 barrels per day of coal-to-liquid fuel shall  
3 be eligible to receive a loan guarantee for  
4 the proportion of the cost of the facility  
5 that represents 20,000 barrels of coal-to-  
6 liquid fuel per day of production.

7 “(4) REQUIREMENTS.—

8 “(A) GUIDELINES.—Not later than 180  
9 days after the date of enactment of this sub-  
10 section, the Secretary shall publish guidelines  
11 for the coal-to-liquids loan guarantee applica-  
12 tion process.

13 “(B) APPLICATIONS.—Not later than 1  
14 year after the date of enactment of this sub-  
15 section, the Secretary shall begin to accept ap-  
16 plications for coal-to-liquid loan guarantees  
17 under this subsection.

18 “(C) DEADLINE.—Not later than 1 year  
19 from the date of acceptance of an application  
20 under subparagraph (B), the Secretary shall  
21 evaluate the application and make final deter-  
22 minations under this subsection.

23 “(5) REPORTS TO CONGRESS.—The Secretary  
24 shall submit to the Committee on Energy and Nat-  
25 ural Resources of the Senate and the Committee on

1 Energy and Commerce of the House of Representa-  
2 tives a report describing the status of the program  
3 under this subsection not later than each of—

4 “(A) 180 days after the date of enactment  
5 of this subsection;

6 “(B) 1 year after the date of enactment of  
7 this subsection; and

8 “(C) the dates on which the Secretary ap-  
9 proves the first and fifth applications for coal-  
10 to-liquid loan guarantees under this sub-  
11 section.”.

12 **SEC. 504. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.**

13 (a) DEFINITION OF ELIGIBLE RECIPIENT.—In this  
14 section, the term “eligible recipient” means an individual,  
15 organization, or other entity that owns, operates, or plans  
16 to construct a coal-to-liquid facility that will produce at  
17 least 10,000 barrels per day of coal-to-liquid fuel.

18 (b) ESTABLISHMENT.—The Secretary shall establish  
19 a program under which the Secretary shall provide loans,  
20 in a total amount not to exceed \$20,000,000, for use by  
21 eligible recipients to pay the Federal share of the cost of  
22 obtaining any services necessary for the planning, permit-  
23 ting, and construction of a coal-to-liquid facility.

24 (c) APPLICATION.—To be eligible to receive a loan  
25 under subsection (b), the eligible recipient shall submit to

1 the Secretary an application at such time, in such manner,  
2 and containing such information as the Secretary may re-  
3 quire.

4 (d) NON-FEDERAL MATCH.—To be eligible to receive  
5 a loan under this section, an eligible recipient shall use  
6 non-Federal funds to provide a dollar-for-dollar match of  
7 the amount of the loan.

8 (e) REPAYMENT OF LOAN.—

9 (1) IN GENERAL.—To be eligible to receive a  
10 loan under this section, an eligible recipient shall  
11 agree to repay the original amount of the loan to the  
12 Secretary not later than 5 years after the date of the  
13 receipt of the loan.

14 (2) SOURCE OF FUNDS.—Repayment of a loan  
15 under paragraph (1) may be made from any financ-  
16 ing or assistance received for the construction of a  
17 coal-to-liquid facility described in subsection (a), in-  
18 cluding a loan guarantee provided under section  
19 1703(b)(11) of the Energy Policy Act of 2005 (42  
20 U.S.C. 16513(b)(11)).

21 (f) REQUIREMENTS.—

22 (1) GUIDELINES.—Not later than 180 days  
23 after the date of enactment of this Act, the Sec-  
24 retary shall publish guidelines for the coal-to-liquids  
25 loan application process.



1 **SEC. 506. STRATEGIC PETROLEUM RESERVE.**

2 (a) DEVELOPMENT, OPERATION, AND MAINTENANCE  
3 OF RESERVE.—Section 159 of the Energy Policy and Con-  
4 servation Act (42 U.S.C. 6239) is amended—

5 (1) by redesignating subsections (f), (g), (j),  
6 (k), and (l) as subsections (a), (b), (e), (f), and (g),  
7 respectively; and

8 (2) by inserting after subsection (b) (as redesignig-  
9 nated by paragraph (1)) the following:

10 “(c) STUDY OF MAINTAINING COAL-TO-LIQUID  
11 PRODUCTS IN RESERVE.—Not later than 1 year after the  
12 date of enactment of the Coal-to-Liquid Fuel Promotion  
13 Act of 2009, the Secretary and the Secretary of Defense  
14 shall—

15 “(1) conduct a study of the feasibility and suit-  
16 ability of maintaining coal-to-liquid products in the  
17 Reserve; and

18 “(2) submit to the Committee on Energy and  
19 Natural Resources and the Committee on Armed  
20 Services of the Senate and the Committee on Energy  
21 and Commerce and the Committee on Armed Serv-  
22 ices of the House of Representatives a report de-  
23 scribing the results of the study.

24 “(d) CONSTRUCTION OF STORAGE FACILITIES.—As  
25 soon as practicable after the date of enactment of the  
26 Coal-to-Liquid Fuel Promotion Act of 2009, the Secretary

1 may construct 1 or more storage facilities in the vicinity  
2 of pipeline infrastructure and at least 1 military base.”.

3 (b) PETROLEUM PRODUCTS FOR STORAGE IN RE-  
4 SERVE.—Section 160 of the Energy Policy and Conserva-  
5 tion Act (42 U.S.C. 6240) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1), by inserting a semi-  
8 colon at the end;

9 (B) in paragraph (2), by striking “and” at  
10 the end;

11 (C) in paragraph (3), by striking the pe-  
12 riod at the end and inserting “; and”; and

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

14 “(4) coal-to-liquid products (as defined in sec-  
15 tion 502 of the Coal-to-Liquid Fuel Promotion Act  
16 of 2009), as the Secretary determines to be appro-  
17 priate, in a quantity not to exceed 20 percent of the  
18 total quantity of petroleum and petroleum products  
19 in the Reserve.”;

20 (2) in subsection (b), by redesignating para-  
21 graphs (3) through (5) as paragraphs (2) through  
22 (4), respectively; and

23 (3) by redesignating subsections (f) and (h) as  
24 subsections (d) and (e), respectively.

1 (c) CONFORMING AMENDMENTS.—Section 167 of the  
2 Energy Policy and Conservation Act (42 U.S.C. 6247) is  
3 amended—

4 (1) in subsection (b)—

5 (A) by redesignating paragraphs (2) and  
6 (3) as paragraphs (1) and (2), respectively; and

7 (B) in paragraph (2) (as redesignated by  
8 subparagraph (A)), by striking “section 160(f)”  
9 and inserting “section 160(e)”; and

10 (2) in subsection (d), in the matter preceding  
11 paragraph (1), by striking “section 160(f)” and in-  
12 serting “section 160(e)”.

13 **SEC. 507. AUTHORIZATION TO CONDUCT RESEARCH, DE-**  
14 **VELOPMENT, TESTING, AND EVALUATION OF**  
15 **ASSURED DOMESTIC FUELS.**

16 Of the amount authorized to be appropriated for the  
17 Air Force for research, development, testing, and evalua-  
18 tion, \$10,000,000 may be made available for the Air Force  
19 Research Laboratory to continue support efforts to test,  
20 qualify, and procure synthetic fuels developed from coal  
21 for aviation jet use.

1 **SEC. 508. COAL-TO-LIQUID LONG-TERM FUEL PROCURE-**  
2 **MENT AND DEPARTMENT OF DEFENSE DE-**  
3 **VELOPMENT.**

4 Section 2398a of title 10, United States Code is  
5 amended—

6 (1) in subsection (b)—

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

9 “(1) IN GENERAL.—The Secretary”; and

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

11 “(2) COAL-TO-LIQUID PRODUCTION FACILI-  
12 TIES.—

13 “(A) IN GENERAL.—The Secretary of De-  
14 fense may enter into contracts or other agree-  
15 ments with private companies or other entities  
16 to develop and operate coal-to-liquid facilities  
17 (as defined in section 502 of the Coal-to-Liquid  
18 Fuel Promotion Act of 2009) on or near mili-  
19 tary installations.

20 “(B) CONSIDERATIONS.—In entering into  
21 contracts and other agreements under subpara-  
22 graph (A), the Secretary shall consider land  
23 availability, testing opportunities, and proximity  
24 to raw materials.”;

25 (2) in subsection (d)—

1 (A) by striking “Subject to applicable pro-  
2 visions of law, any” and inserting “Any”; and

3 (B) by striking “1 or more years” and in-  
4 serting “up to 25 years”; and

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

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated such sums as are nec-  
8 essary to carry out this section.”.

9 **SEC. 509. REPORT ON EMISSIONS OF FISCHER-TROPSCH**  
10 **PRODUCTS USED AS TRANSPORTATION**  
11 **FUELS.**

12 (a) IN GENERAL.—In cooperation with the Adminis-  
13 trator of the Environmental Protection Agency, the Sec-  
14 retary of Defense, the Administrator of the Federal Avia-  
15 tion Administration, and the Secretary of Health and  
16 Human Services, the Secretary shall—

17 (1) carry out a research and demonstration pro-  
18 gram to evaluate the emissions of the use of Fischer-  
19 Tropsch fuel for transportation, including diesel and  
20 jet fuel;

21 (2) evaluate the effect of using Fischer-Tropsch  
22 transportation fuel on land and air engine exhaust  
23 emissions; and

24 (3) in accordance with subsection (e), submit to  
25 Congress a report on the effect on air quality and

1 public health of using Fischer-Tropsch fuel in the  
2 transportation sector.

3 (b) GUIDANCE AND TECHNICAL SUPPORT.—The Sec-  
4 retary shall issue any guidance or technical support docu-  
5 ments necessary to facilitate the effective use of Fischer-  
6 Tropsch fuel and blends under this section.

7 (c) FACILITIES.—For the purpose of evaluating the  
8 emissions of Fischer-Tropsch transportation fuels, the  
9 Secretary shall—

10 (1) support the use and capital modification of  
11 existing facilities and the construction of new facili-  
12 ties at the research centers designated in section  
13 417 of the Energy Policy Act of 2005 (42 U.S.C.  
14 15977); and

15 (2) engage those research centers in the evalua-  
16 tion and preparation of the report required under  
17 subsection (a)(3).

18 (d) REQUIREMENTS.—The program described in sub-  
19 section (a)(1) shall consider—

20 (1) the use of neat (100 percent) Fischer-  
21 Tropsch fuel and blends of Fischer-Tropsch fuels  
22 with conventional crude oil-derived fuel for heavy-  
23 duty and light-duty diesel engines and the aviation  
24 sector; and

1           (2) the production costs associated with domes-  
2           tic production of those fuels and prices for con-  
3           sumers.

4           (e) REPORTS.—The Secretary shall submit to the  
5           Committee on Energy and Natural Resources of the Sen-  
6           ate and the Committee on Energy and Commerce of the  
7           House of Representatives—

8           (1) not later than 180 days after the date of  
9           enactment of this Act, an interim report on actions  
10          taken to carry out this section; and

11          (2) not later than 1 year after the date of en-  
12          actment of this Act, a final report on actions taken  
13          to carry out this section.

14          (f) AUTHORIZATION OF APPROPRIATIONS.—There  
15          are authorized to be appropriated such sums as are nec-  
16          essary to carry out this section.

17           **Subtitle B—Amendments to the**  
18           **Internal Revenue Code of 1986**

19           **SEC. 511. CREDIT FOR INVESTMENT IN COAL-TO-LIQUID**  
20           **FUELS PROJECTS.**

21          (a) IN GENERAL.—Section 46 of the Internal Rev-  
22          enue Code of 1986 (relating to amount of credit) is  
23          amended by striking “and” at the end of paragraph (3),  
24          by striking the period at the end of paragraph (4) and

1 inserting “, and”, and by adding at the end the following  
2 new paragraph:

3 “(5) the qualifying coal-to-liquid fuels project  
4 credit.”.

5 (b) AMOUNT OF CREDIT.—Subpart E of part IV of  
6 subchapter A of chapter 1 of the Internal Revenue Code  
7 of 1986 (relating to rules for computing investment credit)  
8 is amended by inserting after section 48B the following  
9 new section:

10 **“SEC. 48C. QUALIFYING COAL-TO-LIQUID FUELS PROJECT**  
11 **CREDIT.**

12 “(a) IN GENERAL.—For purposes of section 46, the  
13 qualifying coal-to-liquid fuels project credit for any taxable  
14 year is an amount equal to 20 percent of the qualified  
15 investment for such taxable year.

16 “(b) QUALIFIED INVESTMENT.—

17 “(1) IN GENERAL.—For purposes of subsection  
18 (a), the qualified investment for any taxable year is  
19 the basis of property placed in service by the tax-  
20 payer during such taxable year which is part of a  
21 qualifying coal-to-liquid fuels project—

22 “(A)(i) the construction, reconstruction, or  
23 erection of which is completed by the taxpayer,  
24 or

1           “(ii) which is acquired by the taxpayer if  
2           the original use of such property commences  
3           with the taxpayer, and

4           “(B) with respect to which depreciation (or  
5           amortization in lieu of depreciation) is allow-  
6           able.

7           “(2) APPLICABLE RULES.—For purposes of this  
8           section, rules similar to the rules of subsection  
9           (a)(4) and (b) of section 48 shall apply.

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

11           “(1) QUALIFYING COAL-TO-LIQUID FUELS  
12           PROJECT.—The term ‘qualifying coal-to-liquid fuels  
13           project’ means any domestic project which—

14           “(A) employs the class of reactions known  
15           as Fischer-Tropsch to produce at least 10,000  
16           barrels per day of transportation grade liquid  
17           fuels from a feedstock that is primarily domes-  
18           tic coal (including any property which allows for  
19           the capture, transportation, or sequestration of  
20           by-products resulting from such process, includ-  
21           ing carbon emissions), and

22           “(B) any portion of the qualified invest-  
23           ment in which is certified under the qualifying  
24           coal-to-liquid program as eligible for credit

1           under this section in an amount (not to exceed  
2           \$200,000,000) determined by the Secretary.

3           “(2) COAL.—The term ‘coal’ means any carbon-  
4           ized or semicarbonized matter, including peat.

5           “(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT  
6 PROGRAM.—

7           “(1) IN GENERAL.—The Secretary, in consulta-  
8           tion with the Secretary of Energy, shall establish a  
9           qualifying coal-to-liquid fuels project program to  
10          consider and award certifications for qualified in-  
11          vestment eligible for credits under this section to 10  
12          qualifying coal-to-liquid fuels project sponsors under  
13          this section. The total qualified investment which  
14          may be awarded eligibility for credit under the pro-  
15          gram shall not exceed \$2,000,000,000.

16          “(2) PERIOD OF ISSUANCE.—A certificate of  
17          eligibility under paragraph (1) may be issued only  
18          during the 10-fiscal year period beginning on Octo-  
19          ber 1, 2007.

20          “(3) SELECTION CRITERIA.—The Secretary  
21          shall not make a competitive certification award for  
22          qualified investment for credit eligibility under this  
23          section unless the recipient has documented to the  
24          satisfaction of the Secretary that—

1           “(A) the proposal of the award recipient is  
2 financially viable,

3           “(B) the recipient will provide sufficient  
4 information to the Secretary for the Secretary  
5 to ensure that the qualified investment is spent  
6 efficiently and effectively,

7           “(C) the fuels identified with respect to the  
8 gasification technology for such project will  
9 comprise at least 90 percent of the fuels re-  
10 quired by the project for the production of  
11 transportation grade liquid fuels,

12           “(D) the award recipient’s project team is  
13 competent in the planning and construction of  
14 coal gasification facilities and familiar with op-  
15 eration of the Fischer-Tropsch process, with  
16 preference given to those recipients with experi-  
17 ence which demonstrates successful and reliable  
18 operations of such process, and

19           “(E) the award recipient has met other cri-  
20 teria established and published by the Sec-  
21 retary.

22           “(e) DENIAL OF DOUBLE BENEFIT.—No deduction  
23 or other credit shall be allowed with respect to the basis  
24 of any property taken into account in determining the  
25 credit allowed under this section.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 49(a)(1)(C) of the Internal Revenue  
3 Code of 1986 is amended by striking “and” at the  
4 end of clause (iii), by striking the period at the end  
5 of clause (iv) and inserting “, and”, and by adding  
6 after clause (iv) the following new clause:

7 “(v) the basis of any property which  
8 is part of a qualifying coal-to-liquid fuels  
9 project under section 48C.”.

10 (2) The table of sections for subpart E of part  
11 IV of subchapter A of chapter 1 of such Code is  
12 amended by inserting after the item relating to sec-  
13 tion 48B the following new item:

“Sec. 48C. Qualifying coal-to-liquid fuels project credit.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to periods after the date of the  
16 enactment of this Act, under rules similar to the rules of  
17 section 48(m) of the Internal Revenue Code of 1986 (as  
18 in effect on the day before the date of the enactment of  
19 the Revenue Reconciliation Act of 1990).

20 **SEC. 512. TEMPORARY EXPENSING FOR EQUIPMENT USED**  
21 **IN COAL-TO-LIQUID FUELS PROCESS.**

22 (a) IN GENERAL.—Part VI of subchapter B of chap-  
23 ter 1 of the Internal Revenue Code of 1986 is amended  
24 by inserting after section 179E the following new section:

1 **“SEC. 179F. ELECTION TO EXPENSE CERTAIN COAL-TO-LIQUID**  
2 **FUELS FACILITIES.**

3 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
4 elect to treat the cost of any qualified coal-to-liquid fuels  
5 process property as an expense which is not chargeable  
6 to capital account. Any cost so treated shall be allowed  
7 as a deduction for the taxable year in which the expense  
8 is incurred.

9 “(b) ELECTION.—

10 “(1) IN GENERAL.—An election under this sec-  
11 tion for any taxable year shall be made on the tax-  
12 payer’s return of the tax imposed by this chapter for  
13 the taxable year. Such election shall be made in such  
14 manner as the Secretary may by regulations pre-  
15 scribe.

16 “(2) ELECTION IRREVOCABLE.—Any election  
17 made under this section may not be revoked except  
18 with the consent of the Secretary.

19 “(c) QUALIFIED COAL-TO-LIQUID FUELS PROCESS  
20 PROPERTY.—The term ‘qualified coal-to-liquid fuels proc-  
21 ess property’ means any property located in the United  
22 States—

23 “(1) which employs the Fischer-Tropsch process  
24 to produce transportation grade liquid fuels from a  
25 feedstock that is primarily domestic coal (including  
26 any property which allows for the capture, transpor-

1 tation, or sequestration of by-products resulting  
2 from such process, including carbon emissions),

3 “(2) the original use of which commences with  
4 the taxpayer,

5 “(3) the construction of which—

6 “(A) except as provided in subparagraph  
7 (B), is subject to a binding construction con-  
8 tract entered into after the date of the enact-  
9 ment of this section and before January 1,  
10 2013, but only if there was no written binding  
11 construction contract entered into on or before  
12 such date of enactment, or

13 “(B) in the case of self-constructed prop-  
14 erty, began after the date of the enactment of  
15 this section and before January 1, 2013, and

16 “(4) which is placed in service by the taxpayer  
17 after the date of the enactment of this section and  
18 before January 1, 2018.

19 “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
20 ERATIVE OWNER.—If—

21 “(1) a taxpayer to which subsection (a) applies  
22 is an organization to which part I of subchapter T  
23 applies, and

1           “(2) one or more persons directly holding an  
2           ownership interest in the taxpayer are organizations  
3           to which part I of subchapter T apply,  
4           the taxpayer may elect to allocate all or a portion of the  
5           deduction allowable under subsection (a) to such persons.  
6           Such allocation shall be equal to the person’s ratable share  
7           of the total amount allocated, determined on the basis of  
8           the person’s ownership interest in the taxpayer. The tax-  
9           able income of the taxpayer shall not be reduced under  
10          section 1382 by reason of any amount to which the pre-  
11          ceding sentence applies.

12          “(e) BASIS REDUCTION.—

13           “(1) IN GENERAL.—For purposes of this title,  
14           if a deduction is allowed under this section with re-  
15           spect to any qualified coal-to-liquid fuels process  
16           property, the basis of such property shall be reduced  
17           by the amount of the deduction so allowed.

18           “(2) ORDINARY INCOME RECAPTURE.—For  
19           purposes of section 1245, the amount of the deduc-  
20           tion allowable under subsection (a) with respect to  
21           any property which is of a character subject to the  
22           allowance for depreciation shall be treated as a de-  
23           duction allowed for depreciation under section 167.

24          “(f) APPLICATION WITH OTHER DEDUCTIONS AND  
25          CREDITS.—

1           “(1) OTHER DEDUCTIONS.—No deduction shall  
2           be allowed under any other provision of this chapter  
3           with respect to any expenditure with respect to  
4           which a deduction is allowed under subsection (a) to  
5           the taxpayer.

6           “(2) CREDITS.—No credit shall be allowed  
7           under section 38 with respect to any amount for  
8           which a deduction is allowed under subsection (a).

9           “(g) REPORTING.—No deduction shall be allowed  
10          under subsection (a) to any taxpayer for any taxable year  
11          unless such taxpayer files with the Secretary a report con-  
12          taining such information with respect to the operation of  
13          the property of the taxpayer as the Secretary shall re-  
14          quire.”.

15          (b) CONFORMING AMENDMENTS.—

16                 (1) Section 1016(a) of the Internal Revenue  
17                 Code of 1986, as amended by this Act, is amended  
18                 by striking “and” at the end of paragraph (37), by  
19                 striking the period at the end of paragraph (38) and  
20                 inserting “, and”, and by adding at the end the fol-  
21                 lowing new paragraph:

22                         “(39) to the extent provided in section  
23                         179F(e)(1).”.

1           (2) Section 1245(a) of such Code is amended  
2           by inserting “179F,” after “179D,” both places it  
3           appears in paragraphs (2)(C) and (3)(C).

4           (3) Section 263(a)(1) of such Code is amended  
5           by striking “or” at the end of subparagraph (J), by  
6           striking the period at the end of subparagraph (K)  
7           and inserting “, or”, and by inserting after subpara-  
8           graph (K) the following new subparagraph:

9                     “(L) expenditures for which a deduction is  
10                    allowed under section 179F.”.

11           (4) Section 312(k)(3)(B) of such Code is  
12           amended by striking “or 179E” each place it ap-  
13           pears in the heading and text and inserting “179E,  
14           or 179F”.

15           (5) The table of sections for part VI of sub-  
16           chapter B of chapter 1 of such Code is amended by  
17           inserting after the item relating to section 179E the  
18           following new item:

“Sec. 179F. Election to expense certain coal-to-liquid fuels facilities.”.

19           (c) EFFECTIVE DATE.—The amendments made by  
20           this section shall apply to properties placed in service after  
21           the date of the enactment of this Act.

1 **SEC. 513. EXTENSION OF ALTERNATIVE FUEL CREDIT FOR**  
2 **FUEL DERIVED FROM COAL THROUGH THE**  
3 **FISCHER-TROPSCH PROCESS.**

4 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of  
5 section 6426(d) of the Internal Revenue Code of 1986 is  
6 amended to read as follows:

7 “(5) TERMINATION.—This subsection shall not  
8 apply to—

9 “(A) any sale or use involving liquid fuel  
10 derived from a feedstock that is primarily do-  
11 mestic coal (including peat) through the Fisch-  
12 er-Tropsch process for any period after Sep-  
13 tember 30, 2022,

14 “(B) any sale or use involving liquified hy-  
15 drogen for any period after September 30,  
16 2014, and

17 “(C) any other sale or use for any period  
18 after December 31, 2009.”.

19 (b) PAYMENTS.—

20 (1) IN GENERAL.—Paragraph (6) of section  
21 6427(e) of the Internal Revenue Code of 1986 is  
22 amended by striking “and” and the end of subpara-  
23 graph (C), by striking the period at the end of sub-  
24 paragraph (D) and inserting “, and”, and by adding  
25 at the end the following new subparagraph:

1           “(E) any alternative fuel or alternative fuel  
2           mixture (as so defined) involving liquid fuel de-  
3           rived from coal (including peat) through the  
4           Fischer-Tropsch process sold or used after Sep-  
5           tember 30, 2022.”.

6           (2) CONFORMING AMENDMENT.—Section  
7           6427(e)(6)(C) of such Code is amended by striking  
8           “subparagraph (D)” and inserting “subparagraphs  
9           (D) and (E)”.

10 **SEC. 514. MODIFICATIONS TO ENHANCED OIL RECOVERY**

11           **CREDIT.**

12           (a) ENHANCED CREDIT FOR CARBON DIOXIDE IN-  
13           JECTIONS.—Section 43 of the Internal Revenue Code of  
14           1986 is amended by adding at the end the following new  
15           subsection:

16           “(f) ENHANCED CREDIT FOR PROJECTS USING  
17           QUALIFIED CARBON DIOXIDE.—

18           “(1) IN GENERAL.—For purposes of this sec-  
19           tion—

20           “(A) the term ‘qualified project’ includes a  
21           project described in paragraph (2), and

22           “(B) in the case of a project described in  
23           paragraph (2), subsection (a) shall be applied  
24           by substituting ‘50 percent’ for ‘15 percent’.

1           “(2) PROJECTS DESCRIBED.—A project is de-  
2           scribed in this paragraph if it begins or is substan-  
3           tially expanded after December 31, 2007, and

4                   “(A) uses qualified carbon dioxide in an  
5                   enhanced oil, natural gas, or coalbed methane  
6                   recovery method, which involves flooding or in-  
7                   jection, or

8                   “(B) enables the capture or sequestration  
9                   of qualified carbon dioxide.

10           “(3) DEFINITIONS.—For purposes of this sub-  
11           section—

12                   “(A) ENHANCED OIL RECOVERY.—The  
13                   term ‘enhanced oil recovery’ means recovery of  
14                   oil by injecting or flooding with qualified carbon  
15                   dioxide.

16                   “(B) ENHANCED NATURAL GAS RECOV-  
17                   ERY.—The term ‘enhanced natural gas recov-  
18                   ery’ means recovery of natural gas by injecting  
19                   or flooding with qualified carbon dioxide.

20                   “(C) ENHANCED COALBED METHANE RE-  
21                   COVERY.—The term ‘enhanced coalbed methane  
22                   recovery’ means recovery of coalbed methane by  
23                   injecting or flooding with qualified carbon diox-  
24                   ide.

1           “(D) QUALIFIED CARBON DIOXIDE.—The  
2 term ‘qualified carbon dioxide’ means carbon di-  
3 oxide which is produced from the gasification  
4 and subsequent refinement of a feedstock which  
5 is primarily domestic coal, at a facility which  
6 produces coal-to-liquid fuel.

7           “(E) CAPTURE OR SEQUESTRATION.—The  
8 term ‘capture or sequestration’ means any  
9 equipment or facility necessary to—

10                   “(i) capture or separate qualified car-  
11 bon dioxide from other emissions,

12                   “(ii) transport qualified carbon diox-  
13 ide, or

14                   “(iii) process and use qualified carbon  
15 dioxide in a qualified project.

16           “(4) TERMINATION.—This subsection shall not  
17 apply to costs paid or incurred for any qualified  
18 project after December 31, 2020.”.

19           (b) CONFORMING AMENDMENTS.—

20                   (1) Section 43 of the Internal Revenue Code of  
21 1986 is amended—

22                           (A) by striking “enhanced oil recovery  
23 credit” in subsection (a) and inserting “en-  
24 hanced oil, natural gas, and coalbed methane  
25 recovery, and capture and sequestration credit”,

1 (B) by striking “qualified enhanced oil re-  
 2 covery costs” each place it appears and insert-  
 3 ing “qualified costs”,

4 (C) by striking “qualified enhanced oil re-  
 5 covery project” each place it appears and in-  
 6 serting “qualified project”, and

7 (D) by striking the heading and inserting:

8 **“SEC. 43. ENHANCED OIL, NATURAL GAS, AND COALBED**  
 9 **METHANE RECOVERY, AND CAPTURE AND SE-**  
 10 **QUESTRATION CREDIT.”.**

11 (2) The item in the table of sections for subpart  
 12 D of part IV of subchapter A of chapter 1 of such  
 13 Code relating to section 43 is amended to read as  
 14 follows:

“Sec. 43. Enhanced oil, natural gas, and coalbed methane recovery, and cap-  
 ture and sequestration credit.”.

15 (c) **EFFECTIVE DATE.**—The amendments made by  
 16 this section shall apply to costs paid or incurred in taxable  
 17 years ending after December 31, 2009.

18 **SEC. 515. ALLOWANCE OF ENHANCED OIL, NATURAL GAS,**  
 19 **AND COALBED METHANE RECOVERY, AND**  
 20 **CAPTURE AND SEQUESTRATION CREDIT**  
 21 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

22 (a) **IN GENERAL.**—Subsection (c) of section 38 of the  
 23 Internal Revenue Code of 1986 (relating to limitation  
 24 based on amount of tax) is amended by redesignating

1 paragraphs (4) and (5) as paragraphs (5) and (6), respec-  
2 tively, and by inserting after paragraph (3) the following  
3 new paragraph:

4           “(4) SPECIAL RULES FOR ENHANCED OIL, NAT-  
5           URAL GAS, AND COALBED METHANE RECOVERY, AND  
6           CAPTURE AND SEQUESTRATION CREDIT.—In the  
7           case of the enhanced oil, natural gas, and coalbed  
8           methane recovery, and capture and sequestration  
9           credit determined under section 43—

10                   “(A) this section and section 39 shall be  
11                   applied separately with respect to such credit,  
12                   and

13                   “(B) in applying paragraph (1) to such  
14                   credit—

15                           “(i) the tentative minimum tax shall  
16                           be treated as being zero, and

17                           “(ii) the limitation under paragraph  
18                           (1) (as modified by clause (i)) shall be re-  
19                           duced by the credit allowed under sub-  
20                           section (a) for the taxable year (other than  
21                           the enhanced oil, natural gas, and coalbed  
22                           methane recovery, and capture and seques-  
23                           tration credit and the specified credits).”.

24           (b) CONFORMING AMENDMENTS.—

1           (1) Section 38(c)(2)(A)(ii)(II) of such Code is  
2           amended by inserting “the enhanced oil, natural gas,  
3           and coalbed methane recovery, and capture and se-  
4           questration credit,” after “employee credit,”.

5           (2) Section 38(c)(3)(A)(ii)(II) of such Code is  
6           amended by inserting “, the enhanced oil, natural  
7           gas, coalbed methane recovery, capture and seques-  
8           tration credit,” after “employee credit”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply to taxable years ending after De-  
11          cember 31, 2009.

12       **TITLE VI—INCENTIVIZING THE**  
13       **EXTRACTION AND PROC-**  
14       **ESSING OF OIL SHALE**

15       **SEC. 601. INCENTIVES FOR EXTRACTION AND PROCESSING**  
16       **OF OIL SHALE.**

17           (a) INVESTMENT TAX CREDIT FOR EXTRACTION AND  
18          PROCESSING OF OIL SHALE USING IN-SITU CONVERSION  
19          TECHNOLOGY.—

20           (1) IN GENERAL.—Subpart E of part IV of  
21          subchapter A of chapter 1 of the Internal Revenue  
22          Code of 1986, as amended by this Act, is amended  
23          by inserting after section 48C the following new sec-  
24          tion:

1 **“SEC. 48D. OIL SHALE EXTRACTION AND PROCESSING FA-**  
2 **CILITY.**

3 “(a) GENERAL RULE.—For purposes of section 46,  
4 the oil shale extraction and processing credit for any tax-  
5 able year is 30 percent of the cost of any qualified oil shale  
6 extraction and processing property.

7 “(b) QUALIFIED OIL SHALE EXTRACTION AND  
8 PROCESSING PROPERTY.—The term ‘qualified oil shale  
9 extraction and processing property’ means property of a  
10 character subject to the allowance for depreciation—

11 “(1) which is used in the United States solely  
12 to extract and process oil shale using in-situ conver-  
13 sion technology,

14 “(2) the original use of which commences with  
15 the taxpayer after the date of the enactment of this  
16 section,

17 “(3) which is acquired by the taxpayer by pur-  
18 chase (as defined in section 179(d)) after the date  
19 of the enactment of this subsection, but only if no  
20 written binding contract for the acquisition was in  
21 effect on or before the date of the enactment of this  
22 subsection, and

23 “(4) which is placed in service by the taxpayer  
24 before January 1, 2021.

1       “(c) SPECIAL RULE FOR CERTAIN SUBSIDIZED  
2 PROPERTY.—For purposes of this section, rules similar to  
3 the rules of section 48(a)(4) shall apply.

4       “(d) DENIAL OF DOUBLE BENEFIT.—A deduction or  
5 credit shall not be allowed under any other provision of  
6 this chapter for the cost taken into account under sub-  
7 section (a).”.

8               (2) CREDIT TREATED AS PART OF INVESTMENT  
9 CREDIT.—Section 46, as amended by this Act, is  
10 amended by striking “and” at the end of paragraph  
11 (5), by striking the period at the end of paragraph  
12 (6) and inserting “, and”, and by adding at the end  
13 the following new paragraph:

14               “(7) the oil shale extraction and processing  
15 credit.”.

16               (3) CONFORMING AMENDMENTS.—

17               (A) Section 49(a)(1)(C), as amended by  
18 this Act, is amended by striking “and” at the  
19 end of clause (v), by striking the period at the  
20 end of clause (vi) and inserting “, and”, and by  
21 adding at the end the following new clause:

22               “(vii) the basis of any qualified oil  
23 shale extraction and processing property.”.

24               (B) The table of sections for subpart E of  
25 part IV of subchapter A of chapter 1, as

1           amended by this Act, is amended by inserting  
2           after the item relating to section 48C the fol-  
3           lowing new item:

“Sec. 48D. Oil shale extraction and processing facility.”.

4           (b) **EXPENSING OIL SHALE EXTRACTION AND PROC-**  
5 **ESSING PROPERTY.**—Part VI of subchapter B of chapter  
6 1 of such Code, as amended by this Act, is amended by  
7 inserting after section 179F the following new section:

8 **“SEC. 179G. ELECTION TO EXPENSE CERTAIN OIL SHALE**  
9 **EXTRACTION AND PROCESSING PROPERTY.**

10          “(a) **TREATMENT AS EXPENSES.**—A taxpayer may  
11 elect to treat the cost of any qualified oil shale extraction  
12 and processing property as an expense which is not  
13 chargeable to capital account. Any cost so treated shall  
14 be allowed as a deduction for the taxable year in which  
15 the expense is incurred.

16          “(b) **ELECTION.**—

17               “(1) **IN GENERAL.**—An election under this sec-  
18 tion for any taxable year shall be made on the tax-  
19 payer’s return of the tax imposed by this chapter for  
20 the taxable year. Such election shall be made in such  
21 manner as the Secretary may by regulations pre-  
22 scribe.

23               “(2) **ELECTION IRREVOCABLE.**—Any election  
24 made under this section may not be revoked except  
25 with the consent of the Secretary.

1           “(c) QUALIFIED OIL SHALE EXTRACTION AND PROC-  
2   ESSING PROPERTY.—For purposes of this section—

3           “(1) The term ‘qualified oil shale extraction  
4   and processing property’ means any property located  
5   in the United States—

6           “(A) the original use of which commences  
7   with the taxpayer and which original use is  
8   solely to extract or process oil shale, and

9           “(B) which is placed in service by the tax-  
10   payer after the date of the enactment of this  
11   section and before January 1, 2019.

12          “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
13   ERATIVE OWNER.—If—

14          “(1) a taxpayer to which subsection (a) applies  
15   is an organization to which part I of subchapter T  
16   applies, and

17          “(2) one or more persons directly holding an  
18   ownership interest in the taxpayer are organizations  
19   to which part I of subchapter T apply,

20   the taxpayer may elect to allocate all or a portion of the  
21   deduction allowable under subsection (a) to such persons.

22   Such allocation shall be equal to the person’s ratable share  
23   of the total amount allocated, determined on the basis of  
24   the person’s ownership interest in the taxpayer. The tax-  
25   able income of the taxpayer shall not be reduced under

1 section 1382 by reason of any amount to which the pre-  
2 ceding sentence applies.

3 “(e) BASIS REDUCTION.—

4 “(1) IN GENERAL.—For purposes of this title,  
5 if a deduction is allowed under this section with re-  
6 spect to any qualified oil shale extraction and proc-  
7 essing property, the basis of such property shall be  
8 reduced by the amount of the deduction so allowed.

9 “(2) ORDINARY INCOME RECAPTURE.—For  
10 purposes of section 1245, the amount of the deduc-  
11 tion allowable under subsection (a) with respect to  
12 any property which is of a character subject to the  
13 allowance for depreciation shall be treated as a de-  
14 duction allowed for depreciation under section 167.

15 “(f) APPLICATION WITH OTHER DEDUCTIONS AND  
16 CREDITS.—

17 “(1) OTHER DEDUCTIONS.—No deduction shall  
18 be allowed under any other provision of this chapter  
19 with respect to any expenditure with respect to  
20 which a deduction is allowed under subsection (a) to  
21 the taxpayer.

22 “(2) CREDITS.—No credit shall be allowed  
23 under section 38 with respect to any amount for  
24 which a deduction is allowed under subsection (a).

1       “(g) REPORTING.—No deduction shall be allowed  
2 under subsection (a) to any taxpayer for any taxable year  
3 unless such taxpayer files with the Secretary a report con-  
4 taining such information with respect to the operation of  
5 the property of the taxpayer as the Secretary shall re-  
6 quire.”.

7       (c) CONFORMING AMENDMENTS.—

8           (1) Section 1016(a) of such Code, as amended  
9 by this Act, is amended by striking “and” at the end  
10 of paragraph (38), by striking the period at the end  
11 of paragraph (39) and inserting “, and”, and by  
12 adding at the end the following new paragraph:

13           “(40) to the extent provided in section  
14 179G(e)(1).”.

15           (2) Section 1245(a) of such Code is amended  
16 by inserting “179G,” after “179F,” both places it  
17 appears in paragraphs (2)(C) and (3)(C).

18           (3) Section 263(a)(1) of such Code is amended  
19 by striking “or” at the end of subparagraph (L), by  
20 striking the period at the end of subparagraph (M)  
21 and inserting “, or”, and by inserting after subpara-  
22 graph (M) the following new subparagraph:

23           “(N) expenditures for which a deduction is  
24 allowed under section 179G.”.



1           “(1) the tract is suitable for agricultural pro-  
2           duction; and

3           “(2) the lessee of the tract will use the tract for  
4           the production of renewable biomass to be used in  
5           the production of biofuels.

6           “(b) EXCLUSION OF CERTAIN PUBLIC LANDS.—This  
7           section does not apply with respect to the following land:

8           “(1) Land in a unit of the National Wilderness  
9           Preservation System.

10           “(2) Land included in the National Wild and  
11           Scenic Rivers Systems.

12           “(3) Land included in the National System of  
13           Trails.

14           “(4) Land designated as a National Monument.

15           “(5) Land regarding which other public objec-  
16           tives and values, including recreation and scenic val-  
17           ues, outweigh the benefit of using the land for the  
18           production of renewable biomass for biofuels, as de-  
19           termined by the Secretary.

20           “(c) CONSIDERATION.—The lease of public lands  
21           under this section shall be made at a rental rate deter-  
22           mined by the Secretary to be appropriate to promote the  
23           production of renewable biomass for biofuels.

24           “(d) COMPETITIVE BIDDING.—

1           “(1) IN GENERAL.—The lease of public lands  
2 under this section shall be conducted under competi-  
3 tive bidding procedures to be established by the Sec-  
4 retary.

5           “(2) MODIFICATION.—The Secretary may lease  
6 public lands under this section with modified com-  
7 petitive bidding or without competitive bidding—

8                   “(A) to assure an equitable distribution of  
9 land among potential renters; or

10                   “(B) to encourage farmers who are using  
11 other lands to produce feed grains for biofuels  
12 production to return the other lands to crop  
13 production for food or feed use.

14           “(e) DEFINITIONS.—In this section:

15                   “(1) BIOFUEL.—The term ‘biofuel’ means a  
16 fuel derived from renewable biomass.

17                   “(2) RENEWABLE BIOMASS.—The term ‘renew-  
18 able biomass’ means—

19                           “(A) renewable plant material, including  
20 feed grains and other agricultural commodities  
21 (other than trees); and

22                           “(B) crop residue and other vegetative  
23 waste material (other than wood waste and  
24 wood residues).”.

1           (b) CLERICAL AMENDMENT.—The table of contents  
2 at the beginning of such Act is amended by adding at the  
3 end of the items relating to title II the following new item:

“216. Lease of public lands for production of renewable biomass for biofuels.”.

