

110TH CONGRESS
2D SESSION

H. R. 6384

To provide a comprehensive plan for greater American energy independence.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2008

Mr. BISHOP of Utah (for himself, Mr. BOEHNER, Mr. SALI, Mr. CANNON, Mr. HELLER of Nevada, Mr. HERGER, Mrs. MCMORRIS RODGERS, Mr. LAMBORN, Mr. DOOLITTLE, Mr. RENZI, Mrs. MUSGRAVE, Mr. YOUNG of Alaska, Mr. ALEXANDER, Mr. REHBERG, Mrs. CUBIN, Mr. FRANKS of Arizona, Mr. SIMPSON, Mr. PETERSON of Pennsylvania, Mr. PEARCE, Mr. TANCREDO, Mr. UPTON, Mrs. BLACKBURN, Mr. WALDEN of Oregon, Mr. SHADEGG, Mr. WALBERG, and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Energy and Commerce, Science and Technology, Ways and Means, Agriculture, Education and Labor, Armed Services, Transportation and Infrastructure, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide a comprehensive plan for greater American energy independence.

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.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Americans for American Energy Act of 2008”.

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

- Sec. 1. Short title.
 Sec. 2. Findings.

TITLE I—OUTER CONTINENTAL SHELF

- Sec. 101. Short title.
 Sec. 102. Policy.
 Sec. 103. Definitions under the Submerged Lands Act.
 Sec. 104. Seaward boundaries of States.
 Sec. 105. Exceptions from confirmation and establishment of States title,
 power, and rights.
 Sec. 106. Definitions under the Outer Continental Shelf Lands Act.
 Sec. 107. Determination of adjacent zones and planning areas.
 Sec. 108. Administration of leasing.
 Sec. 109. Grant of leases by Secretary.
 Sec. 110. Disposition of receipts.
 Sec. 111. Reservation of lands and rights.
 Sec. 112. Outer Continental Shelf leasing program.
 Sec. 113. Coordination with adjacent States.
 Sec. 114. Environmental studies.
 Sec. 115. Federal Energy Natural Resources Enhancement Act of 2008.
 Sec. 116. Termination of effect of laws prohibiting the spending of Approp-
 riated funds for certain purposes.
 Sec. 117. Outer continental shelf incompatible use.
 Sec. 118. Repurchase of certain leases.
 Sec. 119. Offsite environmental mitigation.
 Sec. 120. Minerals management service.
 Sec. 121. Authority to use decommissioned offshore oil and gas platforms and
 other facilities for artificial reef, scientific research, or other
 uses.
 Sec. 122. Repeal of requirement to conduct comprehensive inventory of OCS oil
 and natural gas resources.
 Sec. 123. Onshore and offshore mineral lease fees.
 Sec. 124. OCS regional headquarters.
 Sec. 125. Leases for areas located within 100 miles of California or Florida.
 Sec. 126. Coastal impact assistance.
 Sec. 127. Sense of the Congress to buy and build American.
 Sec. 128. Repeal of the Gulf of Mexico Energy Security Act of 2006.
 Sec. 129. Removal of additional fee for new applications for permits to drill.
 Sec. 130. Credit for producing fuel from nonconventional sources to apply to
 gas produced onshore from formations more than 15,000 feet
 deep.
 Sec. 131. Tax credit for carbon dioxide captured from industrial sources and
 used in enhanced oil and natural gas recovery.

TITLE II—OIL AND GAS LEASING PROGRAM FOR COASTAL PLAIN
 OF ALASKA

- Sec. 201. Short title.
 Sec. 202. Definitions.
 Sec. 203. Leasing program for lands within the Coastal Plain.
 Sec. 204. Lease sales.

- Sec. 205. Grant of leases by the Secretary.
- Sec. 206. Lease terms and conditions.
- Sec. 207. Coastal plain environmental protection.
- Sec. 208. Expedited judicial review.
- Sec. 209. Federal and State distribution of revenues.
- Sec. 210. Rights-of-way across the coastal plain.
- Sec. 211. Conveyance.
- Sec. 212. Local government impact aid and community service assistance.

TITLE III—OIL SHALE AND TAR SANDS

- Sec. 301. Short title.
- Sec. 302. Repeal of limitation on use of funds for regulations regarding a commercial leasing program for oil shale resources on public lands.
- Sec. 303. Permanent funding for PILT and refuge revenue sharing.
- Sec. 304. Reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000.
- Sec. 305. Oil shale and tar sands amendments.
- Sec. 306. Repeal.

TITLE IV—COAL

- Sec. 401. Short title.
- Sec. 402. Standby loans for qualifying coal-to-liquids projects.
- Sec. 403. Government auction of long term put option contracts on coal-to-liquid fuel produced by qualified coal-to-liquid facilities.

TITLE V—NUCLEAR

- Sec. 501. Use of funds for recycling.
- Sec. 502. Rulemaking for licensing of spent nuclear fuel recycling facilities.
- Sec. 503. Nuclear waste fund budget status.
- Sec. 504. Waste Confidence.
- Sec. 505. ASME Nuclear Certification credit.

TITLE VI—CLEAN RENEWABLE ENERGY

- Sec. 601. Trust fund.
- Sec. 602. Developing solar energy on Federal lands.

TITLE VII—PROMOTE GREATER ENERGY EFFICIENCY AND CONSERVATION

- Sec. 701. Increase and extension of energy efficient commercial buildings deduction.
- Sec. 702. Permanent extension of the credit for nonbusiness energy property, the credit for gas produced from biomass and for synthetic fuels produced from coal, and the credit for energy efficient appliances.
- Sec. 703. Extension and clarification of new energy efficient home credit.
- Sec. 704. Extension and modification of deduction for energy efficient commercial buildings.
- Sec. 705. Deduction for energy efficient low-rise buildings.

TITLE VIII—INCREASING AMERICA'S GASOLINE REFINING CAPABILITIES

- Sec. 801. Definitions.

- Sec. 802. State assistance.
- Sec. 803. Refinery process coordination and procedures.
- Sec. 804. Designation of closed military bases.
- Sec. 805. Savings clause.
- Sec. 806. Refinery revitalization repeal.
- Sec. 807. New source review under the Clean Air Act.
- Sec. 808. Designation of new refining capacity on brownfield sites.
- Sec. 809. Year extension of election to expense certain refineries.

TITLE IX—COMMON SENSE REGULATORY RELIEF AND POLICY REFORM

- Sec. 901. Extension and modification of renewable energy production tax credit.
- Sec. 902. Extension and modification of solar energy and fuel cell investment tax credit.
- Sec. 903. Repeal of requirement to deduct from an amount payable to each state.
- Sec. 904. Production credit for electricity produced from conventional hydro-power projects.
- Sec. 905. Definition of renewable biomass.
- Sec. 906. NEPA judicial review.

TITLE X—TAX-EXEMPT FINANCING OF CERTAIN ELECTRIC TRANSMISSION FACILITIES

- Sec. 1001. Tax-exempt financing of certain electric transmission facilities not subject to private business use test.

TITLE XI—RESTORE OUR DOMESTIC ENERGY WORKFORCE SCIENCE AND TECHNOLOGY EDUCATION

- Sec. 1101. Short title.
- Sec. 1102. Policy.
- Sec. 1103. Maintaining science and technology education programs.
- Sec. 1104. Funds for scholarships and fellowships.
- Sec. 1105. Use of funds by institutions.
- Sec. 1106. Establishment of a national center.
- Sec. 1107. Stakeholder Committee on Science and Technology Education.
- Sec. 1108. Career technical and community college education.
- Sec. 1109. Nuclear science and engineering scholarships.
- Sec. 1110. Nuclear workforce development.
- Sec. 1111. Authorization of appropriations.

TITLE XII—TAPPING AMERICA'S INGENUITY AND CREATIVITY

- Sec. 1201. Definitions.
- Sec. 1202. Statement of policy.
- Sec. 1203. Prize authority.
- Sec. 1204. Eligibility.
- Sec. 1205. Intellectual property.
- Sec. 1206. Waiver of liability.
- Sec. 1207. Authorization of appropriations.
- Sec. 1208. Next generation automobile prize program.
- Sec. 1209. Advanced battery manufacturing incentive program.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) America has a tremendous abundance of
4 virtually all energy resources.

5 (2) America has 21st century technologies that
6 can harvest these resources with very little environ-
7 mental impact.

8 (3) America can greatly strengthen our national
9 security by reducing our dependence on foreign en-
10 ergy supplies, particularly from hostile nations.

11 (4) America needs to develop more of all of its
12 resources in order to achieve true energy independ-
13 ence.

14 **TITLE I—OUTER CONTINENTAL**
15 **SHELF**

16 **SEC. 101. SHORT TITLE.**

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

19 **SEC. 102. POLICY.**

20 It is the policy of the United States that—

21 (1) the United States is blessed with abundant
22 energy resources on the outer Continental Shelf and
23 has developed a comprehensive framework of envi-
24 ronmental laws and regulations and fostered the de-
25 velopment of state-of-the-art technology that allows

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (4) by adding the following:

12 “(i) The term ‘Secretary’ means the Secretary of the
13 Interior.”; and

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

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

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

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

23 (2) by striking all after the first sentence and inserting the following: “Extension and delineation
24 of lateral offshore State boundaries under the provi-
25

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

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

9 Section 5 of the Submerged Lands Act (43 U.S.C.
10 1313) is amended by—

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

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

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

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

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

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

11 Section 2 of the Outer Continental Shelf Lands Act
12 (43 U.S.C. 1331) is amended—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Section 5 of the Outer Continental Shelf Lands Act
24 (43 U.S.C. 1334) is amended by adding at the end the
25 following:

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

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

16 “(1) establish procedures for entering into nat-
17 ural gas leases;

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

24 “(3) provide that natural gas leases shall con-
25 tain the same rights and obligations established for

1 oil and gas leases, except as otherwise provided in
2 the Deep Ocean Energy Resources Act of 2008;

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

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

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

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

18 Section 8 of the Outer Continental Shelf Lands Act
19 (43 U.S.C. 1337) is amended—

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

1 (2) by adding at the end of subsection (b) the
2 following: “The Secretary may issue more than one
3 lease for a given tract if each lease applies to a sepa-
4 rate and distinct range of vertical depths, horizontal
5 surface area, or a combination of the two. The Sec-
6 retary may issue regulations that the Secretary de-
7 termines are necessary to manage such leases con-
8 sistent with the purposes of this Act.”;

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

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

1 table distribution, based on proximity to the
2 project, among coastal states that have coast-
3 line that is located within 200 miles of the geo-
4 graphic center of the project.”;

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

6 “(q) NATURAL GAS LEASES.—

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

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

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

1 further delineate any discovered field prior to mak-
2 ing such estimates.

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

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

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

1 ticular lease sale, the price thresholds shall be \$40.50 for
2 oil (January 1, 2006 dollars) and \$6.75 for natural gas
3 (January 1, 2006 dollars).

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

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

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

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

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

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

25 (C) by striking “(3)”.

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

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

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

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

9 (3) by adding the following:

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

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

16 “(2) PHASED-IN RECEIPTS SHARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
16 ning October 1, 2008, the Secretary shall share
17 37.50 percent of OCS Receipts derived from all
18 leases located completely beyond 4 marine leagues
19 from any coastline and completely within 100 miles
20 of any coastline not included within the provisions of
21 paragraph (2).

22 “(4) RECEIPTS SHARING FROM TRACTS WITHIN
23 4 MARINE LEAGUES OF ANY COASTLINE.—

24 “(A) AREAS DESCRIBED IN PARAGRAPH
25 (2).—Beginning October 1, 2008, and con-

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

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

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

23 “(A) BONUS BIDS.—Deposits derived from
24 bonus bids from a leased tract, including inter-

1 est thereon, shall be allocated at the end of
2 each fiscal year to the Adjacent State.

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

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

15 and

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

22 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS
23 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE
24 COASTLINE.—

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

5 “(2) PHASED-IN RECEIPTS SHARING.—

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

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

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

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

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

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

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

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

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

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

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

12 “(vii) For fiscal year 2015, 23 per-
13 cent.

14 “(viii) For fiscal year 2016, 26 per-
15 cent.

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

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

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

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

21 “(C) The provisions of this paragraph shall
22 not apply to leases that could not have been
23 issued but for section 5(k) of this Act or section
24 6(2) of the Deep Ocean Energy Resources Act
25 of 2008.

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

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

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

21 “(B) ROYALTIES.—Deposits derived from
22 royalties from a leased tract, including interest
23 thereon, shall be allocated at the end of each
24 fiscal year to the Adjacent State and any other
25 producing State or States with a leased tract

1 within its Adjacent Zone partially or completely
2 beyond 100 miles of its coastline that generated
3 royalties during the fiscal year, if the other pro-
4 ducing State or States have a coastline point
5 within 300 miles of any portion of the leased
6 tract, in which case the amount allocated for
7 the leased tract shall be—

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

9 and

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

16 “(d) TRANSMISSION OF ALLOCATIONS.—

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

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

24 “(B) to each coastal county-equivalent and
25 municipal political subdivisions of such State a

1 total of 40 percent of such State’s allocations
2 under subsections (b)(5)(A), (b)(5)(B),
3 (c)(4)(A), and (c)(4)(B), together with all ac-
4 crued interest thereon; and

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

8 “(2) ALLOCATIONS TO COASTAL COUNTY-
9 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
10 retary shall make an initial allocation of the OCS
11 Receipts to be shared under paragraph (1)(B) as fol-
12 lows:

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

21 “(B) 75 percent shall be allocated to coast-
22 al county-equivalent political subdivisions that
23 are completely or partially less than 25 miles
24 landward of the coastline, with the allocation

1 among such coastal county-equivalent political
2 subdivisions to be further allocated as follows:

3 “(i) 25 percent shall be allocated
4 based on the ratio of such coastal county-
5 equivalent political subdivision’s population
6 to the coastal population of all coastal
7 county-equivalent political subdivisions in
8 the State.

9 “(ii) 25 percent shall be allocated
10 based on the ratio of such coastal county-
11 equivalent political subdivision’s coastline
12 miles to the coastline miles of all coastal
13 county-equivalent political subdivisions in
14 the State as calculated by the Secretary.
15 In such calculations, coastal county-equiva-
16 lent political subdivisions without a coast-
17 line shall be considered to have 50 percent
18 of the average coastline miles of the coast-
19 al county-equivalent political subdivisions
20 that do have coastlines.

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

1 formula that allocates the funds based on
2 such coastal county-equivalent political
3 subdivision's relative distance from the
4 leased tract.

5 “(iv) 25 percent shall be allocated to
6 all coastal county-equivalent political sub-
7 divisions having a coastline point within
8 300 miles of the leased tract for which
9 OCS Receipts are being shared based on
10 the relative level of outer Continental Shelf
11 oil and gas activities in a coastal political
12 subdivision compared to the level of outer
13 Continental Shelf activities in all coastal
14 political subdivisions in the State. The Sec-
15 retary shall define the term ‘outer Conti-
16 nental Shelf oil and gas activities’ for pur-
17 poses of this subparagraph to include, but
18 not be limited to, construction of vessels,
19 drillships, and platforms involved in explo-
20 ration, production, and development on the
21 outer Continental Shelf; support and sup-
22 ply bases, ports, and related activities; of-
23 fices of geologists, geophysicists, engineers,
24 and other professionals involved in support
25 of exploration, production, and develop-

1 ment of oil and gas on the outer Conti-
2 nental Shelf; pipelines and other means of
3 transporting oil and gas production from
4 the outer Continental Shelf; and processing
5 and refining of oil and gas production from
6 the outer Continental Shelf. For purposes
7 of this subparagraph, if a coastal county-
8 equivalent political subdivision does not
9 have a coastline, its coastal point shall be
10 the point on the coastline closest to it.

11 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
12 LITICAL SUBDIVISIONS.—The initial allocation to
13 each coastal county-equivalent political subdivision
14 under paragraph (2) shall be further allocated to the
15 coastal county-equivalent political subdivision and
16 any coastal municipal political subdivisions located
17 partially or wholly within the boundaries of the
18 coastal county-equivalent political subdivision as fol-
19 lows:

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

22 “(B) Two-thirds shall be allocated on a per
23 capita basis to the municipal political subdivi-
24 sions and the county-equivalent political sub-
25 division, with the allocation to the latter based

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

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

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

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

16 “(2) To make transportation infrastructure im-
17 provements.

18 “(3) To reduce taxes.

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

20 “(A) coastal or environmental restoration;

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

23 “(C) waterways construction and mainte-
24 nance;

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

3 “(E) marine and oceanographic education
4 and research.

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

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

9 “(B) energy demonstration projects;

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

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

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

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

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

23 “(H) energy efficiency and conservation
24 programs; and

1 “(I) front-end engineering and design for
2 facilities that produce liquid fuels from hydro-
3 carbons and other biological matter.

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

5 “(A) historic preservation programs and
6 projects;

7 “(B) natural disaster planning and re-
8 sponse; and

9 “(C) hurricane and natural disaster insur-
10 ance programs.

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

13 “(g) NO ACCOUNTING REQUIRED.—No recipient of
14 funds under this section shall be required to account to
15 the Federal Government for the expenditure of such
16 funds, except as otherwise may be required by law. How-
17 ever, States may enact legislation providing for accounting
18 for and auditing of such expenditures. Further, funds allo-
19 cated under this section to States and political subdivi-
20 sions may be used as matching funds for other Federal
21 programs.

22 “(h) EFFECT OF FUTURE LAWS.—Enactment of any
23 future Federal statute that has the effect, as determined
24 by the Secretary, of restricting any Federal agency from
25 spending appropriated funds, or otherwise preventing it

1 from fulfilling its pre-existing responsibilities as of the
2 date of enactment of the statute, unless such responsibil-
3 ities have been reassigned to another Federal agency by
4 the statute with no prevention of performance, to issue
5 any permit or other approval impacting on the OCS oil
6 and gas leasing program, or any lease issued thereunder,
7 or to implement any provision of this Act shall automati-
8 cally prohibit any sharing of OCS Receipts under this sec-
9 tion directly with the States, and their coastal political
10 subdivisions, for the duration of the restriction. The Sec-
11 retary shall make the determination of the existence of
12 such restricting effects within 30 days of a petition by any
13 outer Continental Shelf lessee or producing State.

14 “(i) DEFINITIONS.—In this section:

15 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
16 SUBDIVISION.—The term ‘coastal county-equivalent
17 political subdivision’ means a political jurisdiction
18 immediately below the level of State government, in-
19 cluding a county, parish, borough in Alaska, inde-
20 pendent municipality not part of a county, parish, or
21 borough in Alaska, or other equivalent subdivision of
22 a coastal State, that lies within the coastal zone.

23 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
24 SION.—The term ‘coastal municipal political subdivi-
25 sion’ means a municipality located within and part

1 of a county, parish, borough in Alaska, or other
2 equivalent subdivision of a State, all or part of which
3 coastal municipal political subdivision lies within the
4 coastal zone.

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

9 “(4) COASTAL ZONE.—The term ‘coastal zone’
10 means that portion of a coastal State, including the
11 entire territory of any coastal county-equivalent po-
12 litical subdivision at least a part of which lies, within
13 75 miles landward from the coastline, or a greater
14 distance as determined by State law enacted to im-
15 plement this section.

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

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

24 “(7) PRODUCING STATE.—The term ‘producing
25 State’ means an Adjacent State having an Adjacent

1 Zone containing leased tracts from which OCS Re-
2 cepts were derived.

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

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

7 Section 12 of the Outer Continental Shelf Lands Act
8 (43 U.S.C. 1341) is amended—

9 (1) in subsection (a) by adding at the end the
10 following: “The President may partially or com-
11 pletely revise or revoke any prior withdrawal made
12 by the President under the authority of this section.
13 The President may not revise or revoke a withdrawal
14 that is extended by a State under subsection (h), nor
15 may the President withdraw from leasing any area
16 for which a State failed to prohibit, or petition to
17 prohibit, leasing under subsection (g). Further, in
18 the area of the outer Continental Shelf more than
19 100 miles from any coastline, not more than 25 per-
20 cent of the acreage of any OCS Planning Area may
21 be withdrawn from leasing under this section at any
22 point in time. A withdrawal by the President may be
23 for a term not to exceed 10 years. When considering
24 potential uses of the outer Continental Shelf, to the

1 maximum extent possible, the President shall accom-
2 modate competing interests and potential uses.”;

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

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

6 “(1) PROHIBITION AGAINST LEASING.—

7 “(A) UNAVAILABLE FOR LEASING WITH-
8 OUT STATE REQUEST.—Except as otherwise
9 provided in this subsection, from and after en-
10 actment of the Deep Ocean Energy Resources
11 Act of 2008, the Secretary shall not offer for
12 leasing for oil and gas, or natural gas, any area
13 within 50 miles of the coastline that was with-
14 drawn from disposition by leasing in the Atlan-
15 tic OCS Region or the Pacific OCS Region, or
16 the Gulf of Mexico OCS Region Eastern Plan-
17 ning Area, as depicted on the maps referred to
18 in this subparagraph, under the ‘Memorandum
19 on Withdrawal of Certain Areas of the United
20 States Outer Continental Shelf from Leasing
21 Disposition’, 34 Weekly Comp. Pres. Doc.
22 1111, dated June 12, 1998, or any area within
23 50 miles of the coastline not withdrawn under
24 that Memorandum that is included within the
25 Gulf of Mexico OCS Region Eastern Planning

1 Area as indicated on the map entitled ‘Gulf of
2 Mexico OCS Region State Adjacent Zones and
3 OCS Planning Areas’ or the Florida Straits
4 Planning Area as indicated on the map entitled
5 ‘Atlantic OCS Region State Adjacent Zones and
6 OCS Planning Areas’, both of which are dated
7 September 2005 and on file in the Office of the
8 Director, Minerals Management Service.

9 “(B) AREAS BETWEEN 50 AND 100 MILES
10 FROM THE COASTLINE.—Unless an Adjacent
11 State petitions under subsection (h) within one
12 year after the date of the enactment of the
13 Deep Ocean Energy Resources Act of 2008 for
14 natural gas leasing or by June 30, 2010, for oil
15 and gas leasing, the Secretary shall offer for
16 leasing any area more than 50 miles but less
17 than 100 miles from the coastline that was
18 withdrawn from disposition by leasing in the
19 Atlantic OCS Region, the Pacific OCS Region,
20 or the Gulf of Mexico OCS Region Eastern
21 Planning Area, as depicted on the maps re-
22 ferred to in this subparagraph, under the
23 ‘Memorandum on Withdrawal of Certain Areas
24 of the United States Outer Continental Shelf
25 from Leasing Disposition’, 34 Weekly Comp.

1 Pres. Doc. 1111, dated June 12, 1998, or any
2 area more than 50 miles but less than 100
3 miles of the coastline not withdrawn under that
4 Memorandum that is included within the Gulf
5 of Mexico OCS Region Eastern Planning Area
6 as indicated on the map entitled ‘Gulf of Mexico
7 OCS Region State Adjacent Zones and OCS
8 Planning Areas’ or within the Florida Straits
9 Planning Area as indicated on the map entitled
10 ‘Atlantic OCS Region State Adjacent Zones and
11 OCS Planning Areas’, both of which are dated
12 September 2005 and on file in the Office of the
13 Director, Minerals Management Service.

14 “(2) REVOCATION OF WITHDRAWAL.—The pro-
15 visions of the ‘Memorandum on Withdrawal of Cer-
16 tain Areas of the United States Outer Continental
17 Shelf from Leasing Disposition’, 34 Weekly Comp.
18 Pres. Doc. 1111, dated June 12, 1998, are hereby
19 revoked and are no longer in effect. Any tract only
20 partially added to the Gulf of Mexico OCS Region
21 Central Planning Area by this Act shall be eligible
22 for leasing of the part of such tract that is included
23 within the Gulf of Mexico OCS Region Central Plan-
24 ning Area, and the remainder of such tract that lies
25 outside of the Gulf of Mexico OCS Region Central

1 Planning Area may be developed and produced by
2 the lessee of such partial tract using extended reach
3 or similar drilling from a location on a leased area.
4 Further, any area in the OCS withdrawn from leasing
5 may be leased, and thereafter developed and produced
6 by the lessee using extended reach or similar
7 drilling from a location on a leased area located in
8 an area available for leasing.

9 “(3) PETITION FOR LEASING.—

10 “(A) IN GENERAL.—The Governor of the
11 State, upon concurrence of its legislature, may
12 submit to the Secretary a petition requesting
13 that the Secretary make available any area that
14 is within the State’s Adjacent Zone, included
15 within the provisions of paragraph (1), and that
16 (i) is greater than 25 miles from any point on
17 the coastline of a Neighboring State for the
18 conduct of offshore leasing, pre-leasing, and related
19 activities with respect to natural gas leasing;
20 or (ii) is greater than 50 miles from any
21 point on the coastline of a Neighboring State
22 for the conduct of offshore leasing, pre-leasing,
23 and related activities with respect to oil and gas
24 leasing. The Adjacent State may also petition
25 for leasing any other area within its Adjacent

1 Zone if leasing is allowed in the similar area of
2 the Adjacent Zone of the applicable Neigh-
3 boring State, or if not allowed, if the Neigh-
4 boring State, acting through its Governor, ex-
5 presses its concurrence with the petition. The
6 Secretary shall only consider such a petition
7 upon making a finding that leasing is allowed
8 in the similar area of the Adjacent Zone of the
9 applicable Neighboring State or upon receipt of
10 the concurrence of the Neighboring State. The
11 date of receipt by the Secretary of such concur-
12 rence by the Neighboring State shall constitute
13 the date of receipt of the petition for that area
14 for which the concurrence applies.

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

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

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

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

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

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

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

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

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

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

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

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

22 “(i) EFFECT OF OTHER LAWS.—Adoption by any
23 Adjacent State of any constitutional provision, or enact-
24 ment of any State statute, that has the effect, as deter-
25 mined by the Secretary, of restricting either the Governor

1 or the Legislature, or both, from exercising full discretion
2 related to subsection (g) or (h), or both, shall automati-
3 cally (1) prohibit any sharing of OCS Receipts under this
4 Act with the Adjacent State, and its coastal political sub-
5 divisions, and (2) prohibit the Adjacent State from exer-
6 cising any authority under subsection (h), for the duration
7 of the restriction. The Secretary shall make the determina-
8 tion of the existence of such restricting constitutional pro-
9 vision or State statute within 30 days of a petition by any
10 outer Continental Shelf lessee or coastal State.

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

13 “(1) Notwithstanding any other provision of
14 law, from and after the enactment of the Deep
15 Ocean Energy Resources Act of 2008, prior to Janu-
16 ary 1, 2022, no area of the outer Continental Shelf
17 located in the Gulf of Mexico east of the military
18 mission line may be offered for leasing for oil and
19 gas or natural gas unless a waiver is issued by the
20 Secretary of Defense. If such a waiver is granted,
21 62.5 percent of the OCS Receipts from a lease with-
22 in such area issued because of such waiver shall be
23 paid annually to the National Guards of all States
24 having a point within 1000 miles of such a lease, al-

1 located among the States on a per capita basis using
2 the entire population of such States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) by adding the following:

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

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

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

3 **SEC. 114. ENVIRONMENTAL STUDIES.**

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

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

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

8 “(2) For all programs, lease sales, leases, and
9 actions under this Act, the following shall apply re-
10 garding the application of the National Environ-
11 mental Policy Act of 1969:

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

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

1 under the program and such sales shall not be
2 subject to further environmental analysis.

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

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

1 **SEC. 115. FEDERAL ENERGY NATURAL RESOURCES EN-**
2 **HANCEMENT ACT OF 2008.**

3 (a) FINDINGS.—The Congress finds the following:

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

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

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

24 (4) Funds available to Federal agencies respon-
25 sible for managing Federal onshore and offshore
26 lands and Federal-trust wildlife and fish species and

1 their habitats are inadequate to address the natural
2 resources related to energy and minerals develop-
3 ment on Federal onshore and offshore lands.

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

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

16 (b) PURPOSES.—It is the purpose of this section to—

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

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

24 (3) use the appropriated funds to secure the
25 necessary trained workforce or contractual services

1 to conduct environmental studies, planning, develop-
2 ment, monitoring, and post-development manage-
3 ment of wildlife and fish and their habitats and air,
4 water, and other natural resources that may be re-
5 lated to bio-based fuel, gas, mineral, oil, wind, or
6 other energy exploration, development, transpor-
7 tation, transmission, and associated activities on
8 Federal onshore and offshore lands, including, but
9 not limited to—

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

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

21 (C) research, surveys, environmental anal-
22 yses, and projects that assist in managing, in-
23 cluding mitigating either onsite or offsite, or
24 both, the impacts of energy and mineral activi-

1 ties on wildlife, fish, air, water, and other nat-
2 ural resources; and

3 (D) projects to teach young people to live
4 off the land.

5 (c) DEFINITIONS.—In this section:

6 (1) ENHANCEMENT PROGRAM.—The term “En-
7 hancement Program” means the Federal Energy
8 Natural Resources Enhancement Program estab-
9 lished by this section.

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

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out the Enhance-
14 ment Program \$150,000,000 for fiscal year 2009 and
15 each fiscal year thereafter.

16 (e) ESTABLISHMENT OF FEDERAL ENERGY NAT-
17 URAL RESOURCES ENHANCEMENT PROGRAM.—

18 (1) IN GENERAL.—There is established the
19 Federal Energy Natural Resources Enhancement
20 Program.

21 (2) PAYMENT TO SECRETARY OF THE INTE-
22 RIOR.—Beginning with fiscal year 2009, and in each
23 fiscal year thereafter, one-third of amounts appro-
24 priated for the Enhancement Program shall be avail-

1 able to the Secretary of the Interior for use for the
2 purposes described in subsection (b)(3).

3 (3) PAYMENT TO STATES.—

4 (A) IN GENERAL.—Beginning with fiscal
5 year 2009, and in each fiscal year thereafter,
6 two-thirds of amounts appropriated for the En-
7 hancement Program shall be available to the
8 States for use for the purposes described in
9 (b)(3).

10 (B) USE OF PAYMENTS BY STATE.—Each
11 State shall use the payments made under this
12 paragraph only for carrying out projects and
13 programs for the purposes described in (b)(3).

14 (C) ENCOURAGE USE OF PRIVATE FUNDS
15 BY STATE.—Each State shall use the payments
16 made under this paragraph to leverage private
17 funds for carrying out projects for the purposes
18 described in (b)(3).

19 (f) LIMITATION ON USE.—Amounts made available
20 under this section may not be used for the purchase of
21 any interest in land.

22 (g) REPORTS TO CONGRESS.—

23 (1) IN GENERAL.—Beginning in fiscal year
24 2010 and continuing for each fiscal year thereafter,
25 the Secretary of the Interior and each State receiv-

1 ing funds from the Enhancement Fund shall submit
2 a report to the Committee on Energy and Natural
3 Resources of the Senate and the Committee on Re-
4 sources of the House of Representatives.

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

10 (A) A summary of pertinent scientific re-
11 search and surveys conducted to identify im-
12 pacts on wildlife, fish, and other natural re-
13 sources from energy and mineral developments.

14 (B) A summary of projects planned and
15 completed to maintain, improve or enhance
16 wildlife and fish populations and their habitats
17 or other natural resources.

18 (C) A list of additional actions that assist,
19 or would assist, in managing, including miti-
20 gating either onsite or offsite, or both, the im-
21 pacts of energy and mineral development on
22 wildlife, fish, and other natural resources.

23 (D) A summary of private (non-Federal)
24 funds used to plan, conduct, and complete the

1 plans and programs identified in paragraphs
2 (2)(A) and (2)(B).

3 **SEC. 116. TERMINATION OF EFFECT OF LAWS PROHIBITING**
4 **THE SPENDING OF APPROPRIATED FUNDS**
5 **FOR CERTAIN PURPOSES.**

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

11 **SEC. 117. OUTER CONTINENTAL SHELF INCOMPATIBLE**
12 **USE.**

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

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

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

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

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

9 **SEC. 118. REPURCHASE OF CERTAIN LEASES.**

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

20 (b) **REGULATIONS.**—Not later than 365 days after
21 the date of the enactment of this Act, the Secretary shall
22 publish a final regulation stating the conditions under
23 which a lease referred to in subsection (a) would qualify
24 for repurchase and cancellation, and the process to be fol-

1 lowed regarding repurchase and cancellation. Such regula-
2 tion shall include, but not be limited to, the following:

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

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

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

18 (C) a Federal agency attached a condition
19 of approval, without agreement by the lessee, to
20 a required permit or other approval if such con-
21 dition of approval was not mandated by Federal
22 statute or regulation in effect on the date of
23 lease issuance, or was not specifically allowed
24 under the terms of the lease.

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

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

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

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

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

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

1 **SEC. 119. OFFSITE ENVIRONMENTAL MITIGATION.**

2 Notwithstanding any other provision of law, any per-
3 son conducting activities under the Mineral Leasing Act
4 (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30
5 U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-
6 quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16
7 U.S.C. 552 et seq.), the General Mining Act of 1872 (30
8 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.
9 601 et seq.), or the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1331 et seq.), may in satisfying any mitigation
11 requirements associated with such activities propose miti-
12 gation measures on a site away from the area impacted
13 and the Secretary of the Interior shall accept these pro-
14 posed measures if the Secretary finds that they generally
15 achieve the purposes for which mitigation measures apper-
16 tained.

17 **SEC. 120. MINERALS MANAGEMENT SERVICE.**

18 The bureau known as the “Minerals Management
19 Service” in the Department of the Interior shall be known
20 as the “National Ocean Resources and Royalty Service”.

21 **SEC. 121. AUTHORITY TO USE DECOMMISSIONED OFF-**
22 **SHORE OIL AND GAS PLATFORMS AND**
23 **OTHER FACILITIES FOR ARTIFICIAL REEF,**
24 **SCIENTIFIC RESEARCH, OR OTHER USES.**

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

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

4 **“SEC. 10. USE OF DECOMMISSIONED OFFSHORE OIL AND**
5 **GAS PLATFORMS AND OTHER FACILITIES**
6 **FOR ARTIFICIAL REEF, SCIENTIFIC RE-**
7 **SEARCH, OR OTHER USES.**

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

15 “(b) TRANSFER REQUIREMENTS.—The Secretary
16 shall not allow the transfer of a decommissioned offshore
17 oil and gas platform or other facility to another person
18 unless the Secretary is satisfied that the transferee is suf-
19 ficiently bonded, endowed, or otherwise financially able to
20 fulfill its obligations, including but not limited to—

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

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

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

1 “(4) any other requirements and obligations
2 that the Secretary may deem appropriate by regula-
3 tion.

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

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

23 “(e) LIMITATION ON LIABILITY.—A person that had
24 used an offshore oil and gas platform or other facility for
25 oil and gas purposes and that no longer has any ownership

1 or control of the platform or other facility shall not be
2 liable under Federal law for any costs or damages arising
3 from such platform or other facility after the date the plat-
4 form or other facility is used for any purpose under sub-
5 section (a), unless such costs or damages arise from—

6 “(1) use of the platform or other facility by the
7 person for development or production of oil or gas;
8 or

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

10 “(f) OTHER LEASING AND USE NOT AFFECTED.—

11 This section, and the use of any offshore oil and gas plat-
12 form or other facility for any purpose under subsection
13 (a), shall not affect—

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

16 “(2) any activity otherwise authorized under
17 this Act.”.

18 “(c) DEADLINE FOR REGULATIONS.—The Secretary of
19 the Interior shall issue regulations under subsection (b)
20 by not later than 180 days after the date of the enactment
21 of this Act.

22 “(d) STUDY AND REPORT ON EFFECTS OF REMOVAL
23 OF PLATFORMS.—Not later than one year after the date
24 of enactment of this Act, the Secretary of the Interior,
25 in consultation with other Federal agencies as the Sec-

1 retary deems advisable, shall study and report to the Con-
2 gress regarding how the removal of offshore oil and gas
3 platforms and other facilities from the outer Continental
4 Shelf would affect existing fish stocks and coral popu-
5 lations.

6 **SEC. 122. REPEAL OF REQUIREMENT TO CONDUCT COM-**
7 **PREHENSIVE INVENTORY OF OCS OIL AND**
8 **NATURAL GAS RESOURCES.**

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

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

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

15 **SEC. 123. ONSHORE AND OFFSHORE MINERAL LEASE FEES.**

16 Except as otherwise provided in this Act, the Depart-
17 ment of the Interior is prohibited from charging fees appli-
18 cable to bidding or actions on Federal onshore and off-
19 shore oil and gas, coal, geothermal, and other mineral
20 leases, including transportation of any production from
21 such leases, if such fees were not established in final regu-
22 lations prior to the date of issuance of the lease.

23 **SEC. 124. OCS REGIONAL HEADQUARTERS.**

24 Not later than July 1, 2010, the Secretary of the In-
25 terior shall establish the headquarters for the Atlantic

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

21 **SEC. 125. LEASES FOR AREAS LOCATED WITHIN 100 MILES**
22 **OF CALIFORNIA OR FLORIDA.**

23 (a) AUTHORIZATION TO CANCEL AND EXCHANGE
24 CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION

1 ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN
2 LEASES PRIOR TO JUNE 30, 2012.—

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

20 (2) ADMINISTRATIVE PROCESS.—The Secretary
21 of the Interior shall establish a reasonable adminis-
22 trative process to implement paragraph (1). Ex-
23 changes and conversions under subsection (a), in-
24 cluding the issuance of new leases, shall not be con-
25 sidered to be major Federal actions for purposes of

1 the National Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.). Further, such actions con-
3 ducted in accordance with this section are deemed to
4 be in compliance all provisions of the Outer Conti-
5 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

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

21 (5) EXPLORATION PLANS.—Any exploration
22 plan submitted to the Secretary of the Interior after
23 the date of the enactment of this Act and before
24 July 1, 2012, for an oil and gas lease for an area
25 wholly within 100 miles of the coastline within the

1 California Adjacent Zone or Florida Adjacent Zone
2 shall not be treated as received by the Secretary
3 until the earlier of July 1, 2012, or the date on
4 which a petition by the Adjacent State for oil and
5 gas leasing covering the area within which is located
6 the area subject to the oil and gas lease was ap-
7 proved.

8 (b) FURTHER LEASE CANCELLATION AND EX-
9 CHANGE PROVISIONS.—

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

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

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

22 (4) PLUGGING AND ABANDONMENT.—The plug-
23 ging and abandonment requirements for any wells
24 located on any lease to be cancelled and exchanged

1 under this section must be complied with by the les-
2 sees prior to the cancellation and exchange.

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

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

16 **SEC. 126. COASTAL IMPACT ASSISTANCE.**

17 Section 31 of the Outer Continental Shelf Lands Act
18 (43 U.S.C. 1356a) is repealed.

19 **SEC. 127. SENSE OF THE CONGRESS TO BUY AND BUILD**
20 **AMERICAN.**

21 (a) BUY AND BUILD AMERICAN.—It is the intention
22 of the Congress that this Act, among other things, result
23 in a healthy and growing American industrial, manufac-
24 turing, transportation, and service sector employing the
25 vast talents of America’s workforce to assist in the devel-

1 opment of affordable energy from the Outer Continental
2 Shelf. Moreover, the Congress intends to monitor the de-
3 ployment of personnel and material in the Outer Conti-
4 nental Shelf to encourage the development of American
5 technology and manufacturing to enable United States
6 workers to benefit from this Act by good jobs and careers,
7 as well as the establishment of important industrial facili-
8 ties to support expanded access to American resources.

9 (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—
10 Section 30(a) of the Outer Continental Shelf Lands Act
11 (43 U.S.C. 1356(a)) is amended in the matter preceding
12 paragraph (1) by striking “regulations which” and insert-
13 ing “regulations that shall be supplemental and com-
14 plimentary with and under no circumstances a substi-
15 tution for the provisions of the Constitution and laws of
16 the United States extended to the subsoil and seabed of
17 the outer Continental Shelf pursuant to section 4(a)(1)
18 of this Act, except insofar as such laws would otherwise
19 apply to individuals who have extraordinary ability in the
20 sciences, arts, education, or business, which has been dem-
21 onstrated by sustained national or international acclaim,
22 and that”.

1 **SEC. 128. REPEAL OF THE GULF OF MEXICO ENERGY SECUR-**
2 **RITY ACT OF 2006.**

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

5 **SEC. 129. REMOVAL OF ADDITIONAL FEE FOR NEW APPLI-**
6 **CATIONS FOR PERMITS TO DRILL.**

7 The second undesignated paragraph of the matter
8 under the heading “MANAGEMENT OF LANDS AND
9 RESOURCES” under the heading “Bureau of Land Man-
10 agement” of title I of the Department of the Interior, En-
11 vironment, and Related Agencies Appropriations Act,
12 2008 (Public Law 110–161; 121 Stat. 2098) is amended
13 by striking “to be reduced” and all that follows through
14 “each new application,”.

15 **SEC. 130. CREDIT FOR PRODUCING FUEL FROM NON-**
16 **CONVENTIONAL SOURCES TO APPLY TO GAS**
17 **PRODUCED ONSHORE FROM FORMATIONS**
18 **MORE THAN 15,000 FEET DEEP.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 45K(c)(1) of the Internal Revenue Code of 1986 is amend-
21 ed by striking “or” at the end of clause (i), by striking
22 “and” at the end of clause (ii) and inserting “or”, and
23 by inserting after clause (ii) the following new clause:

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

1 (b) ELIGIBLE DEEP GAS WELLS.—Section 45K of
2 such Code is amended by adding at the end the following
3 new subsection:

4 “(h) ELIGIBLE DEEP GAS WELLS.—In the case of
5 a well producing qualified fuel described in subsection
6 (c)(1)(B)(iii)—

7 “(1) for purposes of subsection (e)(1)(A), such
8 well shall be treated as drilled before January 1,
9 1993, if such well is drilled after the date of the en-
10 actment of this subsection, and

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

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

15 **SEC. 131. TAX CREDIT FOR CARBON DIOXIDE CAPTURED**
16 **FROM INDUSTRIAL SOURCES AND USED IN**
17 **ENHANCED OIL AND NATURAL GAS RECOV-**
18 **ERY.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of
21 1986 (relating to business credits) is amended by adding
22 at the end the following new section:

1 **“SEC. 45P. CREDIT FOR CARBON DIOXIDE CAPTURED FROM**
2 **INDUSTRIAL SOURCES AND USED AS A TER-**
3 **TIARY INJECTANT IN ENHANCED OIL AND**
4 **NATURAL GAS RECOVERY.**

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

8 “(1) the credit amount, and

9 “(2) the qualified carbon dioxide captured from
10 industrial sources and used as a tertiary injectant in
11 qualified enhanced oil and natural gas recovery
12 which is attributable to the taxpayer.

13 “(b) CREDIT AMOUNT.—For purposes of this sec-
14 tion—

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

17 “(2) INFLATION ADJUSTMENT.—In the case of
18 any taxable year beginning in a calendar year after
19 2007, there shall be substituted for the \$0.75
20 amount under paragraph (1) an amount equal to the
21 product of—

22 “(A) \$0.75, multiplied by

23 “(B) the inflation adjustment factor for
24 such calendar year determined under section
25 43(b)(3)(B) for such calendar year, determined
26 by substituting ‘2006’ for ‘1990’.

1 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of
2 this section—

3 “(1) IN GENERAL.—The term ‘qualified carbon
4 dioxide’ means carbon dioxide captured from an an-
5 thropogenic source that—

6 “(A) would otherwise be released into the
7 atmosphere as industrial emission of green-
8 house gas,

9 “(B) is measurable at the source of cap-
10 ture,

11 “(C) is compressed, treated, and trans-
12 ported via pipeline,

13 “(D) is sold as a tertiary injectant in
14 qualified enhanced oil and natural gas recovery,
15 and

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

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

23 “(A) a coal and natural gas fired electrical
24 generating power station,

1 “(B) a natural gas processing and treating
2 plant,

3 “(C) an ethanol plant,

4 “(D) a fertilizer plant, and

5 “(E) a chemical plant.

6 “(3) DEFINITIONS.—

7 “(A) QUALIFIED ENHANCED OIL AND NAT-
8 URAL GAS RECOVERY.—The term ‘qualified en-
9 hanced oil and natural gas recovery’ has the
10 meaning given such term by section 43(c)(2).

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

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

16 “(1) ONLY CARBON DIOXIDE CAPTURED WITH-
17 IN THE UNITED STATES TAKEN INTO ACCOUNT.—
18 Sales shall be taken into account under this section
19 only with respect to qualified carbon dioxide of
20 which is within—

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

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

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

7 “(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—
8 Any credit under this section shall be attributable to
9 the person that captures, treats, compresses, trans-
10 ports and sells the carbon dioxide for use as a ter-
11 tiary injectant in enhanced oil and natural gas re-
12 covery, except to the extent provided in regulations
13 prescribed by the Secretary.”.

14 (b) CONFORMING AMENDMENT.—Section 38(b) of
15 such Code (relating to general business credit), as amend-
16 ed by section 302, is amended by striking “plus” at the
17 end of paragraph (31), by striking the period at the end
18 of paragraph (32) and inserting “, plus”, and by adding
19 at the end of following new paragraph:

20 “(33) the captured carbon dioxide tertiary
21 injectant credit determined under section 45P(a).”.

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 section:

“Sec. 45P. 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 taxable years beginning after
3 the date of the enactment of this Act.

4 **TITLE II—OIL AND GAS LEASING**
5 **PROGRAM FOR COASTAL**
6 **PLAIN OF ALASKA**

7 **SEC. 201. SHORT TITLE.**

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

10 **SEC. 202. DEFINITIONS.**

11 In this title:

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

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

18 **SEC. 203. LEASING PROGRAM FOR LANDS WITHIN THE**
19 **COASTAL PLAIN.**

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

22 (1) to establish and implement, in accordance
23 with this Act and acting through the Director of the
24 Bureau of Land Management in consultation with

1 the Director of the United States Fish and Wildlife
2 Service, a competitive oil and gas leasing program
3 that will result in an environmentally sound program
4 for the exploration, development, and production of
5 the oil and gas resources of the Coastal Plain; and

6 (2) to administer the provisions of this Act
7 through regulations, lease terms, conditions, restric-
8 tions, prohibitions, stipulations, and other provisions
9 that ensure the oil and gas exploration, development,
10 and production activities on the Coastal Plain will
11 result in no significant adverse effect on fish and
12 wildlife, their habitat, subsistence resources, and the
13 environment, including, in furtherance of this goal,
14 by requiring the application of the best commercially
15 available technology for oil and gas exploration, de-
16 velopment, and production to all exploration, devel-
17 opment, and production operations under this Act in
18 a manner that ensures the receipt of fair market
19 value by the public for the mineral resources to be
20 leased.

21 (b) REPEAL.—

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

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

4 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
5 TAIN OTHER LAWS.—

6 (1) COMPATIBILITY.—For purposes of the Na-
7 tional Wildlife Refuge System Administration Act of
8 1966 (16 U.S.C. 668dd et seq.), the oil and gas
9 leasing program and activities authorized by this
10 section in the Coastal Plain are deemed to be com-
11 patible with the purposes for which the Arctic Na-
12 tional Wildlife Refuge was established, and no fur-
13 ther findings or decisions are required to implement
14 this determination.

15 (2) ADEQUACY OF THE DEPARTMENT OF THE
16 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
17 STATEMENT.—The “Final Legislative Environ-
18 mental Impact Statement” (April 1987) on the
19 Coastal Plain prepared pursuant to section 1002 of
20 the Alaska National Interest Lands Conservation
21 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
22 of the National Environmental Policy Act of 1969
23 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
24 quirements under the National Environmental Policy
25 Act of 1969 that apply with respect to prelease ac-

1 activities, including actions authorized to be taken by
2 the Secretary to develop and promulgate the regula-
3 tions for the establishment of a leasing program au-
4 thorized by this Act before the conduct of the first
5 lease sale.

6 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
7 TIONS.—Before conducting the first lease sale under
8 this Act, the Secretary shall prepare an environ-
9 mental impact statement under the National Envi-
10 ronmental Policy Act of 1969 with respect to the ac-
11 tions authorized by this Act that are not referred to
12 in paragraph (2). Notwithstanding any other law,
13 the Secretary is not required to identify nonleasing
14 alternative courses of action or to analyze the envi-
15 ronmental effects of such courses of action. The Sec-
16 retary shall only identify a preferred action for such
17 leasing and a single leasing alternative, and analyze
18 the environmental effects and potential mitigation
19 measures for those two alternatives. The identifica-
20 tion of the preferred action and related analysis for
21 the first lease sale under this Act shall be completed
22 within 18 months after the date of enactment of this
23 Act. The Secretary shall only consider public com-
24 ments that specifically address the Secretary's pre-
25 ferred action and that are filed within 20 days after

1 publication of an environmental analysis. Notwith-
2 standing any other law, compliance with this para-
3 graph is deemed to satisfy all requirements for the
4 analysis and consideration of the environmental ef-
5 fects of proposed leasing under this Act.

6 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
7 ITY.—Nothing in this Act shall be considered to expand
8 or limit State and local regulatory authority.

9 (e) SPECIAL AREAS.—

10 (1) IN GENERAL.—The Secretary, after con-
11 sultation with the State of Alaska, the city of
12 Kaktovik, and the North Slope Borough, may des-
13 ignate up to a total of 45,000 acres of the Coastal
14 Plain as a Special Area if the Secretary determines
15 that the Special Area is of such unique character
16 and interest so as to require special management
17 and regulatory protection. The Secretary shall des-
18 ignate as such a Special Area the Sadlerochit Spring
19 area, comprising approximately 4,000 acres.

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

24 (3) EXCLUSION FROM LEASING OR SURFACE
25 OCCUPANCY.—The Secretary may exclude any Spe-

1 cial Area from leasing. If the Secretary leases a Spe-
2 cial Area, or any part thereof, for purposes of oil
3 and gas exploration, development, production, and
4 related activities, there shall be no surface occu-
5 pancy of the lands comprising the Special Area.

6 (4) DIRECTIONAL DRILLING.—Notwithstanding
7 the other provisions of this subsection, the Secretary
8 may lease all or a portion of a Special Area under
9 terms that permit the use of horizontal drilling tech-
10 nology from sites on leases located outside the Spe-
11 cial Area.

12 (f) LIMITATION ON CLOSED AREAS.—The Sec-
13 retary's sole authority to close lands within the Coastal
14 Plain to oil and gas leasing and to exploration, develop-
15 ment, and production is that set forth in this Act.

16 (g) REGULATIONS.—

17 (1) IN GENERAL.—The Secretary shall pre-
18 scribe such regulations as may be necessary to carry
19 out this Act, including rules and regulations relating
20 to protection of the fish and wildlife, their habitat,
21 subsistence resources, and environment of the Coast-
22 al Plain, by no later than 15 months after the date
23 of enactment of this Act.

24 (2) REVISION OF REGULATIONS.—The Sec-
25 retary shall periodically review and, if appropriate,

1 revise the rules and regulations issued under sub-
2 section (a) to reflect any significant biological, envi-
3 ronmental, or engineering data that come to the Sec-
4 retary's attention.

5 **SEC. 204. LEASE SALES.**

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

10 (b) **PROCEDURES.**—The Secretary shall, by regula-
11 tion, establish procedures for—

12 (1) receipt and consideration of sealed nomina-
13 tions for any area in the Coastal Plain for inclusion
14 in, or exclusion (as provided in subsection (e)) from,
15 a lease sale;

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

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

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

23 (d) **ACREAGE MINIMUM IN FIRST SALE.**—In the first
24 lease sale under this Act, the Secretary shall offer for lease
25 those tracts the Secretary considers to have the greatest

1 potential for the discovery of hydrocarbons, taking into
2 consideration nominations received pursuant to subsection
3 (b)(1), but in no case less than 200,000 acres.

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

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

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

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

15 **SEC. 205. GRANT OF LEASES BY THE SECRETARY.**

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

21 (b) SUBSEQUENT TRANSFERS.—No lease issued
22 under this Act may be sold, exchanged, assigned, sublet,
23 or otherwise transferred except with the approval of the
24 Secretary. Prior to any such approval the Secretary shall

1 consult with, and give due consideration to the views of,
2 the Attorney General.

3 **SEC. 206. LEASE TERMS AND CONDITIONS.**

4 (a) IN GENERAL.—An oil or gas lease issued pursu-
5 ant to this Act shall—

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

11 (2) provide that the Secretary may close, on a
12 seasonal basis, portions of the Coastal Plain to ex-
13 ploratory drilling activities as necessary to protect
14 caribou calving areas and other species of fish and
15 wildlife;

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

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

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

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

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

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

3 (9) contain such other provisions as the Sec-
4 retary determines necessary to ensure compliance
5 with the provisions of this Act and the regulations
6 issued under this Act.

7 (b) **PROJECT LABOR AGREEMENTS.**—The Secretary,
8 as a term and condition of each lease under this Act and
9 in recognizing the Government’s proprietary interest in
10 labor stability and in the ability of construction labor and
11 management to meet the particular needs and conditions
12 of projects to be developed under the leases issued pursu-
13 ant to this Act and the special concerns of the parties to
14 such leases, shall require that the lessee and its agents
15 and contractors negotiate to obtain a project labor agree-
16 ment for the employment of laborers and mechanics on
17 production, maintenance, and construction under the
18 lease.

19 **SEC. 207. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

20 (a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD**
21 **TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—
22 The Secretary shall, consistent with the requirements of
23 section 3, administer the provisions of this Act through
24 regulations, lease terms, conditions, restrictions, prohibi-
25 tions, stipulations, and other provisions that—

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

5 (2) require the application of the best commer-
6 cially available technology for oil and gas explo-
7 ration, development, and production on all new ex-
8 ploration, development, and production operations;
9 and

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

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

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

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

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

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

4 (c) REGULATIONS TO PROTECT COASTAL PLAIN
5 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
6 AND THE ENVIRONMENT.—Before implementing the leas-
7 ing program authorized by this Act, the Secretary shall
8 prepare and promulgate regulations, lease terms, condi-
9 tions, restrictions, prohibitions, stipulations, and other
10 measures designed to ensure that the activities undertaken
11 on the Coastal Plain under this Act are conducted in a
12 manner consistent with the purposes and environmental
13 requirements of this Act.

14 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
15 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
16 proposed regulations, lease terms, conditions, restrictions,
17 prohibitions, and stipulations for the leasing program
18 under this Act shall require compliance with all applicable
19 provisions of Federal and State environmental law, and
20 shall also require the following:

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

1 (2) Seasonal limitations on exploration, develop-
2 ment, and related activities, where necessary, to
3 avoid significant adverse effects during periods of
4 concentrated fish and wildlife breeding, denning,
5 nesting, spawning, and migration.

6 (3) That exploration activities, except for sur-
7 face geological studies, be limited to the period be-
8 tween approximately November 1 and May 1 each
9 year and that exploration activities shall be sup-
10 ported, if necessary, by ice roads, winter trails with
11 adequate snow cover, ice pads, ice airstrips, and air
12 transport methods, except that such exploration ac-
13 tivities may occur at other times if the Secretary
14 finds that such exploration will have no significant
15 adverse effect on the fish and wildlife, their habitat,
16 and the environment of the Coastal Plain.

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

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

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

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

3 (6) Stringent reclamation and rehabilitation re-
4 quirements, consistent with the standards set forth
5 in this Act, requiring the removal from the Coastal
6 Plain of all oil and gas development and production
7 facilities, structures, and equipment upon completion
8 of oil and gas production operations, except that the
9 Secretary may exempt from the requirements of this
10 paragraph those facilities, structures, or equipment
11 that the Secretary determines would assist in the
12 management of the Arctic National Wildlife Refuge
13 and that are donated to the United States for that
14 purpose.

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

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

19 (9) Consolidation of facility siting.

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

22 (11) Avoidance, to the extent practicable, of
23 springs, streams, and river system; the protection of
24 natural surface drainage patterns, wetlands, and ri-
25 parian habitats; and the regulation of methods or

1 techniques for developing or transporting adequate
2 supplies of water for exploratory drilling.

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

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

12 (14) Fuel storage and oil spill contingency plan-
13 ning.

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

16 (16) Field crew environmental briefings.

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

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

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

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

3 (21) All other protective environmental stipula-
4 tions, restrictions, terms, and conditions deemed
5 necessary by the Secretary.

6 (e) CONSIDERATIONS.—In preparing and promul-
7 gating regulations, lease terms, conditions, restrictions,
8 prohibitions, and stipulations under this section, the Sec-
9 retary shall consider the following:

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

15 (2) The environmental protection standards
16 that governed the initial Coastal Plain seismic explo-
17 ration program under parts 37.31 to 37.33 of title
18 50, Code of Federal Regulations.

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

24 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

9 (A) Avoiding unnecessary duplication of fa-
10 cilities and activities.

11 (B) Encouraging consolidation of common
12 facilities and activities.

13 (C) Locating or confining facilities and ac-
14 tivities to areas that will minimize impact on
15 fish and wildlife, their habitat, and the environ-
16 ment.

17 (D) Utilizing existing facilities wherever
18 practicable.

19 (E) Enhancing compatibility between wild-
20 life values and development activities.

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

23 (1) manage public lands in the Coastal Plain
24 subject to subsections (a) and (b) of section 811 of

1 the Alaska National Interest Lands Conservation
2 Act (16 U.S.C. 3121); and

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

6 **SEC. 208. EXPEDITED JUDICIAL REVIEW.**

7 (a) FILING OF COMPLAINT.—

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

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

15 (B) in the case of a complaint based solely
16 on grounds arising after such period, within 90
17 days after the complainant knew or reasonably
18 should have known of the grounds for the com-
19 plaint.

20 (2) VENUE.—Any complaint seeking judicial re-
21 view of any provision of this Act or any action of the
22 Secretary under this Act may be filed only in the
23 United States Court of Appeals for the District of
24 Columbia.

1 (3) LIMITATION ON SCOPE OF CERTAIN RE-
2 VIEW.—Judicial review of a Secretarial decision to
3 conduct a lease sale under this Act, including the en-
4 vironmental analysis thereof, shall be limited to
5 whether the Secretary has complied with the terms
6 of this Act and shall be based upon the administra-
7 tive record of that decision. The Secretary’s identi-
8 fication of a preferred course of action to enable
9 leasing to proceed and the Secretary’s analysis of
10 environmental effects under this Act shall be pre-
11 sumed to be correct unless shown otherwise by clear
12 and convincing evidence to the contrary.

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

17 **SEC. 209. FEDERAL AND STATE DISTRIBUTION OF REVE-**
18 **NUES.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, of the amount of adjusted bonus, rental, and
21 royalty revenues from Federal oil and gas leasing and op-
22 erations authorized under this Act—

23 (1) 50 percent shall be paid to the State of
24 Alaska; and

1 (2) except as provided in section 12(d), the bal-
2 ance shall be transferred to the American Energy
3 Trust Fund established by this Act.

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

6 **SEC. 210. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

10 (1) except as provided in paragraph (2), under
11 section 28 of the Mineral Leasing Act (30 U.S.C.
12 185), without regard to title XI of the Alaska Na-
13 tional Interest Lands Conservation Act (30 U.S.C.
14 3161 et seq.); and

15 (2) under title XI of the Alaska National Inter-
16 est Lands Conservation Act (30 U.S.C. 3161 et
17 seq.), for access authorized by sections 1110 and
18 1111 of that Act (16 U.S.C. 3170 and 3171).

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

1 sited or designed so as to avoid unnecessary duplication
2 of roads and pipelines.

3 (c) REGULATIONS.—The Secretary shall include in
4 regulations under section 3(g) provisions granting rights-
5 of-way and easements described in subsection (a) of this
6 section.

7 **SEC. 211. CONVEYANCE.**

8 In order to maximize Federal revenues by removing
9 clouds on title to lands and clarifying land ownership pat-
10 terns within the Coastal Plain, the Secretary, notwith-
11 standing the provisions of section 1302(h)(2) of the Alas-
12 ka National Interest Lands Conservation Act (16 U.S.C.
13 3192(h)(2)), shall convey—

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

1 (2) to the Arctic Slope Regional Corporation
 2 the remaining subsurface estate to which it is enti-
 3 tled pursuant to the August 9, 1983, agreement be-
 4 tween the Arctic Slope Regional Corporation and the
 5 United States of America.

6 **SEC. 212. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
 7 **NITY SERVICE ASSISTANCE.**

8 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

9 (1) IN GENERAL.—The Secretary may use
 10 amounts available from the Coastal Plain Local Gov-
 11 ernment Impact Aid Assistance Fund established by
 12 subsection (d) to provide timely financial assistance
 13 to entities that are eligible under paragraph (2) and
 14 that are directly impacted by the exploration for or
 15 production of oil and gas on the Coastal Plain under
 16 this Act.

17 (2) ELIGIBLE ENTITIES.—The North Slope
 18 Borough, the City of Kaktovik, and any other bor-
 19 rough, municipal subdivision, village, or other com-
 20 munity in the State of Alaska that is directly im-
 21 pacted by exploration for, or the production of, oil
 22 or gas on the Coastal Plain under this Act, as deter-
 23 mined by the Secretary, shall be eligible for financial
 24 assistance under this section.

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

3 (1) planning for mitigation of the potential ef-
4 fects of oil and gas exploration and development on
5 environmental, social, cultural, recreational, and sub-
6 sistence values;

7 (2) implementing mitigation plans and main-
8 taining mitigation projects;

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

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

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

21 (B) provide to the Committee on Resources
22 of the House of Representatives and the Com-
23 mittee on Energy and Natural Resources of the
24 Senate an annual report on the status of co-

1 ordination between developers and the commu-
2 nities affected by development.

3 (c) APPLICATION.—

4 (1) IN GENERAL.—Any community that is eligi-
5 ble for assistance under this section may submit an
6 application for such assistance to the Secretary, in
7 such form and under such procedures as the Sec-
8 retary may prescribe by regulation.

9 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
10 community located in the North Slope Borough may
11 apply for assistance under this section either directly
12 to the Secretary or through the North Slope Bor-
13 ough.

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

19 (d) ESTABLISHMENT OF FUND.—

20 (1) IN GENERAL.—There is established in the
21 Treasury the Coastal Plain Local Government Im-
22 pact Aid Assistance Fund.

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

1 **SEC. 302. REPEAL OF LIMITATION ON USE OF FUNDS FOR**
2 **REGULATIONS REGARDING A COMMERCIAL**
3 **LEASING PROGRAM FOR OIL SHALE RE-**
4 **SOURCES ON PUBLIC LANDS.**

5 Section 433 of the Department of the Interior, Envi-
6 ronment, and Related Agencies Appropriations Act, 2008
7 (Division F of Public Law 110–161; 121 Stat. 2152) is
8 repealed.

9 **SEC. 303. PERMANENT FUNDING FOR PILT AND REFUGE**
10 **REVENUE SHARING.**

11 (a) PAYMENTS IN LIEU OF TAXES.—Section 6906 of
12 title 31, United States Code, is amended to read as fol-
13 lows:

14 **“SEC. 6906. AUTHORIZATION OF APPROPRIATIONS.**

15 “There is authorized to be appropriated out of the
16 American Energy Trust Fund created by this Act such
17 sums as may be necessary to the Secretary of the Interior
18 to carry out this chapter. Beginning in fiscal year 2013
19 and each fiscal year thereafter, amounts authorized under
20 this chapter shall be made available to the Secretary of
21 the Interior without further appropriation, for obligation
22 or expenditure in accordance with this chapter.”.

23 (b) REFUGE REVENUE SHARING.—Section 401(d) of
24 the Act of June 15, 1935 (16 U.S.C. 715s(d)), relating
25 to refuge revenue sharing, is amended by adding at the
26 end the following: “Beginning in fiscal year 2012 and each

1 fiscal year thereafter, such amounts shall be made avail-
2 able to the Secretary without further appropriation, out
3 of the American Energy Trust Fund created by this Act,
4 as may be necessary to carry out this chapter, for obliga-
5 tion or expenditure in accordance with this section.”.

6 **SEC. 304. REAUTHORIZATION OF THE SECURE RURAL**
7 **SCHOOLS AND COMMUNITY SELF-DETER-**
8 **MINATION ACT OF 2000.**

9 The Secure Rural Schools and Community Self-De-
10 termination Act of 2000 (Public Law 106–393; 16 U.S.C.
11 500 note) is amended—

12 (1) in sections 208 and 303, by striking “2013”
13 both places it appears and inserting “2018”; and

14 (2) in sections 101(a), 102(b)(2), 103(b)(1),
15 203(a)(1), 207(a), 208, 303, and 401, by striking
16 “2006” each place it appears and inserting “2018”.

17 **SEC. 305. OIL SHALE AND TAR SANDS AMENDMENTS.**

18 (a) **REPEAL OF REQUIREMENT TO ESTABLISH PAY-**
19 **MENTS.**—Section 369(o) of the Energy Policy Act of 2005
20 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927)
21 is repealed.

22 (b) **TREATMENT OF REVENUES.**—Section 21 of the
23 Mineral Leasing Act (30 U.S.C. 241) is amended by add-
24 ing at the end the following:

25 “(e) **REVENUES.**—

1 “(1) IN GENERAL.—Notwithstanding the provi-
2 sions of section 35, all revenues received from and
3 under an oil shale or tar sands lease shall be dis-
4 posed of as provided in this subsection.

5 “(2) ROYALTY RATES FOR COMMERCIAL
6 LEASES.—

7 “(A) ROYALTY RATES.—The Secretary
8 shall model the royalty schedule for oil shale
9 and tar sands leases based on the royalty pro-
10 gram currently in effect for the production of
11 synthetic crude oil from oil sands in the Prov-
12 ince of Alberta, Canada.

13 “(B) REDUCTION.—The Secretary shall re-
14 duce any royalty otherwise required to be paid
15 under subparagraph (A) under any oil shale or
16 tar sands lease on a sliding scale based upon
17 market price, with a 10 percent reduction if the
18 average futures price of NYMEX Light Sweet
19 Crude, or a similar index, drops, for the pre-
20 vious quarter year, below \$50 (in January 1,
21 2008, dollars), and an 80 percent reduction if
22 the average price drops below \$30 (in January
23 1, 2008, dollars) for the quarter previous to the
24 one in which the production is sold.

25 “(3) DISPOSITION OF REVENUES.—

1 “(A) DEPOSIT.—The Secretary shall de-
2 posit into a separate account in the Treasury
3 all revenues derived from any oil shale or tar
4 sands lease.

5 “(B) ALLOCATIONS TO STATES AND LOCAL
6 POLITICAL SUBDIVISIONS.—The Secretary shall
7 allocate 50 percent of the revenues deposited
8 into the account established under subpara-
9 graph (A) to the State within the boundaries of
10 which the leased lands are located, with a por-
11 tion of that to be paid directly by the Secretary
12 to the State’s local political subdivisions as pro-
13 vided in this paragraph.

14 “(C) TRANSMISSION OF ALLOCATIONS.—

15 “(i) IN GENERAL.—Not later than the
16 last business day of the month after the
17 month in which the revenues were received,
18 the Secretary shall transmit—

19 “(I) to each State two-thirds of
20 such State’s allocations under sub-
21 paragraph (B), and in accordance
22 with clauses (ii) and (iii) to certain
23 county-equivalent and municipal polit-
24 ical subdivisions of such State a total
25 of one-third of such States allocations

1 under subparagraph (B), together
2 with all accrued interest thereon; and

3 “(II) the remaining balance of
4 such revenues shall be deposited into
5 the American Energy Trust Fund cre-
6 ated by this Act.

7 “(ii) ALLOCATIONS TO CERTAIN
8 COUNTY-EQUIVALENT POLITICAL SUBDIVI-
9 SIONS.—The Secretary shall under clause
10 (i)(I) make equitable allocations of the rev-
11 enues to county-equivalent political sub-
12 divisions that the Secretary determines are
13 closely associated with the leasing and pro-
14 duction of oil shale and tar sands, under a
15 formula that the Secretary shall determine
16 by regulation.

17 “(iii) ALLOCATIONS TO MUNICIPAL
18 POLITICAL SUBDIVISIONS.—The initial al-
19 location to each county-equivalent political
20 subdivision under clause (ii) shall be fur-
21 ther allocated to the county-equivalent po-
22 litical subdivision and any municipal polit-
23 ical subdivisions located partially or wholly
24 within the boundaries of the county-equa-
25 lent political subdivision on an equitable

1 basis under a formula that the Secretary
2 shall determine by regulation.

3 “(D) INVESTMENT OF DEPOSITS.—The de-
4 posits in the Treasury account established
5 under this section shall be invested by the Sec-
6 retary of the Treasury in securities backed by
7 the full faith and credit of the United States
8 having maturities suitable to the needs of the
9 account and yielding the highest reasonably
10 available interest rates as determined by the
11 Secretary of the Treasury.

12 “(E) USE OF FUNDS.—A recipient of
13 funds under this subsection may use the funds
14 for any lawful purpose as determined by State
15 law. Funds allocated under this subsection to
16 States and local political subdivisions may be
17 used as matching funds for other Federal pro-
18 grams without limitation. Funds allocated to
19 local political subdivisions under this subsection
20 may not be used in calculation of payments to
21 such local political subdivisions under programs
22 for payments in lieu of taxes or other similar
23 programs.

24 “(F) NO ACCOUNTING REQUIRED.—No re-
25 cipient of funds under this subsection shall be

1 required to account to the Federal Government
2 for the expenditure of such funds, except as
3 otherwise may be required by law.

4 “(4) DEFINITIONS.—In this subsection:

5 “(A) COUNTY-EQUIVALENT POLITICAL
6 SUBDIVISION.—The term ‘county-equivalent po-
7 litical subdivision’ means a political jurisdiction
8 immediately below the level of State govern-
9 ment, including a county, parish, borough in
10 Alaska, independent municipality not part of a
11 county, parish, or borough in Alaska, or other
12 equivalent subdivision of a State.

13 “(B) MUNICIPAL POLITICAL SUBDIVI-
14 SION.—The term ‘municipal political subdivi-
15 sion’ means a municipality located within and
16 part of a county, parish, borough in Alaska, or
17 other equivalent subdivision of a State.”.

18 **SEC. 306. REPEAL.**

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

21 **TITLE IV—COAL**

22 **SEC. 401. SHORT TITLE.**

23 This title may be cited as the “Coal Liquid Fuel
24 Act”.

1 **SEC. 402. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQ-**
2 **UIDS PROJECTS.**

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

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

8 “(1) DEFINITIONS.—For purposes of this sub-
9 section:

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

14 “(B) FULL TERM.—The term ‘full term’
15 means the full term of a standby loan agree-
16 ment, as specified in the agreement, which shall
17 not exceed the lesser of 30 years or 90 percent
18 of the projected useful life of the project (as de-
19 termined by the Secretary).

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

24 “(D) MINIMUM PRICE.—The term ‘min-
25 imum price’ means a market price specified in
26 the standby loan agreement below which the

1 United States is obligated to make disburse-
2 ments to the project.

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

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

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

15 “(i) a commercial-scale project that
16 converts coal to one or more liquid or gas-
17 eous transportation fuels; or

18 “(ii) not more than one project at a
19 facility that converts petroleum refinery
20 waste products, including petroleum coke,
21 into one or more liquids or gaseous trans-
22 portation fuels,

23 that demonstrates the capture, and sequestra-
24 tion or disposal or use of, the carbon dioxide
25 produced in the conversion process, and that,

1 on the basis of a carbon dioxide sequestration
2 plan prepared by the applicant, is certified by
3 the Administrator of the Environmental Protec-
4 tion Agency, in consultation with the Secretary,
5 as producing fuel with life cycle carbon dioxide
6 emissions at or below the average life cycle car-
7 bon dioxide emissions for the same type of fuel
8 produced at traditional petroleum based facili-
9 ties with similar annual capacities.

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

13 “(2) STANDBY LOANS.—

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

20 “(i) shall provide that the Secretary
21 will make a direct loan (within the mean-
22 ing of section 502(1) of the Federal Credit
23 Reform Act of 1990) to the qualifying
24 CTL project; and

1 “(ii) shall set a cap price and a min-
2 imum price for the primary term of the
3 agreement.

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

13 “(C) LOAN REPAYMENTS.—The Secretary
14 shall establish terms and conditions, including
15 interest rates and amortization schedules, for
16 the repayment of such loan within the full term
17 of the agreement, subject to the following limi-
18 tations:

19 “(i) If in any calendar quarter during
20 the primary term of the agreement the
21 market price is less than the cap price, the
22 project may elect to defer some or all of its
23 repayment obligations due in that quarter.
24 Any unpaid obligations will continue to ac-
25 cruer interest.

1 “(ii) If in any calendar quarter during
2 the primary term of the agreement the
3 market price is greater than the cap price,
4 the project shall meet its scheduled repay-
5 ment obligation plus deferred repayment
6 obligations, but shall not be required to
7 pay in that quarter an amount that is
8 more than the excess of the market price
9 over the cap price, times the output of the
10 project.

11 “(iii) At the end of the primary term
12 of the agreement, the cumulative amount
13 of any deferred repayment obligations, to-
14 gether with accrued interest, shall be am-
15 ortized (with interest) over the remainder
16 of the full term of the agreement.

17 “(3) PROFIT-SHARING.—The Secretary is au-
18 thorized to enter into a profit-sharing agreement
19 with the project at the time the standby loan agree-
20 ment is executed. Under such an agreement, if the
21 market price exceeds the cap price in a calendar
22 quarter, a profit-sharing payment shall be made for
23 that quarter, in an amount equal to—

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

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

6 “(4) COMPLIANCE WITH FEDERAL CREDIT RE-
7 FORM ACT.—

8 “(A) UPFRONT PAYMENT OF COST OF
9 LOAN.—No standby loan agreement may be en-
10 tered into under this subsection unless the
11 project makes a payment to the United States
12 that the Office of Management and Budget de-
13 termines is equal to the cost of such loan (de-
14 termined under 502(5)(B) of the Federal Credit
15 Reform Act of 1990). Such payment shall be
16 made at the time the standby loan agreement is
17 executed.

18 “(B) MINIMIZATION OF RISK TO THE GOV-
19 ERNMENT.—In making the determination of the
20 cost of the loan for purposes of setting the pay-
21 ment for a standby loan under subparagraph
22 (A), the Secretary and the Office of Manage-
23 ment and Budget shall take into consideration
24 the extent to which the minimum price and the
25 cap price reflect historical patterns of volatility

1 in actual oil prices relative to projections of fu-
2 ture oil prices, based upon publicly available
3 data from the Energy Information Administra-
4 tion, and employing statistical methods and
5 analyses that are appropriate for the analysis of
6 volatility in energy prices.

7 “(C) TREATMENT OF PAYMENTS.—The
8 value to the United States of a payment under
9 subparagraph (A) and any profit-sharing pay-
10 ments under paragraph (3) shall be taken into
11 account for purposes of section 502(5)(B)(iii) of
12 the Federal Credit Reform Act of 1990 in de-
13 termining the cost to the Federal Government
14 of a standby loan made under this subsection.
15 If a standby loan has no cost to the Federal
16 Government, the requirements of section 504(b)
17 of such Act shall be deemed to be satisfied.

18 “(5) OTHER PROVISIONS.—

19 “(A) NO DOUBLE BENEFIT.—A project re-
20 ceiving a loan under this subsection may not,
21 during the primary term of the loan agreement,
22 receive a Federal loan guarantee under sub-
23 section (a) of this section, or under other laws.

24 “(B) SUBROGATION, ETC.—Subsections
25 (g)(2) (relating to subrogation), (h) (relating to

1 fees), and (j) (relating to full faith and credit)
2 shall apply to standby loans under this sub-
3 section to the same extent they apply to loan
4 guarantees.”.

5 **SEC. 403. GOVERNMENT AUCTION OF LONG TERM PUT OP-**
6 **TION CONTRACTS ON COAL-TO-LIQUID FUEL**
7 **PRODUCED BY QUALIFIED COAL-TO-LIQUID**
8 **FACILITIES.**

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

13 (b) CONSULTATION WITH SECRETARY OF EN-
14 ERGY.—The Secretary shall consult with the Secretary of
15 Energy regarding—

16 (1) the frequency of the auctions;

17 (2) the strike prices specified in the contracts;

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

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

22 (c) DEFINITIONS.—In this section:

23 (1) COAL-TO-LIQUID FUEL.—The term “coal-to-
24 liquid fuel” means any transportation-grade liquid

1 fuel derived primarily from coal (including peat) and
2 produced at a qualified coal-to-liquid facility.

3 (2) COAL-TO-LIQUID PUT OPTION CONTRACT.—

4 The term “coal-to-liquid put option contract” means
5 a contract, written by the Secretary, which—

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

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

16 (3) QUALIFIED COAL-TO-LIQUID FACILITY.—

17 The term “qualified coal-to-liquid facility” means a
18 manufacturing facility that has the capacity to
19 produce at least 10,000 barrels per day of transpor-
20 tation grade liquid fuels from a feedstock that is pri-
21 marily domestic coal (including peat and any prop-
22 erty which allows for the capture, transportation, or
23 sequestration of by-products resulting from such
24 process, including carbon emissions).

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

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

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

11 (e) EFFECTIVE DATE.—This section shall take effect
12 1 year after the date of the enactment of this Act.

13 **TITLE V—NUCLEAR**

14 **SEC. 501. USE OF FUNDS FOR RECYCLING.**

15 Section 302 of the Nuclear Waste Policy Act of 1982
16 (42 U.S.C. 10222) is amended—

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

20 (2) by adding at the end the following new sub-
21 section:

22 “(f) RECYCLING.—

23 “(1) IN GENERAL.—Amounts in the Waste
24 Fund may be used by the Secretary of Energy to
25 make grants to or enter into long-term contracts

1 with private sector entities for the recycling of spent
2 nuclear fuel.

3 “(2) COMPETITIVE SELECTION.—Grants and
4 contracts authorized under paragraph (1) shall be
5 awarded on the basis of a competitive bidding pro-
6 cess that—

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

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

12 “(C) ensures adequate protection against
13 the proliferation of nuclear materials that could
14 be used in the manufacture of nuclear weap-
15 ons.”.

16 **SEC. 502. RULEMAKING FOR LICENSING OF SPENT NU-**
17 **CLEAR FUEL RECYCLING FACILITIES.**

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

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

6 **SEC. 503. NUCLEAR WASTE FUND BUDGET STATUS.**

7 Section 302(e) of the Nuclear Waste Policy Act of
8 1982 (42 U.S.C. 10222(e)) is amended by adding at the
9 end the following new paragraph:

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

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

16 “(B) the congressional budget; or

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

19 **SEC. 504. WASTE CONFIDENCE.**

20 The Nuclear Regulatory Commission may not deny
21 an application for a license, permit, or other authorization
22 under the Atomic Energy Act of 1954 on the grounds that
23 sufficient capacity does not exist, or will not become avail-
24 able on a timely basis, for disposal of spent nuclear fuel

1 or high-level radioactive waste from the facility for which
2 the license, permit, or other authorization is sought.

3 **SEC. 505. ASME NUCLEAR CERTIFICATION CREDIT.**

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

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

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

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

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

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

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

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

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

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

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

12 “(d) SPECIAL RULES.—

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

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

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

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

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

8 (2) Subsection (a) of section 1016 (relating to adjust-
9 ments to basis) is amended by striking “and” at the end
10 of paragraph (36), by striking the period at the end of
11 paragraph (37) and inserting “, and”, and by adding at
12 the end the following new paragraph:

13 “(38) to the extent provided in section
14 45O(e)(1).”.

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

18 **TITLE VI—CLEAN RENEWABLE** 19 **ENERGY**

20 **SEC. 601. TRUST FUND.**

21 (a) CREATION OF TRUST FUND.—Subchapter A of
22 chapter 98 of the Internal Revenue Code of 1986 is
23 amended by inserting at the end the following new section:

1 **“SEC. 9511. AMERICAN ENERGY TRUST FUND.**

2 “(a) ESTABLISHMENT OF TRUST FUND.—There is
3 established in the Treasury of the United States a trust
4 fund to be known as the ‘American Energy Trust Fund’,
5 consisting of such amounts as may be appropriated or
6 credited to the American Energy Trust Fund as provided
7 in this section.

8 “(b) TRANSFERS TO TRUST FUND.—There are here-
9 by appropriated to the American Energy Trust Fund all
10 revenues generated by titles I, II, and III of the Americans
11 for American Energy Act of 2008 not reserved for other
12 purposes.

13 “(c) EXPENDITURES FROM AMERICAN-MADE EN-
14 ERGY TRUST FUND.—

15 “(1) IN GENERAL.—As provided by appropria-
16 tion Acts, amounts in the American Energy Trust
17 Fund shall be available for transfer to the general
18 fund of the Treasury to offset any reduction in rev-
19 enue to the United States that results from any pro-
20 vision of the Americans for American Energy Act of
21 2008.

22 “(2) FUNDING FOR RENEWABLE ENERGY PRO-
23 VISIONS IN THE ENERGY POLICY ACT OF 2005.—
24 Amounts in the American Energy Trust fund shall
25 be available without further appropriation to carry
26 out specified provisions of the Energy Policy Act of

1 2005 (Public Law 109–58; in this section referred to
2 as ‘EPAAct2005’), as follows:

3 “(A) Section 210.

4 “(B) Section 242.

5 “(C) Section 369.

6 “(D) Section 401.

7 “(E) Section 812.

8 “(F) Section 931.

9 “(G) Section 942.

10 “(H) Section 968.

11 “(I) Title XVII.

12 “(3) FUNDING FOR PROVISIONS OF ENERGY
13 INDEPENDENCE AND SECURITY ACT OF 2007.—
14 Amounts in the American Energy Trust Fund shall
15 be available without further appropriation to carry
16 out specified provisions of the Energy Independence
17 and Security Act of 2007 (Public Law 110–140; in
18 this section referred to as ‘EISAct2007’), as follows:

19 “(A) Section 207.

20 “(B) Section 607.

21 “(C) Subtitle B.

22 “(D) Subtitle C.

23 “(E) Section 641.

24 “(F) Subtitle A.

1 “(4) FUNDING FOR PROVISIONS OF AMERICANS
2 FOR AMERICAN ENERGY ACT OF 2008.—Amounts in
3 the American Energy Trust Fund shall be made
4 available without further appropriation to carry out
5 specified provisions of the Americans for American
6 Energy Act of 2008 as follows:

7 “(A) Title I, section 15.

8 “(B) Title V, section 4.

9 “(C) Title XI.

10 “(D) Title XII.

11 “(5) LIMITATION ON AVAILABILITY TO CARRY
12 OUT PROVISIONS OF THE ENERGY POLICY ACT OF
13 2005, THE ENERGY INDEPENDENCE AND SECURITY
14 ACT OF 2007, AND THE AMERICANS FOR AMERICAN
15 ENERGY ACT OF 2008.—Notwithstanding paragraph
16 (1), amounts in the American-Made Energy Trust
17 Fund shall be available to carry out the provisions
18 referred to in paragraphs (2), (3), and (4) only with
19 respect to so much of such amount as the Secretary
20 certifies, in the estimation of the Secretary, is in ex-
21 cess (taking into account the Secretary’s estimate of
22 future appropriations and credits to the American
23 Energy Trust Fund) of the amounts necessary to
24 make all future transfers described in paragraph (1).

1 “(6) APPORTIONMENT OF EXCESS AMOUNT.—
2 Notwithstanding paragraph (1), the excess amount
3 certified by the Secretary under paragraph (1) shall
4 be apportioned to the provisions referred to in para-
5 graphs (2), (3), and (4) according to the percentages
6 as follows:

7 “(A) Section 210, 3 percent.

8 “(B) Section 242, 2 percent.

9 “(C) Section 369, 3 percent.

10 “(D) Section 401, 3 percent.

11 “(E) Section 812, 2 percent.

12 “(F) Section 931, 10 percent.

13 “(G) Section 942, 1.5 percent.

14 “(H) Section 968, 1,5 percent.

15 “(I) Title XVII, 4 percent.

16 “(J) Section 207, 1 percent.

17 “(K) Section 607, 2 percent.

18 “(L) Subtitle B, 4 percent.

19 “(M) Subtitle C, 2 percent.

20 “(N) Section 641, 2 percent.

21 “(O) Subtitle A, 2 percent.

22 “(P) Title 1, section 15, 5 percent.

23 “(Q) Title V, section 4, 7 percent.

24 “(R) Title XI, 5 percent.

25 “(S) Title XII, 40 percent.

1 the leasing of Federal lands for the advancement, develop-
2 ment, assessment, installation, and operation of commer-
3 cial photovoltaic and concentrating solar power energy sys-
4 tems.

5 (b) IDENTIFICATION OF LANDS FOR LEASING.—

6 (1) LANDS SELECTION.—The Secretary of the
7 Interior, acting through the Director of the Bureau
8 of Land Management and in consultation with the
9 Secretary of Energy, shall—

10 (A) identify lease sites comprising a total
11 of 6,400,000 acres of Federal lands under the
12 jurisdiction of the Bureau of Land Management
13 in the States of Arizona, California, New Mex-
14 ico, Nevada, and Utah, that are suitable and
15 feasible for the installation and operation of
16 photovoltaic and concentrating solar power en-
17 ergy systems, subject to valid existing rights;
18 and

19 (B) incorporate solar energy development
20 into the relevant agency land use and resource
21 management plans or equivalent plans for the
22 lands identified under subparagraph (A).

23 (2) MINIMUM AND MAXIMUM ACREAGE OF
24 SITES.—Each individual lease site identified under

1 paragraph (1)(A) shall be a minimum of 1280 acres
2 and shall not exceed 12,800 acres.

3 (3) LANDS RELEASED FOR LEASING.—The Sec-
4 retary shall release for leasing under this section
5 lease sites identified under paragraph (1), in acre-
6 ages that meet the following annual milestones:

7 (A) By 2010, 79,012 acres.

8 (B) By 2011, 316,049 acres.

9 (C) By 2012, 711,111 acres.

10 (D) By 2013, 1,300,000 acres.

11 (E) By 2014, 2,000,000 acres.

12 (F) By 2015, 2,800,000 acres.

13 (G) By 2016, 3,700,000 acres.

14 (H) By 2017, 4,650,000 acres.

15 (I) By 2018, 5,800,000 acres.

16 (J) By 2019, 6,400,000 acres.

17 (4) LANDS NOT INCLUDED.—The following
18 Federal lands shall not be included within a solar
19 lands leasing program:

20 (A) Components of the National Land-
21 scape Conservation System.

22 (B) Wilderness and Wilderness Study
23 Areas.

24 (C) Wild and Scenic Rivers.

25 (D) National Scenic and Historic Trails.

1 (E) Monuments.

2 (F) Resource Natural Areas.

3 (c) COMPETITIVE LEASE SALE REQUIREMENTS
4 LEASING PROCEDURES.—

5 (1) NOMINATIONS.—The Secretary shall accept
6 at any time nominations of land identified under
7 subsection (b) for leasing under this Act, from any
8 qualified person.

9 (2) COMPETITIVE LEASE SALE REQUIRED.—

10 (A) IN GENERAL.—Except as otherwise
11 specifically provided by this Act, all land to be
12 leased under this Act that is not subject to leas-
13 ing under paragraph (3) shall be leased to the
14 highest responsible qualified bidder, as deter-
15 mined by the Secretary.

16 (B) ANNUAL SALES REQUIRED.—The Sec-
17 retary shall hold a competitive lease sale under
18 this Act at least once every year for land in a
19 State with respect to which there is a nomina-
20 tion pending under paragraph (1) of land other-
21 wise available for leasing.

22 (3) NONCOMPETITIVE LEASING.—The Secretary
23 shall make available for a period of 2 years for non-
24 competitive leasing any tract for which a competitive

1 lease sale is held under paragraph (2), but for which
2 the Secretary does not receive any bids in such sale.

3 (4) PENDING LEASE APPLICATIONS.—It shall
4 be a priority for the Secretary to ensure timely com-
5 pletion of administrative actions and process applica-
6 tions for leasing of Federal lands described in sub-
7 section (b)(1)(A) for installation and operation of
8 photovoltaic and concentrating solar power energy
9 systems, that are pending on the date of enactment
10 of this subsection.

11 (d) LEASING TIME PERIOD.—Any lease of lands
12 under this section shall be effective for a period of 30
13 years, with an option to renew once for an additional pe-
14 riod of 30 years.

15 (e) RESERVATION OF ROYALTY.—

16 (1) IN GENERAL.—Production of solar energy
17 under a lease under this section shall be subject to
18 a royalty described in paragraph (2), which shall be
19 assessed and collected by the Secretary of the Inte-
20 rior, acting through the Minerals Management Serv-
21 ice. The leaseholder shall be liable for payment of
22 such royalty.

23 (2) ROYALTY FOR PROJECTS UNDER THE FED-
24 ERAL SOLAR LANDS LEASING PROGRAM.—The roy-
25 alty under paragraph (1) shall be—

1 (A) 0.25 percent per kw/h on energy pro-
2 duced under the lease in years 1 through 5 of
3 the lease;

4 (B) 0.5 percent per kw/h on energy pro-
5 duced under the lease in years 5 through 15 of
6 the lease;

7 (C) 1 percent per kw/h on energy produced
8 under the lease in years 15 through 30 of the
9 lease; and

10 (D) 1 percent per kw/h on energy produced
11 under the lease after year 30.

12 (3) REVENUE SHARING.—Of the amount re-
13 ceived by the United States as royalty under this
14 subsection for a leased tract—

15 (A) one-third shall be paid to the State in
16 which the lands are located;

17 (B) one-third shall be paid to the county in
18 which the lands are located; and

19 (C) one-third shall be deposited into the
20 American Energy Trust fund created by this
21 title.

22 (f) DUTIES OF LEASEHOLDERS.—

23 (1) PAYMENT OF ROYALTY.—A person who is
24 required to make any royalty payment under this
25 section shall make such payments to the United

1 States at such times and in such manner as the Sec-
2 retary may by rule prescribe.

3 (2) JOINT AND SEVERABLE LIABILITY.—Any
4 person liable for royalty payments under this section
5 who assigns any payment obligation shall remain
6 jointly and severally liable for all royalty payments
7 due for the claim for the period.

8 (3) AFFIRMATION OF PAYMENT RESPONSIBI-
9 BILITY.—Any person paying royalties under this sec-
10 tion shall file a written instrument, together with the
11 first royalty payment, affirming that such person is
12 responsible for making proper payments for all
13 amounts due for all time periods for which such per-
14 son has a payment responsibility. Such responsibility
15 for the periods referred to in the preceding sentence
16 shall include any and all additional amounts billed
17 by the Secretary and determined to be due by final
18 agency or judicial action.

19 (4) RECORDKEEPING.—Records required by the
20 Secretary under this section shall be maintained for
21 7 years after release of financial assurance unless
22 the Secretary notifies the leaseholder that the Sec-
23 retary has initiated an audit or investigation involv-
24 ing such records and that such records must be
25 maintained for a longer period. In any case when an

1 audit or investigation is underway, records shall be
2 maintained until the Secretary releases the operator
3 of the obligation to maintain such records.

4 (5) AUDITS.—The Secretary may conduct such
5 audits of all leaseholders directly or indirectly in-
6 volved in the production of solar energy on lands
7 leased under this section as the Secretary considers
8 necessary for the purposes of ensuring compliance
9 with the requirements of this section. For purposes
10 of performing such audits, the Secretary shall, at
11 reasonable times and upon request, have access to,
12 and may copy, all books, papers, and other docu-
13 ments that relate to compliance with any provision
14 of this section by any person.

15 (6) PROVISION OF PROTECTED INFORMA-
16 TION.—Trade secrets, proprietary, and other con-
17 fidential information protected from disclosure under
18 section 552 of title 5, United States Code, popularly
19 known as the Freedom of Information Act, shall be
20 made available by the Secretary to other Federal
21 agencies as necessary to assure compliance with this
22 Act and other Federal laws.

23 (7) UNDERREPORTING.—

24 (A) PENALTY.—If there is any under-
25 reporting of royalty owed on energy produced

1 under a lease for any production month by any
2 person liable for royalty payments under this
3 section, the Secretary shall assess a penalty of
4 not greater than 10 percent of the amount of
5 that underreporting.

6 (B) WAIVER OR REDUCTION AUTHOR-
7 IZED.—The Secretary may waive or reduce a
8 penalty assessed under this paragraph if the
9 person liable for royalty payments under this
10 section corrects the underreporting before the
11 date such person receives notice from the Sec-
12 retary that an underreporting may have oc-
13 curred, or before 90 days after the date of the
14 enactment of this section, whichever is later.

15 (C) WAIVER REQUIRED.—The Secretary
16 shall waive any portion of an assessment under
17 this paragraph attributable to that portion of
18 the underreporting for which the person respon-
19 sible for paying the royalty demonstrates that—

20 (i) such person had written authoriza-
21 tion from the Secretary to report royalty
22 on the value of the production on basis on
23 which it was reported;

24 (ii) such person had substantial au-
25 thority for reporting royalty on the value

1 of the production on the basis on which it
2 was reported;

3 (iii) such person previously had noti-
4 fied the Secretary, in such manner as the
5 Secretary may by rule prescribe, of rel-
6 evant reasons or facts affecting the royalty
7 treatment of specific production which led
8 to the underreporting; or

9 (iv) such person meets any other ex-
10 ception which the Secretary may, by rule,
11 establish.

12 (D) TREATMENT AS FEDERAL SHARE.—
13 Subsection (b)(4) shall not apply to penalties
14 received by the United States under this para-
15 graph.

16 (E) UNDERREPORTING DEFINED.—For the
17 purposes of this subsection, the term “under-
18 reporting” means the difference between the
19 royalty on the value of the production that
20 should have been reported and the royalty on
21 the value of the production that was reported,
22 if the value that should have been reported is
23 greater than the value that was reported.

24 (g) PROGRAMMATIC ENVIRONMENTAL IMPACT
25 STATEMENT.—Not later than 18 months after the date

1 of enactment of this Act, in accordance with section
2 102(2)(C) of the National Environmental Policy Act of
3 1969 (42 U.S.C. 4332(2)(C)), the Secretary of the Inte-
4 rior shall complete a programmatic environmental impact
5 statement for the solar leasing program under section 3.

6 (h) FINAL REGULATION.—Not later than 6 months
7 after the completion of the programmatic environmental
8 impact statement under this section, the Secretary shall
9 publish a final regulation implementing this section.

10 (i) STUDY.—Not later than 2 years after the date of
11 enactment of this Act, the Secretary of the Interior shall
12 complete a study of—

13 (1) Federal lands available for possible consid-
14 eration of leasing for a compressed air energy stor-
15 age system;

16 (2) barriers to additional access to Federal
17 lands for transmission of energy produced under
18 leases awarded under the solar energy leasing pro-
19 gram under this Act; and

20 (3) the need for energy transmission corridors
21 on public lands to address identified congestion or
22 constraints.

1 **TITLE VII—PROMOTE GREATER**
2 **ENERGY EFFICIENCY AND**
3 **CONSERVATION**

4 **SEC. 701. INCREASE AND EXTENSION OF ENERGY EFFI-**
5 **CIENT COMMERCIAL BUILDINGS DEDUCTION.**

6 (a) INCREASE IN AMOUNT OF DEDUCTION.—Section
7 179D of the Internal Revenue Code of 1986 (relating to
8 energy efficient commercial buildings deduction) is amend-
9 ed—

10 (1) in subsection (b)(1)(A) by striking “\$1.80”
11 and inserting “\$2.25”, and

12 (2) in subsection (d)(1)(A) by striking “\$.60
13 for \$1.80” and inserting “\$.75 for \$2.25”.

14 (b) EXTENSION.—Subsection (h) of section 179D of
15 such Code (relating to termination) is amended by striking
16 “December 31, 2008” and inserting “December 31,
17 2013”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service in
20 taxable years beginning after December 31, 2006.

1 **SEC. 702. PERMANENT EXTENSION OF THE CREDIT FOR**
2 **NONBUSINESS ENERGY PROPERTY, THE**
3 **CREDIT FOR GAS PRODUCED FROM BIOMASS**
4 **AND FOR SYNTHETIC FUELS PRODUCED**
5 **FROM COAL, AND THE CREDIT FOR ENERGY**
6 **EFFICIENT APPLIANCES.**

7 (a) CREDIT FOR NONBUSINESS ENERGY PROPERTY
8 MADE PERMANENT.—

9 (1) IN GENERAL.—Section 25C of the Internal
10 Revenue Code of 1986 is amended by striking sub-
11 section (g).

12 (2) EFFECTIVE DATE.—The amendment made
13 by this subsection shall apply to property placed in
14 service after December 31, 2007.

15 (b) CREDIT FOR GAS PRODUCED FROM BIOMASS
16 AND FOR SYNTHETIC FUELS PRODUCED FROM COAL
17 MADE PERMANENT.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 45K(f)(1) of such Code is amended to read as fol-
20 lows:

21 “(B) if such facility is originally placed in
22 service after December 31, 1992, paragraph (2)
23 of subsection (e) shall not apply.”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to fuel sold after De-
26 cember 31, 2007.

1 (c) CREDIT FOR ENERGY EFFICIENT APPLIANCES
2 MADE PERMANENT.—

3 (1) DISHWASHERS.—

4 (A) Subparagraph (A) of section
5 45M(b)(1) of such Code is amended by striking
6 “which—” and all that follows and inserting
7 “which meets the requirements of the Energy
8 Star program which are in effect for dish-
9 washers for the calendar year in which manu-
10 factured.”.

11 (B) Clauses (i) and (ii) of section
12 45M(b)(2)(B) of such Code are amended to
13 read as follows:

14 “(i) the EF required by the Energy
15 Star program for dishwashers for the cal-
16 endar year in which manufactured minus
17 the EF required by the Energy Star pro-
18 gram for dishwashers in 2005, to

19 “(ii) the EF required by the Energy
20 Star program for dishwashers for the cal-
21 endar year in which manufactured.”.

22 (2) CLOTHES WASHERS.—Subparagraph (B) of
23 section 45M(b)(1) of such Code is amended by strik-
24 ing “which—” and all that follows and inserting
25 “which meets the requirements of the Energy Star

1 program which are in effect for clothes washers for
2 the calendar year in which manufactured.”.

3 (3) REFRIGERATORS.—

4 (A) Clause (i) of section 45M(b)(1)(C) of
5 such Code is amended by striking “which—”
6 and all that follows and inserting “which con-
7 sumes at least 15 percent but not more than 20
8 percent less kilowatt hours per year than the
9 2001 energy conservation standards.”.

10 (B) Clause (ii) of section 45M(b)(1)(C) of
11 such Code is amended by striking “which—”
12 and all that follows and inserting “which con-
13 sumes at least 20 percent but not more than 25
14 percent less kilowatt hours per year than the
15 2001 energy conservation standards.”.

16 (C) Clause (iii) of section 45M(b)(1)(C) of
17 such Code is amended by striking “which—”
18 and all that follows and inserting “which con-
19 sumes at least 25 percent less kilowatt hours
20 per year than the 2001 energy conservation
21 standards.”.

22 (4) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to appliances manufac-
24 tured after 2007.

1 **SEC. 703. EXTENSION AND CLARIFICATION OF NEW EN-**
2 **ERGY EFFICIENT HOME CREDIT.**

3 (a) EXTENSION.—Subsection (g) of section 45L of
4 the Internal Revenue Code of 1986 (relating to termi-
5 nation), as amended by section 205 of division A of the
6 Tax Relief and Health Care Act of 2006, is amended by
7 striking “December 31, 2008” and inserting “December
8 31, 2013”.

9 (b) CLARIFICATION.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 45L(a) is amended by striking “and” at the end of
12 subparagraph (A) and by striking subparagraph (B)
13 and inserting the following:

14 “(B) acquired by a person from such eligi-
15 ble contractor, and

16 “(C) used by any person as a residence
17 during the taxable year.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by this subsection shall take effect as if included in
20 section 1332 of the Energy Policy Act of 2005.

21 **SEC. 704. EXTENSION AND MODIFICATION OF DEDUCTION**
22 **FOR ENERGY EFFICIENT COMMERCIAL**
23 **BUILDINGS.**

24 (a) EXTENSION.—Subsection (h) of section 179D of
25 the Internal Revenue Code of 1986 (relating to termi-
26 nation) is amended to read as follows:

1 “(h) TERMINATION.—This section shall not apply
2 with respect to property—

3 “(1) which is certified under subsection (d)(6)
4 after December 31, 2012, or

5 “(2) which is placed in service after December
6 31, 2014.

7 A provisional certification shall be treated as meeting the
8 requirements of paragraph (1) if it is based on the build-
9 ing plans, subject to inspection and testing after installa-
10 tion.”.

11 (b) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
12 TION.—

13 (1) IN GENERAL.—Subparagraph (A) of section
14 179D(b)(1) of such Code is amended by striking
15 “\$1.80” and inserting “\$2.25”.

16 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
17 section 179D(d) of such Code is amended—

18 (A) by striking “\$.60” and inserting
19 “\$0.75”, and

20 (B) by striking “\$1.80” and inserting
21 “\$2.25”.

22 (c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

23 (1) METHODS OF CALCULATING ENERGY SAV-
24 INGS.—

1 (A) IN GENERAL.—Paragraph (2) of sec-
2 tion 179D(d) of such Code is amended—

3 (i) by inserting “in detail” after
4 “based”,

5 (ii) by inserting “, except that the
6 Secretary shall use Standard 90.1–2001 in
7 lieu of the California title 24 energy stand-
8 ards and the tables contained therein and
9 the Secretary may add requirements from
10 Standard 90.1–2001 (or any successor
11 standard)” before the period at the end,
12 and

13 (iii) by adding at the end the fol-
14 lowing new sentence: “The calculation
15 methods contained in such regulations
16 shall also provide for the calculation of ap-
17 propriate energy savings for design meth-
18 ods and technologies not otherwise credited
19 in such manual or standard, including en-
20 ergy savings associated with natural ven-
21 tilation, evaporative cooling, automatic
22 lighting controls (such as occupancy sen-
23 sors, photocells, and time clocks), day
24 lighting, designs utilizing semi-conditioned
25 spaces which maintain adequate comfort

1 conditions without air conditioning or with-
2 out heating, improved fan system efficiency
3 (including reductions in static pressure),
4 advanced unloading mechanisms for me-
5 chanical cooling (such as multiple or vari-
6 able speed compressors), on-site generation
7 of electricity (including combined heat and
8 power systems, fuel cells, and renewable
9 energy generation such as solar energy),
10 and wiring with lower energy losses than
11 wiring satisfying Standard 90.1–2001 re-
12 quirements for building power distribution
13 systems.”.

14 (B) REQUIREMENTS FOR COMPUTER SOFT-
15 WARE USED IN CALCULATING ENERGY AND
16 POWER CONSUMPTION COSTS.—Paragraph
17 (3)(B) of section 179D(d) of such Code is
18 amended by striking “and” at the end of clause
19 (ii), by striking the period at the end of clause
20 (iii) and inserting “, and”, and by adding at the
21 end the following:

22 “(iv) which automatically—

23 “(I) generates the features, en-
24 ergy use, and energy and power con-

1 sumption costs of a reference building
2 which meets Standard 90.1–2001,

3 “(II) generates the features, en-
4 ergy use, and energy and power con-
5 sumption costs of a compliant build-
6 ing or system which reduces the an-
7 nual energy and power costs by 50
8 percent compared to Standard 90.1–
9 2001, and

10 “(III) compares such features,
11 energy use, and consumption costs to
12 the features, energy use, and con-
13 sumption costs of the building or sys-
14 tem with respect to which the calcula-
15 tion is being made.”.

16 (2) TARGETS FOR PARTIAL ALLOWANCE OF
17 CREDIT.—Paragraph (1)(B) of section 179D(d) of
18 such Code is amended—

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

21 “(i) IN GENERAL.—The Secretary”,

22 and

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

24 “(i) ADDITIONAL REQUIREMENTS.—

25 For purposes of clause (i)—

1 “(I) the Secretary shall deter-
2 mine prescriptive criteria that can be
3 modeled explicitly for reference build-
4 ings which meet the requirements of
5 subsection (c)(1)(D) for different
6 building types and regions,

7 “(II) a system may be certified
8 as meeting the target under subpara-
9 graph (A)(ii) if the appropriate ref-
10 erence building either meets the re-
11 quirements of subsection (c)(1)(D)
12 with such system rather than the
13 comparable reference system (using
14 the calculation under paragraph (2))
15 or meets the relevant prescriptive cri-
16 teria under subclause (I), and

17 “(III) the lighting system target
18 shall be based on lighting power den-
19 sity, except that it shall allow lighting
20 controls credits that trade off for
21 lighting power density savings based
22 on Section 3.2.2 of the 2005 Cali-
23 fornia Nonresidential Alternative Cal-
24 culation Method Approval Manual.

1 “(B) PUBLICATION.—The Secretary shall
2 publish in the Federal Register the bases for
3 the target levels established in the regulations
4 under clause (i).”.

5 (d) ALTERNATIVE STANDARDS.—Section 179D(d) of
6 such Code is amended by adding at the end the following
7 new paragraph:

8 “(7) ALTERNATIVE STANDARDS PENDING
9 FINAL REGULATIONS.—Until such time as the Sec-
10 retary issues final regulations under paragraph
11 (1)(B)—

12 “(A) in the case of property which is part
13 of a building envelope, the building envelope
14 system target under paragraph (1)(A)(ii) shall
15 be a 7 percent reduction in total annual energy
16 and power costs (determined in the same man-
17 ner as under subsection (c)(1)(D)), and

18 “(B) in the case of property which is part
19 of the heating, cooling, ventilation, and hot
20 water systems, the heating, cooling, ventilation,
21 and hot water system shall be treated as meet-
22 ing the target under paragraph (1)(A)(ii) if it
23 would meet the requirement in subsection
24 (c)(1)(D) if combined with a building envelope
25 system and lighting system which met their re-

1 spective targets under paragraph(1)(A)(ii) (in-
2 cluding interim targets in effect under sub-
3 section (f) and subparagraph (A)).”.

4 (e) MODIFICATIONS TO LIGHTING STANDARDS.—

5 (1) STANDARDS TO BE ALTERNATE STAND-
6 ARDS.—Subsection (f) of section 179D of such Code
7 is amended by—

8 (A) striking “Interim” in the heading and
9 inserting “Alternative”, and

10 (B) inserting “, or, if the taxpayer elects,
11 in lieu of the target set forth in such final regu-
12 lations” after “lighting system” at the end of
13 the matter preceding paragraph (1).

14 (2) QUALIFIED INDIVIDUALS.—Section
15 179D(d)(6)(C) of such Code is amended by adding
16 at the end the following: “For purposes of certifi-
17 cation of whether the alternative target for lighting
18 systems under subsection (f) is met, individuals
19 qualified to determine compliance shall include indi-
20 viduals who are certified as Lighting Certified (LC)
21 by the National Council on Qualifications for the
22 Lighting Professions, Certified Energy Managers
23 (CEM) by the Association of Energy Engineers, and
24 LEED Accredited Professionals (AP) by the U.S.
25 Green Buildings Council.”.

1 (3) REQUIREMENT FOR BILEVEL SWITCHING.—
2 Section 179D(f)(2) of such Code is amended by add-
3 ing at the end the following new subparagraph:

4 “(3) APPLICATION OF SUBSECTION TO BILEVEL
5 SWITCHING.—

6 “(A) IN GENERAL.—Notwithstanding para-
7 graph (2)(C)(i), this subsection shall apply to a
8 system which does not include provisions for
9 bilevel switching if the reduction in lighting
10 power density is at least 37.5 percent of the
11 minimum requirements in Table 9.3.1.1 or
12 Table 9.3.1.2 (not including additional interior
13 lighting allowances) of Standard 90.1–2001.

14 “(B) REDUCTION IN DEDUCTION.—In the
15 case of a system to which this subsection ap-
16 plies by reason of subparagraph (A), paragraph
17 (2) shall be applied—

18 “(i) by striking ‘40 percent’ and in-
19 serting ‘50 percent’ in subparagraph (A)
20 thereof, and

21 “(ii) in subparagraph (B)(ii) there-
22 of—

23 “(I) by striking ‘25 percentage
24 points’ and inserting ‘37.5 percentage
25 points’; and

1 “(II) by striking ‘15’ and insert-
2 ing ‘12.5’.”.

3 (f) PUBLIC PROPERTY.—Paragraph (4) of section
4 179(d) of such Code is amended by striking “the Sec-
5 retary shall promulgate a regulation to allow the allocation
6 of the deduction” and inserting “the deduction under this
7 section shall be allowed”.

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

12 **SEC. 705. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE**
13 **BUILDINGS.**

14 (a) IN GENERAL.—Part VI of subchapter B of chap-
15 ter 1 of the Internal Revenue Code of 1986, as amended
16 by section 404 of division A of the Tax Relief and Health
17 Care Act of 2006, is amended by inserting after section
18 179E the following new section:

19 **“SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DE-**
20 **DUCTION.**

21 “(a) IN GENERAL.—There shall be allowed as a de-
22 duction an amount equal to the amount of qualified energy
23 efficiency expenditures paid or incurred by the taxpayer
24 during the taxable year.

25 “(b) LIMITATIONS.—

1 “(1) IN GENERAL.—The amount allowed as a
2 credit under subsection (a) with respect to any
3 dwelling unit shall not exceed the product of—

4 “(A) the qualified energy savings achieved,
5 and

6 “(B) \$12,000.

7 “(2) MINIMUM AMOUNT OF QUALIFIED ENERGY
8 SAVINGS.—No credit shall be allowed under sub-
9 section (a) with respect to any dwelling unit in a
10 qualified low-rise building which achieves a qualified
11 energy savings of less than 20 percent.

12 “(c) QUALIFIED ENERGY EFFICIENCY EXPENDI-
13 TURES.—For purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualified energy
15 efficiency expenditures’ means any amount paid or
16 incurred which is related to producing qualified en-
17 ergy savings in any dwelling unit located in a quali-
18 fied low-rise building of the taxpayer which is lo-
19 cated in the United States.

20 “(2) NO DOUBLE BENEFIT FOR CERTAIN EX-
21 PENDITURES.—The term ‘qualified energy efficiency
22 expenditures’ shall not include any expenditure for
23 any property for which a deduction has been allowed
24 to the taxpayer under section 179G.

1 “(3) QUALIFIED LOW-RISE BUILDING.—The
2 term ‘qualified low-rise building’ means a building—

3 “(A) with respect to which depreciation is
4 allowable under section 167,

5 “(B) which is used for multifamily hous-
6 ing, and

7 “(C) which is not within the scope of
8 Standard 90.1–2001 (as defined under section
9 179D(e)(2)).

10 “(d) QUALIFIED ENERGY SAVINGS.—For purposes of
11 this section—

12 “(1) IN GENERAL.—The term ‘qualified energy
13 savings’ means, with respect to any dwelling unit in
14 a qualified low-rise building, the amount (measured
15 as a percentage) by which—

16 “(A) the annual energy use with respect to
17 such dwelling unit after qualified energy effi-
18 ciency expenditures are made, as certified under
19 paragraph (2), is less than

20 “(B) the annual energy use with respect to
21 such dwelling unit before the qualified energy
22 efficiency expenditures were made, as certified
23 under paragraph (2).

24 In determining annual energy use under subpara-
25 graph (B), any energy efficiency improvements

1 which are not attributable to qualified energy effi-
2 ciency expenditures shall be disregarded.

3 “(2) CERTIFICATION.—

4 “(A) IN GENERAL.—The Secretary, in con-
5 sultation with the Secretary of Energy, shall
6 prescribe the procedures and method for the
7 making of certifications under this paragraph
8 based on the Residential Energy Services Net-
9 work (RESNET) Technical Guidelines in effect
10 on the date of the enactment of this Act.

11 “(B) QUALIFIED INDIVIDUALS.—Any cer-
12 tification made under this paragraph may only
13 be made by an individual who is recognized by
14 an organization certified by the Secretary for
15 such purposes.

16 “(e) SPECIAL RULES.—For purposes of this section,
17 rules similar to the rules under paragraphs (8) and (9)
18 of section 25D(e) shall apply.

19 “(f) BASIS ADJUSTMENTS.—For purposes of this
20 subtitle, if a credit is allowed under this section with re-
21 spect to any expenditure with respect to any property, the
22 increase in the basis of such property which would (but
23 for this subsection) result from such expenditure shall be
24 reduced by the amount of the credit so allowed.

1 “(g) TERMINATION.—This section shall not apply
2 with respect to any property placed in service after Decem-
3 ber 31, 2013.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 263(a)(1) of such Code, as amended
6 by section 404 of division A of the Tax Relief and
7 Health Care Act of 2006, is amended by striking
8 “or” at the end of subparagraph (K), by striking the
9 period at the end of subparagraph (L) and inserting
10 “, or”, and by inserting after subparagraph (L) the
11 following new subparagraph:

12 “(M) expenditures for which a deduction is
13 allowed under section 179F.”.

14 (2) Section 312(k)(3)(B) of such Code is
15 amended by striking “179, 179A, 179B, 179C,
16 179D, or 179E” each place it appears in the head-
17 ing and text and inserting “179, 179A, 179B, 179C,
18 179D, 179E, or 179F”.

19 (3) Section 1016(a) of such Code, as amended
20 by section 101, is amended by striking “and” at the
21 end of paragraph (37), by striking the period at the
22 end of paragraph (38) and inserting “, and”, and by
23 adding at the end the following new paragraph:

24 “(39) to the extent provided in section
25 179F(f).”.

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

4 (5) The table of sections for part VI of sub-
5 chapter B of such Code is amended by inserting
6 after the item relating to section 179E the following
7 new item:

“Sec. 179F. Energy efficient low-rise buildings deduction.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to amounts paid or incurred in tax-
10 able years beginning after the date of the enactment of
11 this Act.

12 **TITLE VIII—INCREASING AMER-**
13 **ICA’S GASOLINE REFINING**
14 **CAPABILITIES**

15 **SEC. 801. DEFINITIONS.**

16 For purposes of this title—

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

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

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

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

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

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

15 (5) the term “refinery” means—

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

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

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

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

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

18 **SEC. 802. STATE ASSISTANCE.**

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

1 tise in fields relevant to consideration of Federal refinery
2 authorizations.

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

11 **SEC. 803. REFINERY PROCESS COORDINATION AND PROCE-**
12 **DURES.**

13 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

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

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

21 (b) FEDERAL REFINERY AUTHORIZATIONS.—

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

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

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

1 requirements of the Environmental Protection Agency
2 shall be given priority.

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

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

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

1 eral coordinator for further development of the consoli-
2 dated record.

3 (d) REMEDIES.—

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

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

19 (3) COURT ACTION.—If an action is brought
20 under paragraph (2), the Court shall review whether
21 the parties to the memorandum of agreement have
22 been acting in good faith, whether the applicant has
23 been cooperating fully with the agencies that are re-
24 sponsible for issuing a Federal refinery authoriza-
25 tion, and any other relevant materials in the consoli-

1 dated record. Taking into consideration those fac-
2 tors, if the Court finds that a failure to act de-
3 scribed in paragraph (1) has occurred, and that such
4 failure to act would jeopardize timely completion of
5 the entire schedule as established in the memo-
6 randum of agreement, the Court shall establish a
7 new schedule that is the most expeditious coordi-
8 nated schedule possible for completion of pro-
9 ceedings, consistent with the full substantive and
10 procedural review required by Federal law. The
11 court may issue orders to enforce any schedule it es-
12 tablishes under this paragraph.

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

18 (5) EXPEDITED REVIEW.—The Court shall set
19 any civil action brought under this subsection for ex-
20 pedited consideration.

21 **SEC. 804. DESIGNATION OF CLOSED MILITARY BASES.**

22 (a) DESIGNATION REQUIREMENT.—Not later than
23 90 days after the date of enactment of this Act, the Presi-
24 dent shall designate no less than 3 closed military installa-
25 tions, or portions thereof, as potentially suitable for the

1 construction of a refinery. At least 1 such site shall be
2 designated as potentially suitable for construction of a re-
3 finery to refine biomass in order to produce biofuel.

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

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

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

23 (1) the term “base closure law” means the De-
24 fense Base Closure and Realignment Act of 1990
25 (part A of title XXIX of Public Law 101–510; 10

1 U.S.C. 2687 note) and title II of the Defense Au-
2 thorization Amendments and Base Closure and Re-
3 alignment Act (Public Law 100–526; 10 U.S.C.
4 2687 note); and

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

8 **SEC. 805. SAVINGS CLAUSE.**

9 Nothing in this title shall be construed to affect the
10 application of any environmental or other law, or to pre-
11 vent any party from bringing a cause of action under any
12 environmental or other law, including citizen suits.

13 **SEC. 806. REFINERY REVITALIZATION REPEAL.**

14 Subtitle H of title III of the Energy Policy Act of
15 2005 and the items relating thereto in the table of con-
16 tents of such Act are repealed.

17 **SEC. 807. NEW SOURCE REVIEW UNDER THE CLEAN AIR**
18 **ACT.**

19 Part A of title I of the Clean Air Act (42 U.S.C. 7401
20 and following) is amended by adding the following new
21 section at the end thereof:

22 **“SEC. 132 NEW SOURCE REVIEW.**

23 “In promulgating regulations respecting new source
24 review under this Act, the Administrator shall include in
25 such regulations provisions providing that routine mainte-

1 nance and repair shall not constitute a modification of an
2 existing source requiring compliance with new source re-
3 view requirements. Such provisions shall provide that
4 equipment replacement shall be considered routine mainte-
5 nance and repair if it meets each of the following require-
6 ments:

7 “(1) It does not increase actual emissions of
8 any air pollutant by more than 5 percent.

9 “(2) It does not increase actual emissions of
10 any air pollutant by more than 40 tons per year.

11 Notwithstanding any other provision of this Act, no State
12 may include in any State implementation plan any provi-
13 sions regarding new source review that are more stringent
14 than those contained in the regulations of the Adminis-
15 trator under this section.”.

16 **SEC. 808. DESIGNATION OF NEW REFINING CAPACITY ON**
17 **BROWNFIELD SITES.**

18 (a) DESIGNATION REQUIREMENT.—Not later than
19 90 days after the date of enactment of this Act, the Sec-
20 retary shall designate no less than 5 brownfield sites, or
21 portions thereof, subject to subsection (c)(2), that are ap-
22 propriate and available for the purposes of siting a refin-
23 ery.

1 (b) ANALYSIS OF REFINERY SITES.—In considering
2 any site for possible designation under subsection (a), the
3 Secretary shall conduct an analysis of—

4 (1) the availability of crude oil supplies to the
5 site, including supplies from domestic production of
6 shale oil and tar sands and other strategic uncon-
7 ventional fuels;

8 (2) the distribution of the Nation’s refined pe-
9 troleum product demand;

10 (3) whether such site is in close proximity to
11 substantial pipeline infrastructure, including both
12 crude oil and refined petroleum product pipelines,
13 and potential infrastructure feasibility;

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

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

19 (6) such other factors as the Secretary con-
20 siders appropriate.

21 (c) MAKING DESIGNATED SITES AVAILABLE.—

22 (1) SECRETARY’S ROLE.—If a designated site is
23 owned by the Federal Government, the Secretary
24 shall take appropriate actions to make the site avail-
25 able for the construction of a refinery. If the site is

1 not owned by the Federal Government, the Secretary
2 shall facilitate the necessary transfer of interest in
3 the site from a willing seller to enable the construc-
4 tion of a refinery on the site.

5 (2) GOVERNOR'S OBJECTION.—No site may be
6 used for a refinery under this Act if, not later than
7 60 days after designation of the site under sub-
8 section (a), the Governor of the State in which the
9 site is located transmits to the Secretary an objec-
10 tion to the designation, unless, not later than 60
11 days after the Secretary receives such objection, the
12 Congress has by law overridden the objection.

13 **SEC. 809. YEAR EXTENSION OF ELECTION TO EXPENSE**
14 **CERTAIN REFINERIES.**

15 (a) IN GENERAL.—Paragraph (1) of section 179C(c)
16 of the Internal Revenue Code of 1986 (defining qualified
17 refinery property) is amended—

18 (1) by striking “January 1, 2012” in subpara-
19 graph (B) and inserting “January 1, 2017”, and (2)
20 by striking “January 1, 2008” each place it appears
21 in subparagraph (F) and inserting “January 1,
22 2013”.

23 (b) IMPLEMENTATION THROUGH SECRETARIAL
24 GUIDANCE.—

1 (1) GUIDANCE.—Paragraph (1) of section
2 179C(b) of such Code (relating to general rule for
3 election) is amended by inserting “or other guid-
4 ance” after “regulations”.

5 (2) REPORTING.—Subsection (h) of section
6 179C of such Code (relating to reporting) is amend-
7 ed by striking “shall require” and inserting “may,
8 through guidance, require”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this Act shall apply to property placed in service after De-
11 cember 31, 2007.

12 (d) REQUIREMENT FOR ISSUANCE OF GUIDANCE.—
13 Not later than 90 days after the date of the enactment
14 of this Act, the Secretary of the Treasury shall issue regu-
15 lations or other guidance to carry out section 179C of the
16 Internal Revenue Code of 1986 (as amended by this sec-
17 tion).

18 **TITLE IX—COMMON SENSE REG-**
19 **ULATORY RELIEF AND POL-**
20 **ICY REFORM**

21 **SEC. 901. EXTENSION AND MODIFICATION OF RENEWABLE**
22 **ENERGY PRODUCTION TAX CREDIT.**

23 (a) EXTENSION OF CREDIT.—Each of the following
24 provisions of section 45(d) (relating to qualified facilities)

1 is amended by striking “January 1, 2009” and inserting
2 “January 1, 2018”:

3 (1) Paragraph (1).

4 (2) Clauses (i) and (ii) of paragraph (2)(A).

5 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).

6 (4) Paragraph (4).

7 (5) Paragraph (5).

8 (6) Paragraph (6).

9 (7) Paragraph (7).

10 (8) Paragraph (8).

11 (9) Subparagraphs (A) and (B) of paragraph
12 (9).

13 (b) PRODUCTION CREDIT FOR ELECTRICITY PRO-
14 DUCED FROM MARINE RENEWABLES.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 45(c) (relating to resources) is amended by striking
17 “and” at the end of subparagraph (G), by striking
18 the period at the end of subparagraph (H) and in-
19 serting “, and”, and by adding at the end the fol-
20 lowing new subparagraph:

21 “(I) marine and hydrokinetic renewable en-
22 ergy.”.

23 (2) MARINE RENEWABLES.—Subsection (c) of
24 section 45 is amended by adding at the end the fol-
25 lowing new paragraph:

1 “(10) MARINE AND HYDROKINETIC RENEW-
2 ABLE ENERGY.—

3 “(A) IN GENERAL.—The term ‘marine and
4 hydrokinetic renewable energy’ means energy
5 derived from—

6 “(i) waves, tides, and currents in
7 oceans, estuaries, and tidal areas,

8 “(ii) free flowing water in rivers,
9 lakes, and streams,

10 “(iii) free flowing water in an irriga-
11 tion system, canal, or other man-made
12 channel, including projects that utilize non-
13 mechanical structures to accelerate the
14 flow of water for electric power production
15 purposes, or

16 “(iv) differentials in ocean tempera-
17 ture (ocean thermal energy conversion).

18 “(B) EXCEPTIONS.—Such term shall not
19 include any energy which is derived from any
20 source which utilizes a dam, diversionary struc-
21 ture (except as provided in subparagraph
22 (A)(iii)), or impoundment for electric power
23 production purposes.”.

1 (3) DEFINITION OF FACILITY.—Subsection (d)
2 of section 45 is amended by adding at the end the
3 following new paragraph:

4 “(11) MARINE AND HYDROKINETIC RENEW-
5 ABLE ENERGY FACILITIES.—In the case of a facility
6 producing electricity from marine and hydrokinetic
7 renewable energy, the term ‘qualified facility’ means
8 any facility owned by the taxpayer—

9 “(A) which has a nameplate capacity rat-
10 ing of at least 150 kilowatts, and

11 “(B) which is originally placed in service
12 on or after the date of the enactment of this
13 paragraph and before January 1, 2010.”.

14 (4) CREDIT RATE.—Subparagraph (A) of sec-
15 tion 45(b)(4) is amended by striking “or (9)” and
16 inserting “(9), or (11)”.

17 (5) COORDINATION WITH SMALL IRRIGATION
18 POWER.—Paragraph (5) of section 45(d), as amend-
19 ed by subsection (a), is amended by striking “Janu-
20 ary 1, 2013” and inserting “the date of the enact-
21 ment of paragraph (11)”.

22 (c) SALES OF ELECTRICITY TO REGULATED PUBLIC
23 UTILITIES TREATED AS SALES TO UNRELATED PER-
24 SONS.—Section 45(e)(4) (relating to related persons) is
25 amended by adding at the end the following new sentence:

1 “A taxpayer shall be treated as selling electricity to an
2 unrelated person if such electricity is sold to a regulated
3 public utility (as defined in section 7701(a)(33)).”.

4 (d) TRASH FACILITY CLARIFICATION.—Paragraph
5 (7) of section 45(d) is amended—

6 (1) by striking “facility which burns” and in-
7 serting “facility (other than a facility described in
8 paragraph (6)) which uses”, and

9 (2) by striking “COMBUSTION” in the head-
10 ing thereof.

11 (e) EFFECTIVE DATES.—

12 (1) EXTENSION.—The amendments made by
13 subsection (a) shall apply to property originally
14 placed in service after December 31, 2008.

15 (2) MODIFICATIONS.—The amendments made
16 by subsections (b) and (c) shall apply to electricity
17 produced and sold after the date of the enactment
18 of this Act, in taxable years ending after such date.

19 (3) TRASH FACILITY CLARIFICATION.—The
20 amendments made by subsection (d) shall apply to
21 electricity produced and sold before, on, or after De-
22 cember 31, 2007.

1 **SEC. 902. EXTENSION AND MODIFICATION OF SOLAR EN-**
2 **ERGY AND FUEL CELL INVESTMENT TAX**
3 **CREDIT.**

4 (a) EXTENSION OF CREDIT.—

5 (1) SOLAR ENERGY PROPERTY.—Paragraphs
6 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating
7 to energy credit) are each amended by striking
8 “January 1, 2009” and inserting “January 1,
9 2018”.

10 (2) FUEL CELL PROPERTY.—Subparagraph (E)
11 of section 48(c)(1) (relating to qualified fuel cell
12 property) is amended by striking “December 31,
13 2008” and inserting “December 31, 2017”.

14 (3) QUALIFIED MICROTURBINE PROPERTY.—
15 Subparagraph (E) of section 48(c)(2) (relating to
16 qualified microturbine property) is amended by
17 striking “December 31, 2008” and inserting “De-
18 cember 31, 2017”.

19 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
20 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
21 38(c)(4) (relating to specified credits) is amended by strik-
22 ing “and” at the end of clause (iii), by striking the period
23 at the end of clause (iv) and inserting “, and”, and by
24 adding at the end the following new clause:

1 “(v) the credit determined under section 46 to the
2 extent that such credit is attributable to the energy credit
3 determined under section 48.”.

4 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
5 FOR FUEL CELL PROPERTY.—

6 (1) IN GENERAL.—Section 48(c)(1) (relating to
7 qualified fuel cell), as amended by subsection (a)(2),
8 is amended by striking subparagraph (B) and by re-
9 designating subparagraphs (C), (D), and (E) as sub-
10 paragraphs (B), (C), and (D), respectively.

11 (2) CONFORMING AMENDMENT.—Section
12 48(a)(1) is amended by striking “paragraphs (1)(B)
13 and (2)(B) of subsection (c)” and inserting “sub-
14 section (c)(2)(B)”.

15 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN
16 INTO ACCOUNT.—

17 (1) IN GENERAL.—Paragraph (3) of section
18 48(a) is amended by striking the second sentence
19 thereof.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Paragraph (1) of section 48(c), as
22 amended by this section, is amended by striking
23 subparagraph (C) and redesignating subpara-
24 graph (D) as subparagraph (C).

1 (B) Paragraph (2) of section 48(c), as
2 amended by subsection (a)(3), is amended by
3 striking subparagraph (D) and redesignating
4 subparagraph (E) as subparagraph (D).

5 (e) EFFECTIVE DATES.—

6 (1) EXTENSION.—The amendments made by
7 subsection (a) shall take effect on the date of the en-
8 actment of this Act.

9 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
10 IMUM TAX.—The amendments made by subsection
11 (b) shall apply to credits determined under section
12 46 of the Internal Revenue Code of 1986 in taxable
13 years beginning after the date of the enactment of
14 this Act and to carrybacks of such credits.

15 (3) FUEL CELL PROPERTY AND PUBLIC ELEC-
16 TRIC UTILITY PROPERTY.—The amendments made
17 by subsections (c) and (d) shall apply to periods
18 after the date of the enactment of this Act, in tax-
19 able years ending after such date, under rules simi-
20 lar to the rules of section 48(m) of the Internal Rev-
21 enue Code of 1986 (as in effect on the day before
22 the date of the enactment of the Revenue Reconcili-
23 ation Act of 1990).

1 **SEC. 903. REPEAL OF REQUIREMENT TO DEDUCT FROM AN**
2 **AMOUNT PAYABLE TO EACH STATE.**

3 Title I of division F of the Consolidated Appropria-
4 tions Act, 2008 is amended under the heading “Minerals
5 Management Service”, under the heading “administrative
6 provisions”, by striking the second sentence.

7 **SEC. 904. PRODUCTION CREDIT FOR ELECTRICITY PRO-**
8 **DUCED FROM CONVENTIONAL HYDROPOWER**
9 **PROJECTS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 45(c)(8) of the Internal Revenue Code of 1986 (relating
12 to qualified hydropower production) is amended by strik-
13 ing “and” at the end of clause (i), by striking the period
14 at the end of clause (ii) and inserting “, and”, and by
15 adding at the end the following new clause:

16 “(iii) in the case of any hydroelectric
17 dam which was placed in service after the
18 date of the enactment of this clause, the
19 hydropower production from the facility for
20 the taxable year.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to property placed in service after
23 the date of the enactment of this Act.

24 **SEC. 905. DEFINITION OF RENEWABLE BIOMASS.**

25 Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C.
26 7545(o)(1)(I)) is amended—

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

3 (2) in clause (iv), by striking “that are from
4 non-federal forestlands, including forestlands” and
5 inserting “from forestlands, including those on pub-
6 lic lands and those”.

7 **SEC. 906. NEPA JUDICIAL REVIEW.**

8 Title I of the National Environmental Policy Act of
9 1969 (42 U.S.C. 4331 et seq.) is amended by adding at
10 the end the following new section:

11 **“SEC. 106. JUDICIAL REVIEW.**

12 “(a) IN GENERAL.—Review of a Federal agency’s
13 compliance with section 102 of the Act may be filed in
14 the circuit in which the petitioner resides or transacts
15 business which is directly affected by the action. Any such
16 application for review shall be made within ninety days
17 from the date of promulgation of the Federal agency’s de-
18 cision.

19 “(b) PROCEDURES FOR REVIEW.—

20 “(1) LIMITATION.—In any judicial action under
21 this Act, judicial review of any issues concerning a
22 Federal agency’s compliance with section 102 shall
23 be limited to the administrative record. Otherwise
24 applicable principles of administrative law shall gov-

1 ern whether any supplemental materials may be con-
2 sidered by the court.

3 “(2) STANDARD.—In considering objections
4 raised in any judicial action under this Act, the
5 court shall uphold the Federal agency’s decision,
6 whether in is the first instance, a revocation, reces-
7 sion or other action, unless the objecting party can
8 demonstrate, on the administrative record, that the
9 decision was arbitrary and capricious or otherwise
10 not in accordance with law.

11 “(3) REMEDY.—If the court finds that the se-
12 lection of the response action was arbitrary and ca-
13 pricious or otherwise not in accordance with law, the
14 court shall award such relief as the court deems ap-
15 propriate.

16 “(4) PROCEDURAL ERRORS.—In reviewing al-
17 leged procedural errors, the court may disallow costs
18 or damages only if the errors were so serious and re-
19 lated to matters of such central relevance to the ac-
20 tion that the action would have been significantly
21 changed had such errors not been made.

22 “(c) NOTICE OF ACTIONS.—Whenever any action is
23 brought under this Act in a court of the United States
24 by a plaintiff other than the United States, the plaintiff
25 shall provide a copy of the complaint to the Attorney Gen-

1 eral of the United States and to the Secretary or Adminis-
 2 trator of the affected Federal agency.

3 “(d) INTERVENTION.—In any action commenced
 4 under this Act, any person may intervene as a matter of
 5 right when such person claims an interest relating to the
 6 subject of the action and is so situated that the disposition
 7 of the action may, as a practical matter, impair or impede
 8 the person’s ability to protect that interest, unless the Sec-
 9 retary or Administrator shows that the person’s interest
 10 is adequately represented by existing parties.”.

11 **TITLE X—TAX-EXEMPT FINANC-**
 12 **ING OF CERTAIN ELECTRIC**
 13 **TRANSMISSION FACILITIES**

14 **SEC. 1001. TAX-EXEMPT FINANCING OF CERTAIN ELECTRIC**
 15 **TRANSMISSION FACILITIES NOT SUBJECT TO**
 16 **PRIVATE BUSINESS USE TEST.**

17 (a) IN GENERAL.—Section 141(b)(6) of the Internal
 18 Revenue Code of 1986 (defining private business use) is
 19 amended by adding at the end the following new subpara-
 20 graph:

21 “(C) EXCEPTION FOR CERTAIN ELECTRIC
 22 TRANSMISSION FACILITIES.—For purposes of
 23 the 1st sentence of subparagraph (A), the oper-
 24 ation or use of an electric transmission facility
 25 by any person which is not a governmental unit

1 shall not be considered a private business use
2 if—

3 “(i) the facility is placed in service on
4 or after the date of the enactment of this
5 subparagraph and is owned by—

6 “(I) a State or political subdivi-
7 sion of a State, or any agency, au-
8 thority, or instrumentality of any of
9 the foregoing providing electric serv-
10 ice, directly or indirectly to the public,
11 or

12 “(II) a State or political subdivi-
13 sion of a State expressly authorized
14 under applicable State law effective on
15 or after January 1, 2004, to finance
16 and own electric transmission facili-
17 ties, and

18 “(ii) bonds for such facility are issued
19 before the date which is 5 years after the
20 date of the enactment of this subpara-
21 graph.”.

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

1 **TITLE XI—RESTORE OUR DO-**
2 **MESTIC ENERGY WORKFORCE**
3 **SCIENCE AND TECHNOLOGY**
4 **EDUCATION**

5 **SEC. 1101. SHORT TITLE.**

6 This title may be cited as the “Strengthening Amer-
7 icas Science and Technology Education Act”.

8 **SEC. 1102. POLICY.**

9 It is the policy of the United States to maintain the
10 human capital needed to preserve and foster the economic,
11 energy, and mineral resources security of the United
12 States. The Science and Technology programs that
13 produce human capital needed for the energy and mineral
14 resources security of the United States are national assets
15 and shall be assisted with Federal funds to ensure their
16 continued health and existence.

17 **SEC. 1103. MAINTAINING SCIENCE AND TECHNOLOGY EDU-**
18 **CATION PROGRAMS.**

19 (a) The Secretary of the Interior (in this title referred
20 to as the “Secretary”) shall administer this title and shall
21 prescribe rules and regulations to carry out its policies and
22 provisions not later than 1 year after enactment.

23 (b) In support of the policy stated in section 2, the
24 Secretary shall provide research funds to schools, univer-
25 sities, and institutions to assist in maintaining recognized

1 programs in energy, petroleum, mining, and mineral engi-
2 neering education and research.

3 (c) All funds shall be directed only to recognized pro-
4 grams and shall be subject to the conditions of this title.

5 (d) Research funded at recognized programs under
6 this title shall include studies and research to enhance
7 basic science and engineering as well as studies to provide
8 proof of scientific or engineering concepts and studies to
9 determine scientific or engineering feasibility.

10 (e) The Secretary shall only provide funds to recog-
11 nized programs, which for the purposes of this title shall
12 mean—

13 (1) an engineering program for energy, petro-
14 leum, chemical, mining, or mineral engineering ac-
15 credited on the date of enactment;

16 (2) a geological engineering or geophysical engi-
17 neering that is accredited on the date of enactment
18 of this Act and which is focused on petroleum or
19 natural gas production, the production of mineral re-
20 sources, and the development of permanent under-
21 ground workings as demonstrated by the curriculum
22 and the expertise of the existing faculty; or

23 (3) a program in geology or geophysics that the
24 Secretary determines to be acceptable under this
25 title and that have undergraduate and graduate pro-

1 grams of research and education in the geology and
2 geophysics of conventional or nonconventional en-
3 ergy, geothermal, metallic and nonmetallic deposits,
4 including industrial minerals, sand and gravel depos-
5 its.

6 (f) All recognized engineering programs must meet
7 meeting the specific program criteria, established by the
8 member societies of ABET, Inc. of Baltimore Maryland.
9 In the absence of a nationally recognized accreditation
10 program for the applied geology and geophysics programs
11 the Secretary shall request the Committee created by this
12 title to examine the program and the outcomes of the pro-
13 grams to determine if it is appropriate to provide funding
14 for the program.

15 (g) Each school, university, or institution receiving
16 funds under this title shall maintain the program for
17 which the funds are provided for 10 years after the date
18 of the last receipt of such funds and take steps described
19 in its application for funding to increase the number of
20 undergraduate students enrolled in and completing the
21 programs of study in petroleum, chemical, mining, geologi-
22 cal, geophysical, or mineral engineering, and geology and
23 geophysics.

24 (h) The Secretary shall show particular consideration
25 to minority serving institutions with an established recog-

1 nized program or that proposes to establish a recognized
2 program, including but not limited to assigning appro-
3 priate employees to serve as mentors and adjunct faculty,
4 transferring appropriate equipment to the programs and
5 allowing faculty or students at such institutions free ac-
6 cess to appropriate departmental training.

7 (i) Where appropriate, the Secretary may make funds
8 available to consortia to conduct projects of broad applica-
9 tion that could not otherwise be undertaken, including na-
10 tional and regional projects in geology or geophysics and
11 engineering as applied to petroleum, geothermal, mining,
12 and mineral processing or beneficiation. Provided, that
13 funds granted to any consortium shall only be given to
14 a single eligible school with a recognized program which
15 shall be responsible for distribution, monitoring, and re-
16 porting on the activities of the consortium as required by
17 the Secretary.

18 **SEC. 1104. FUNDS FOR SCHOLARSHIPS AND FELLOWSHIPS.**

19 (a) The Secretary shall provide funds for the purpose
20 of providing merit-based scholarships for undergraduate
21 education, graduate fellowships, and postdoctoral fellow-
22 ships at eligible schools.

23 (b) In awarding the Scholarships and fellowships au-
24 thorized by this section the Secretary shall give a pref-
25 erence for veterans and service members who have received

1 or will receive either the Afghanistan Campaign Medal or
2 the Iraq Campaign Medal as authorized by Public Law
3 108–234, and Executive Order No. 13363.

4 (c) In order to receive a scholarship or a graduate
5 fellowship, an individual student must be a lawful perma-
6 nent resident of the United States or a United States cit-
7 izen and must agree in writing to complete a course of
8 studies and receive a degree in petroleum, chemical, min-
9 ing, geological, geophysical, or mineral engineering, petro-
10 leum geology, geothermal geology, mining and economic
11 geology, petroleum and mining geophysics, or mineral eco-
12 nomics in a program recognized under this title.

13 (d) The regulations shall require that an individual,
14 in order to retain a scholarship or graduate fellowship,
15 must continue in one of the course of studies authorized
16 by this section, must remain in good academic standing,
17 as determined by the school, institution, or university and
18 must allow for reinstatement of the scholarship or grad-
19 uate fellowship by the Secretary, upon the recommenda-
20 tion of the school or institution. Such regulations may also
21 provide for recovery of funds from an individual who fails
22 to complete any of the courses of study listed in subsection
23 (c) of this section after notice that such completion is a
24 requirement of receipt funding under this title. Students

1 may change courses of study provided they remain within
2 the listing of programs in subsection (c).

3 (e) An individual granted a scholarship or fellowship
4 with funds provided under this title shall through their
5 respective school, university, or institution, advise the Di-
6 rector of the office established by this title of progress to-
7 wards completion of the course of studies and upon the
8 awarding of the degree within 30 days after the award.

9 (f) To carry out this section, the schools, universities,
10 and institutions that are eligible to receive funding under
11 this title shall be responsible for enforcing the require-
12 ments of this section for scholarship or fellowship students
13 and shall return to the Secretary any funds recovered from
14 an individual under subsection (d). An institution seeking
15 funds under this subsection shall describe, in its applica-
16 tion to the Secretary for funding, the number of students
17 that would be awarded scholarships or fellowships if the
18 application is approved, how such students would be se-
19 lected, and how the provisions of this section will be en-
20 forced.

21 **SEC. 1105. USE OF FUNDS BY INSTITUTIONS.**

22 (a) Grants for basic science and engineering studies
23 and research shall not require additional participation by
24 funding partners. All other grants for studies shall include

1 participation by industry and may include funding from
2 other Federal agencies.

3 (b) No funds made available under this section shall
4 be applied to the acquisition by purchase or lease of any
5 land or interests therein, or the rental, purchase, construc-
6 tion, preservation, or repair of any building.

7 (c) Funding made available may be used with the ex-
8 press approval of the Secretary for proposals to maintain
9 or upgrade existing laboratories and laboratory equip-
10 ment, but such funds shall not be used for any university
11 overhead expenses.

12 (d) Funding made available under this title may be
13 used for maintaining and upgrading mines and oil and gas
14 drilling rigs owned by an eligible program or the school
15 in which the program is located that are used for under-
16 graduate and graduate training and worker safety train-
17 ing. All requests for funding such mines and oil and gas
18 drilling rigs must demonstrate that they have been owned
19 by the school for 5 years prior to the date of enactment.

20 (e) Each school shall have an officer appointed by its
21 governing authority who shall receive and account for all
22 funds paid under this title and shall make an annual re-
23 port to the Secretary on or before the first day of Sep-
24 tember of each year, on work accomplished and the status
25 of projects underway, together with a detailed statement

1 of the amounts received under this title during the pre-
2 ceding fiscal year, and of its disbursements on schedules
3 prescribed by the Secretary.

4 (f) The schools, universities, and institutions receiv-
5 ing funding under this title shall make detailed reports
6 to the Center on projects completed, in progress, or
7 planned with funds provided under this title. All such re-
8 ports shall be available to the public on not less than an
9 annual basis through the Center.

10 (g) All uses, products, processes, and other develop-
11 ments resulting from any research, demonstration, or ex-
12 periment funded in whole or in part under this title shall
13 be made available promptly to the general public, subject
14 to exception or limitation, if any, as the Secretary may
15 find necessary in the interest of national security, and sub-
16 ject to the applicable Federal law governing patents.

17 **SEC. 1106. ESTABLISHMENT OF A NATIONAL CENTER.**

18 (a) There is established in the Department of the In-
19 terior an office to be known as the National Science and
20 Technology Education Center (hereafter in this title re-
21 ferred to as the “Center”) to administer the provisions
22 of this title.

23 (b) The Center shall answer directly to the Secretary
24 and shall be located at a site on or near the campus of
25 a school, college or university with a recognized program,

1 to be determined by the Secretary after consultation with
2 the Committee and the receipt of public comments.

3 (c) There shall be a director of the Center who shall
4 be a member of the Senior Executive Service, provided fur-
5 ther that the position of the director shall be a career re-
6 served position as defined in section 3132(a)(8) of title
7 5, United States Code.

8 (d) The director is authorized to appoint a deputy
9 director and to employ such officers and employees as may
10 be necessary to enable the Center to carry out its func-
11 tions.

12 (e) In carrying the Center's functions, the director
13 shall provide professional and administrative staff support
14 for the Committee, including recordkeeping and maintain-
15 ing minutes of all Committee and subcommittee meetings,
16 maintaining accurate records of funds disbursed for all
17 scholarship and fellowship grants, research grants, and
18 grants for career technical education purposes, preparing
19 any regulations required to implement this title, con-
20 ducting site visits at programs receiving funding under
21 this title, and serving as a central repository for reports
22 and clearing house for public information on research
23 funded by this title.

1 (f) The director or an employee of the Center shall
2 be present at each meeting of the Committee or a sub-
3 committee of the Committee.

4 (g) As needed the director shall ascertain whether the
5 requirements of this title have been met by recognized pro-
6 grams.

7 (h) Each employee or contractor of the Center and
8 each member of the Committee shall disclose to the Sec-
9 retary any financial interests in or financial relationships
10 with schools, universities, institutions, or individuals re-
11 ceiving funds, scholarships, or fellowships under this title.

12 (i) Any employee, contractor, or member of the Com-
13 mittee with a financial relationship must recuse them-
14 selves from any recommendation or decision regarding the
15 awarding of funds, scholarships or fellowships or any re-
16 view, report, analysis, or investigation regarding compli-
17 ance with the provisions of this title by a school, univer-
18 sity, institution, or any individual.

19 **SEC. 1107. STAKEHOLDER COMMITTEE ON SCIENCE AND**
20 **TECHNOLOGY EDUCATION.**

21 (a) The Secretary shall appoint a Stakeholder Com-
22 mittee for Science and Technology Education (referred to
23 in this title as the “Committee”) which shall be composed
24 of—

1 (1) the Assistant Secretary of the Interior re-
2 sponsible for land and minerals management; and

3 (2) not more than 18 other persons who are
4 knowledgeable in the fields of energy, petroleum,
5 geothermal, mining and mineral resources research,
6 including two university leaders from a school with
7 at least one recognized program; a community or
8 technical college administrator, a tribal college ad-
9 ministrator; a career technical education educator;
10 six representatives equally distributed from the en-
11 ergy, mining, and aggregate industries; a working
12 miner; a working oilfield worker; a representative of
13 the Interstate Oil and Gas Compact Commission; a
14 representative from the Interstate Mining Compact
15 Commission; a representative of the State geologists,
16 and two representatives of the general public. In
17 making these appointments, the Secretary shall con-
18 sult with interested groups.

19 (b) The Chairman of the Committee may have
20 present during meetings representatives of Federal agen-
21 cies with responsibility for energy and minerals resources
22 management, energy and mineral resource investigations,
23 energy and mineral commodity information, international
24 trade in energy and mineral commodities, mining safety
25 regulation and mine safety research, and research into the

1 development, production, and utilization of energy and
2 mineral commodities. These representatives shall serve as
3 technical advisors to the committee and shall have no vot-
4 ing responsibilities.

5 (c) The Secretary shall consult with the Committee
6 on policy matters relating to carrying out this title and
7 carefully consider its recommendations in such matters.

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

17 (e) The Assistant Secretary of the Interior respon-
18 sible for Land and Minerals management shall be the
19 Chairman of the Committee. There shall also be a Vice
20 Chairman elected by the Committee from among the mem-
21 bers, who shall perform such duties as are determined to
22 be appropriate by the committee, except that the Chair-
23 man must personally preside at all meetings of the full
24 Committee. The Committee may organize itself into such
25 subcommittees as the Committee may deem appropriate.

1 (f) Following completion of the report required by
2 section 385 of the Energy Policy Act of 2005, the Com-
3 mittee shall consider the recommendations of the report
4 and shall formulate and recommend a national plan for
5 utilizing the fiscal resources provided under this title. The
6 Committee shall submit such plan to the Secretary for ap-
7 proval. Upon approval, the plan shall guide the Secretary
8 and the Committee in their actions under this title.

9 (g) The Committee shall make recommendations to
10 the Secretary regarding both the long term and short term
11 viability of the faculty at schools with recognized programs
12 and may recommend the awarding of graduate fellowships
13 and postdoctoral fellowships to those students who declare
14 their intent to seek roles as future faculty at the domestic
15 recognized programs.

16 **SEC. 1108. CAREER TECHNICAL AND COMMUNITY COLLEGE**
17 **EDUCATION.**

18 (a) The Secretary shall provide grants to support sus-
19 taining the operation or the development of programs in
20 mining engineering technology, petroleum engineering
21 technology, industrial engineering technology, or indus-
22 trial technology that—

23 (1) are focused on technology and its use in en-
24 ergy and mineral production and related mainte-

1 nance, operational safety, or energy infrastructure
2 protection and security;

3 (2) prepare students for advanced or super-
4 visory roles in the mining industry or the petroleum
5 industry; and

6 (3) grant either an associate's degree or a bac-
7 calaureate degree.

8 (b)(1) The Secretary shall provide grants to sustain
9 the operation or the development of programs, including
10 joint apprenticeship programs authorized by Federal law,
11 university, college or community college programs, sec-
12 ondary school vocational education programs, or career
13 academy programs, that provide training for individuals
14 seeking to enter the geothermal, petroleum, mining, or
15 mineral mining industries.

16 (2) The Secretary shall give particular consideration
17 to supporting programs that provide training for a pro-
18 gressive career path in the industries listed in subsection
19 (b).

20 (3) The Secretary, after consultation with the Com-
21 mittee, may offer support to programs that grant degrees
22 or certificates in programs that provide training in dis-
23 ciplines that provide essential support for the industries
24 listed in subsection (b), including those listed in subsection
25 (c) of this section even if those programs are not purposely

1 designed to provide personnel for the industries listed in
2 subsection (b) of this section.

3 (c) The Secretary shall provide grants to support the
4 operation or the development of programs of program of
5 career technical education at a secondary school, offered
6 cooperatively with a community college in one of the indus-
7 trial sectors of—

8 (1) agriculture, forestry, or fisheries;

9 (2) utilities, particularly power transmission
10 and pipeline construction and operations;

11 (3) maintenance and maintenance logistics;

12 (4) construction;

13 (5) manufacturing; or

14 (6) transportation and warehousing.

15 (d) Schools or institutions receiving funds under this
16 section must show evidence of an institutional commit-
17 ment for the purposes of career technical education and
18 provide evidence that the school or institution has received
19 or will receive industry cooperation in the form of equip-
20 ment, employee time, or donations of funds to support the
21 activities that are within the scope of this section.

22 (e) Schools seeking funds to support the operation
23 of a program may initially only use those funds for en-
24 hancing the instructional skills of teachers through addi-
25 tional training and resources as will permit such teachers

1 to enhance their skills. After the teachers have achieved
2 enhanced skills and meets an appropriate standard as
3 agreed to by local authorities in consultation with the Sec-
4 retary the funds be used to purchase classroom and lab-
5 oratory equipment.

6 (f) Schools seeking funds to support the development
7 of a new program shall use the funds to support the pur-
8 chase of classroom and laboratory equipment and to sup-
9 plement teacher salaries to encourage the hiring of highly
10 qualified teachers.

11 (g) Schools or institutions receiving funds under this
12 section must agree to maintain the programs for which
13 the funding is sought for a period of 10 years beginning
14 on the date the school or institution receives such funds,
15 unless the Secretary finds that a shorter period of time
16 is appropriate for the local labor market or is required
17 by State authorities.

18 (h) Schools or institutions receiving funds under this
19 section may combine these funds with State funds, and
20 other Federal funds where allowed by law, to carry out
21 programs described in this section, however the use of the
22 funds received under this section must be reported to the
23 Secretary not less than annually.

1 (i) The Secretary shall seek the advice of the Com-
2 mittee in determining the criteria used to carry out this
3 section.

4 **SEC. 1109. NUCLEAR SCIENCE AND ENGINEERING SCHOL-**
5 **ARSHIPS.**

6 (a) PURPOSE.—It is the purpose of this section to
7 authorize scholarships funded by the Department of En-
8 ergy for undergraduate education in nuclear science and
9 nuclear engineering.

10 (b) SCHOLARSHIP PROGRAM AUTHORIZED.—

11 (1) IN GENERAL.—The Secretary of Energy
12 shall award not less than 65 grants per year to eligi-
13 ble undergraduate institutions to support scholar-
14 ships for students majoring in nuclear science or nu-
15 clear engineering.

16 (2) APPLICATION.—An eligible undergraduate
17 institution that desires to receive a grant under this
18 section shall submit to the Secretary of Energy an
19 application at such time, in such manner, and ac-
20 companied by such information as the Secretary may
21 require.

22 (3) DURATION AND AMOUNT.—A grant under
23 this section shall be 4 years in duration. An eligible
24 undergraduate institution that receives a grant

1 under this section shall receive \$100,000 for each
2 year of the grant period.

3 (4) USE OF FUNDS.—An eligible undergraduate
4 institution that receives a grant under this section
5 shall use the grant funds for the awarding of schol-
6 arships in nuclear science or nuclear engineering.

7 **SEC. 1110. NUCLEAR WORKFORCE DEVELOPMENT.**

8 Not later than 120 days after the date of enactment
9 of this Act, the Secretary of Energy, in consultation with
10 the Secretary of Labor, shall provide to Congress rec-
11 ommendations for developing a robust nuclear workforce
12 within the United States.

13 **SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to carry out
15 this title 5 percent of all funds available within the Amer-
16 ican Energy Trust Fund for each of fiscal years 2009
17 through 2019 and all funds that are authorized shall re-
18 main available until expended.

19 **TITLE XII—TAPPING AMERICA’S**
20 **INGENUITY AND CREATIVITY**

21 **SEC. 1201. DEFINITIONS.**

22 In this title:

23 (1) ADMINISTERING ENTITY.—The term “ad-
24 ministering entity” means the entity with which the

1 Secretary enters into an agreement under section
2 1204(c).

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

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

7 **SEC. 1202. STATEMENT OF POLICY.**

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

12 **SEC. 1203. PRIZE AUTHORITY.**

13 (a) IN GENERAL.—The Secretary shall carry out a
14 program to competitively award cash prizes in conformity
15 with this title to advance the research, development, dem-
16 onstration, and commercial application of innovative en-
17 ergy technologies and new energy sources.

18 (b) ADVERTISING AND SOLICITATION OF COMPETI-
19 TORS.—

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

1 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
2 ISTER NOTICE.—The Secretary shall announce each
3 prize competition by publishing a notice in the Fed-
4 eral Register. This notice shall include essential ele-
5 ments of the competition such as the subject of the
6 competition, the duration of the competition, the eli-
7 gibility requirements for participation in the com-
8 petition, the process for participants to register for
9 the competition, the amount of the prize, and the
10 criteria for awarding the prize.

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

16 (1) Advertise the competition and its results.

17 (2) Raise funds from private entities and indi-
18 viduals to pay for administrative costs and cash
19 prizes.

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

1 (4) Determine, in consultation with and subject
2 to the final approval of the Secretary, the appro-
3 priate amount of the awards.

4 (5) Protect against the administering entity's
5 unauthorized use or disclosure of a registered par-
6 ticipant's intellectual property, trade secrets, and
7 confidential business information. Any information
8 properly identified as trade secrets or confidential
9 business information that is submitted by a partici-
10 pant as part of a competitive program under this
11 title may be withheld from public disclosure.

12 (6) Develop and promulgate sufficient rules to
13 define the parameters of designing and proposing in-
14 novative energy technologies and new energy sources
15 with input from industry, citizens, and corporations
16 familiar with such activities.

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

1 vate sector entity or individual in return for a donation
2 to the Secretary or administering entity.

3 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
4 may not publish a notice required by subsection (b)(2)
5 until all the funds needed to pay out the announced
6 amount of the prize have been appropriated to the Depart-
7 ment or the Department has received from the admin-
8 istering entity a written commitment to provide all nec-
9 essary funds.

10 **SEC. 1204. ELIGIBILITY.**

11 To be eligible to win a prize under this title, an indi-
12 vidual or entity—

13 (1) shall notify the administering entity of in-
14 tent to submit ideas and intent to collect the prize
15 upon selection;

16 (2) shall comply with all the requirements stat-
17 ed in the Federal Register notice required under sec-
18 tion 1203(b)(2);

19 (3) in the case of a private entity, shall be in-
20 corporated in and maintain a primary place of busi-
21 ness in the United States, and in the case of an in-
22 dividual, whether participating singly or in a group,
23 shall be a citizen of the United States;

24 (4) shall not be a Federal entity, a Federal em-
25 ployee acting within the scope of his or her employ-

1 ment, or an employee of a national laboratory acting
2 within the scope of employment;

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

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

7 **SEC. 1205. INTELLECTUAL PROPERTY.**

8 The Federal Government shall not, by virtue of offer-
9 ing or awarding a prize under this title, be entitled to any
10 intellectual property rights derived as a consequence of,
11 or in direct relation to, the participation by a registered
12 participant in a competition authorized by this title. This
13 section shall not be construed to prevent the Federal Gov-
14 ernment from negotiating a license for the use of intellec-
15 tual property developed for a prize competition under this
16 title. The Federal Government may seek assurances that
17 technologies for which prizes are awarded under this title
18 are offered for commercialization in the event an award
19 recipient does not take, or is not expected to take within
20 a reasonable time, effective steps to achieve practical ap-
21 plication of the technology.

22 **SEC. 1206. WAIVER OF LIABILITY.**

23 The Secretary may require registered participants to
24 waive claims against the Federal Government and the ad-
25 ministering entity (except claims for willful misconduct)

1 for any injury, death, damage, or loss of property, revenue,
2 or profits arising from the registered participants' partici-
3 pation in a competition under this title. The Secretary
4 shall give notice of any waiver required under this section
5 in the notice required by section 1203(b)(2). The Sec-
6 retary may not require a registered participant to waive
7 claims against the administering entity arising out of the
8 unauthorized use or disclosure by the administering entity
9 of the registered participant's intellectual property, trade
10 secrets, or confidential business information.

11 **SEC. 1207. AUTHORIZATION OF APPROPRIATIONS.**

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

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

19 (c) ADMINISTRATION.—In addition to the amounts
20 authorized under subsection (a), there are authorized to
21 be appropriated to the Secretary for each of fiscal years
22 2009 through 2020 \$2,000,000 for the administrative
23 costs of carrying out this title.

24 (d) CARRYOVER OF FUNDS.—Funds appropriated for
25 prize awards under this title shall remain available until

1 expended and may be transferred, reprogrammed, or ex-
2 pended for other purposes only after the expiration of 11
3 fiscal years after the fiscal year for which the funds were
4 originally appropriated. No provision in this title permits
5 obligation or payment of funds in violation of section 1341
6 of title 31, United States Code.

7 **SEC. 1208. NEXT GENERATION AUTOMOBILE PRIZE PRO-**
8 **GRAM.**

9 The Secretary of Energy shall establish a program
10 to award a prize in the amount of \$500,000,000 to the
11 first automobile manufacturer incorporated in the United
12 States to manufacture and sell in the United States
13 50,000 midsized sedan automobiles which operate on gaso-
14 line and can travel 100 miles per gallon.

15 **SEC. 1209. ADVANCED BATTERY MANUFACTURING INCEN-**
16 **TIVE PROGRAM.**

17 (a) DEFINITIONS.—In this section:

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

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

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

1 (B) design of tooling and equipment and
2 developing manufacturing processes and mate-
3 rial suppliers for production facilities that
4 produce qualifying components or advanced bat-
5 teries.

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

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

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

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

19 (d) DIRECT LOAN PROGRAM.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this title, and subject to
22 the availability of appropriated funds, the Secretary
23 shall carry out a program to provide a total of not
24 more than \$100,000,000 in loans to eligible individ-

1 uals and entities (as determined by the Secretary)
2 for the costs of activities described in subsection (b).

3 (2) SELECTION OF ELIGIBLE PROJECTS.—The
4 Secretary shall select eligible projects to receive
5 loans under this subsection in cases in which, as de-
6 termined by the Secretary, the award recipient—

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

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

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

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

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

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

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

5 (ii) 25 years;

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

11 (D) shall be made by the Federal Financ-
12 ing Bank.

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

15 (f) SET ASIDE FOR SMALL MANUFACTURERS.—

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

19 (A) employs fewer than 500 individuals;
20 and

21 (B) manufactures automobiles or compo-
22 nents of automobiles.

23 (2) SET ASIDE.—Of the amount of funds used
24 to provide awards for each fiscal year under sub-
25 section (b), the Secretary shall use not less than 10

1 percent to provide awards to covered firms or con-
2 sortia led by a covered firm.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated from the American En-
5 ergy Trust Fund such sums as are necessary to carry out
6 this section for each of fiscal years 2009 through 2013.

○