

110TH CONGRESS
2D SESSION

H. R. 6421

To direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the Coastal Plain of Alaska, to provide for expanded leasing of the oil and gas resources of the outer Continental Shelf for exploration, to eliminate certain impediments to the development of nuclear energy sources, to promote coal-to-liquid fuel activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2008

Mr. SHUSTER introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means, Energy and Commerce, Science and Technology, Transportation and Infrastructure, and Rules, 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 direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the Coastal Plain of Alaska, to provide for expanded leasing of the oil and gas resources of the outer Continental Shelf for exploration, to eliminate certain impediments to the development of nuclear energy sources, to promote coal-to-liquid fuel activities, and for other purposes.

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

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Energy Independence
3 Act”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—OIL AND GAS LEASING PROGRAM FOR LANDS WITHIN
THE COASTAL PLAIN OF ALASKA

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Leasing program for lands within the Coastal Plain.
- Sec. 104. Lease sales.
- Sec. 105. Grant of leases by the Secretary.
- Sec. 106. Lease terms and conditions.
- Sec. 107. Coastal plain environmental protection.
- Sec. 108. Expedited judicial review.
- Sec. 109. Federal and State distribution of revenues.
- Sec. 110. Rights-of-way across the Coastal Plain.
- Sec. 111. Conveyance.
- Sec. 112. Local government impact aid and community service assistance.
- Sec. 113. ANWR Alternative Energy Trust Fund.

TITLE II—OPENING OF OUTER CONTINENTAL SHELF

- Sec. 201. Short title.
- Sec. 202. Policy.
- Sec. 203. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 204. Determination of Adjacent Zones and planning areas.
- Sec. 205. Administration of leasing.
- Sec. 206. Grant of leases by Secretary.
- Sec. 207. Reservation of lands and rights.
- Sec. 208. Outer Continental Shelf Leasing Program.
- Sec. 209. Coordination with Adjacent States.
- Sec. 210. Environmental studies.
- Sec. 211. Federal Energy Natural Resources Enhancement Act of 2008.
- Sec. 212. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.
- Sec. 213. Outer Continental Shelf incompatible use.
- Sec. 214. Repurchase of certain leases.
- Sec. 215. Offsite environmental mitigation.
- Sec. 216. Minerals Management Service.
- Sec. 217. Authority to use decommissioned offshore oil and gas platforms and other facilities for artificial reef, scientific research, or other uses.
- Sec. 218. Repeal of requirement to conduct comprehensive inventory of OCS oil and natural gas resources.
- Sec. 219. Leases for areas located within 100 miles of California or Florida.

- Sec. 220. Coastal impact assistance.
 Sec. 221. Oil shale and tar sands amendments.

TITLE III—NUCLEAR ENERGY

- Sec. 301. Incentives for innovative technologies.
 Sec. 302. Standby support for certain nuclear plant delays.
 Sec. 303. Authorization for nuclear power 2010 program.
 Sec. 304. Domestic manufacturing base for nuclear components and equipment.
 Sec. 305. Nuclear energy workforce.
 Sec. 306. Licensing of new nuclear power plants.
 Sec. 307. Investment tax credit for investments in nuclear power facilities.
 Sec. 308. National Nuclear Energy Council.
 Sec. 309. Temporary spent nuclear fuel storage agreements.
 Sec. 310. Implementation of temporary spent nuclear fuel storage agreements.
 Sec. 311. Expedited procedures for congressional review of temporary spent nuclear fuel storage agreements.
 Sec. 312. Contracting and Nuclear Waste Fund.
 Sec. 313. Confidence in availability of waste disposal.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

- Sec. 401. Credit for investment in coal-to-liquid fuels projects.
 Sec. 402. Temporary expensing for equipment used in coal-to-liquid fuels process.
 Sec. 403. Extension of alternative fuel credit for fuel derived from coal through the Fischer-Tropsch process or the Schobert process.

1 **TITLE I—OIL AND GAS LEASING** 2 **PROGRAM FOR LANDS WITH-** 3 **IN THE COASTAL PLAIN OF** 4 **ALASKA**

5 **SEC. 101. SHORT TITLE.**

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

8 **SEC. 102. DEFINITIONS.**

9 In this title:

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

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

4 **SEC. 103. LEASING PROGRAM FOR LANDS WITHIN THE**
5 **COASTAL PLAIN.**

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

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

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

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

6 (b) REPEAL.—

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

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

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

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

24 (2) ADEQUACY OF THE DEPARTMENT OF THE
25 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT

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

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

1 leasing and a single leasing alternative, and analyze
2 the environmental effects and potential mitigation
3 measures for those two alternatives. The identifica-
4 tion of the preferred action and related analysis for
5 the first lease sale under this title shall be completed
6 within 18 months after the date of enactment of this
7 Act. The Secretary shall only consider public com-
8 ments that specifically address the Secretary's pre-
9 ferred action and that are filed within 20 days after
10 publication of an environmental analysis. Notwith-
11 standing any other law, compliance with this para-
12 graph is deemed to satisfy all requirements for the
13 analysis and consideration of the environmental ef-
14 fects of proposed leasing under this title.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
16 ITY.—Nothing in this title shall be considered to expand
17 or limit State and local regulatory authority.

18 (e) SPECIAL AREAS.—

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

1 and regulatory protection. The Secretary shall des-
2 ignate as such a Special Area the Sadlerochit Spring
3 area, comprising approximately 4,000 acres.

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

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

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

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

25 (g) REGULATIONS.—

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

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

14 **SEC. 104. LEASE SALES.**

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

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

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

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

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

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

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

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

16 (1) conduct the first lease sale under this title
17 within 22 months after the date of the enactment of
18 this Act;

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

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

1 **SEC. 105. GRANT OF LEASES BY THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary may grant to the
3 highest responsible qualified bidder in a lease sale con-
4 ducted pursuant to section 104 any lands to be leased on
5 the Coastal Plain upon payment by the lessee of such
6 bonus as may be accepted by the Secretary.

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

13 **SEC. 106. LEASE TERMS AND CONDITIONS.**

14 (a) IN GENERAL.—An oil or gas lease issued pursu-
15 ant to this title shall—

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

21 (2) provide that the Secretary may close, on a
22 seasonal basis, portions of the Coastal Plain to ex-
23 ploratory drilling activities as necessary to protect
24 caribou calving areas and other species of fish and
25 wildlife;

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

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

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

22 (6) contain terms and conditions relating to
23 protection of fish and wildlife, their habitat, subsist-
24 ence resources, and the environment as required
25 pursuant to section 103(a)(2);

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

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

12 (9) contain such other provisions as the Sec-
13 retary determines necessary to ensure compliance
14 with the provisions of this title and the regulations
15 issued under this title.

16 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
17 as a term and condition of each lease under this title and
18 in recognizing the Government’s proprietary interest in
19 labor stability and in the ability of construction labor and
20 management to meet the particular needs and conditions
21 of projects to be developed under the leases issued pursu-
22 ant to this title and the special concerns of the parties
23 to such leases, shall require that the lessee and its agents
24 and contractors negotiate to obtain a project labor agree-
25 ment for the employment of laborers and mechanics on

1 production, maintenance, and construction under the
2 lease.

3 **SEC. 107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

6 The Secretary shall, consistent with the requirements of
7 section 103, administer the provisions of this title through
8 regulations, lease terms, conditions, restrictions, prohibi-
9 tions, stipulations, and other provisions that—

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

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

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

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

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

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

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

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

15 (c) REGULATIONS TO PROTECT COASTAL PLAIN
16 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
17 AND THE ENVIRONMENT.—Before implementing the leas-
18 ing program authorized by this title, the Secretary shall
19 prepare and promulgate regulations, lease terms, condi-
20 tions, restrictions, prohibitions, stipulations, and other
21 measures designed to ensure that the activities undertaken
22 on the Coastal Plain under this title are conducted in a
23 manner consistent with the purposes and environmental
24 requirements of this title.

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

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

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

18 (3) That exploration activities, except for sur-
19 face geological studies, be limited to the period be-
20 tween approximately November 1 and May 1 each
21 year and that exploration activities shall be sup-
22 ported, if necessary, by ice roads, winter trails with
23 adequate snow cover, ice pads, ice airstrips, and air
24 transport methods, except that such exploration ac-
25 tivities may occur at other times if the Secretary

1 finds that such exploration will have no significant
2 adverse effect on the fish and wildlife, their habitat,
3 and the environment of the Coastal Plain.

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

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

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

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

15 (6) Stringent reclamation and rehabilitation re-
16 quirements, consistent with the standards set forth
17 in this title, requiring the removal from the Coastal
18 Plain of all oil and gas development and production
19 facilities, structures, and equipment upon completion
20 of oil and gas production operations, except that the
21 Secretary may exempt from the requirements of this
22 paragraph those facilities, structures, or equipment
23 that the Secretary determines would assist in the
24 management of the Arctic National Wildlife Refuge

1 and that are donated to the United States for that
2 purpose.

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

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

7 (9) Consolidation of facility siting.

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

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

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

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

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

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

5 (16) Field crew environmental briefings.

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

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

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

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

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

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

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

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

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

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

12 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

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

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

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

5 (D) Utilizing existing facilities wherever
6 practicable.

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

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

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

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

18 **SEC. 108. EXPEDITED JUDICIAL REVIEW.**

19 (a) FILING OF COMPLAINT.—

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

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

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

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

14 (3) LIMITATION ON SCOPE OF CERTAIN RE-
15 VIEW.—Judicial review of a Secretarial decision to
16 conduct a lease sale under this title, including the
17 environmental analysis thereof, shall be limited to
18 whether the Secretary has complied with the terms
19 of this title and shall be based upon the administra-
20 tive record of that decision. The Secretary's identi-
21 fication of a preferred course of action to enable
22 leasing to proceed and the Secretary's analysis of
23 environmental effects under this title shall be pre-
24 sumed to be correct unless shown otherwise by clear
25 and convincing evidence to the contrary.

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

5 **SEC. 109. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**
6

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

11 (1) 50 percent shall be paid to the State of
12 Alaska; and

13 (2) except as provided in section 112(d), the
14 balance shall be transferred to the ANWR Alter-
15 native Energy Trust Fund established by this title.

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

18 **SEC. 110. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

22 (1) except as provided in paragraph (2), under
23 section 28 of the Mineral Leasing Act (30 U.S.C.
24 185), without regard to title XI of the Alaska Na-

1 tional Interest Lands Conservation Act (30 U.S.C.
2 3161 et seq.); and

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

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

16 (c) REGULATIONS.—The Secretary shall include in
17 regulations under section 103(g) provisions granting
18 rights-of-way and easements described in subsection (a)
19 of this section.

20 **SEC. 111. CONVEYANCE.**

21 In order to maximize Federal revenues by removing
22 clouds on title to lands and clarifying land ownership pat-
23 terns within the Coastal Plain, the Secretary, notwith-
24 standing the provisions of section 1302(h)(2) of the Alas-

1 ka National Interest Lands Conservation Act (16 U.S.C.
2 3192(h)(2)), shall convey—

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

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

19 **SEC. 112. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
20 **NITY SERVICE ASSISTANCE.**

21 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

22 (1) IN GENERAL.—The Secretary may use
23 amounts available from the Coastal Plain Local Gov-
24 ernment Impact Aid Assistance Fund established by
25 subsection (d) to provide timely financial assistance

1 to entities that are eligible under paragraph (2) and
2 that are directly impacted by the exploration for or
3 production of oil and gas on the Coastal Plain under
4 this title.

5 (2) ELIGIBLE ENTITIES.—The North Slope
6 Borough, the City of Kaktovik, and any other bor-
7 ough, municipal subdivision, village, or other com-
8 munity in the State of Alaska that is directly im-
9 pacted by exploration for, or the production of, oil
10 or gas on the Coastal Plain under this title, as de-
11 termined by the Secretary, shall be eligible for finan-
12 cial assistance under this section.

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

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

19 (2) implementing mitigation plans and main-
20 taining mitigation projects;

21 (3) developing, carrying out, and maintaining
22 projects and programs that provide new or expanded
23 public facilities and services to address needs and
24 problems associated with such effects, including fire-

1 fighting, police, water, waste treatment, medivac,
2 and medical services; and

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

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

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

15 (c) APPLICATION.—

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

21 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
22 community located in the North Slope Borough may
23 apply for assistance under this section either directly
24 to the Secretary or through the North Slope Bor-
25 ough.

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

6 (d) ESTABLISHMENT OF FUND.—

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

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

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

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

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

23 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
24 vide financial assistance under this section there is author-
25 ized to be appropriated to the Secretary from the Coastal

1 Plain Local Government Impact Aid Assistance Fund
2 \$5,000,000 for each fiscal year.

3 **SEC. 113. ANWR ALTERNATIVE ENERGY TRUST FUND.**

4 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
5 tablished in the Treasury of the United States a trust fund
6 to be known as the “ANWR Alternative Energy Trust
7 Fund”, consisting of such amounts as may be transferred
8 to the ANWR Alternative Energy Trust Fund as provided
9 in section 109.

10 (b) EXPENDITURES FROM ANWR ALTERNATIVE
11 ENERGY TRUST FUND.—

12 (1) IN GENERAL.—Amounts in the ANWR Al-
13 ternative Energy Trust Fund shall be available with-
14 out further appropriation to carry out specified pro-
15 visions of the Energy Policy Act of 2005 (Public
16 Law 109–58; in this section referred to as
17 “EPAAct2005”) and the Energy Independence and
18 Security Act of 2007 (Public Law 110–140; in this
19 section referred to as “EISAct2007”), as follows:

The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:

To carry out the provisions of:

EPAAct2005:	
Section 210	1.5 percent
Section 242	1.0 percent
Section 369	2.0 percent
Section 401	6.0 percent
Section 812	6.0 percent
Section 931	19.0 percent
Section 942	1.5 percent
Section 962	3.0 percent
Section 968	1.5 percent
Section 1704	6.0 percent
EISAct2007:	
Section 207	15.0 percent
Section 607	1.5 percent
Title VI, Subtitle B	3.0 percent
Title VI, Subtitle C	1.5 percent
Section 641	9.0 percent
Title VII, Subtitle A	15.0 percent
Section 1112	1.5 percent
Section 1304	6.0 percent.

1 (2) APPORTIONMENT OF EXCESS AMOUNT.—

2 Notwithstanding paragraph (1), any amounts allo-

3 cated under paragraph (1) that are in excess of the

4 amounts authorized in the applicable cited section or

5 subtitle of EPAAct2005 and EISAct2007 shall be re-

6 allocated to the remaining sections and subtitles

7 cited in paragraph (1), up to the amounts otherwise

8 authorized by law to carry out such sections and

9 subtitles, in proportion to the amounts authorized by

10 law to be appropriated for such other sections and

11 subtitles.

1 **TITLE II—OPENING OF OUTER**
2 **CONTINENTAL SHELF**

3 **SEC. 201. SHORT TITLE.**

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

6 **SEC. 202. POLICY.**

7 It is the policy of the United States that—

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

15 (2) adjacent States are required by the cir-
16 cumstances to commit significant resources in sup-
17 port of exploration, development, and production ac-
18 tivities for mineral resources on the outer Conti-
19 nental Shelf, and it is fair and proper for a portion
20 of the receipts from such activities to be shared with
21 Adjacent States and their local coastal governments;

22 (3) the existing laws governing the leasing and
23 production of the mineral resources of the outer
24 Continental Shelf have reduced the production of
25 mineral resources, have preempted Adjacent States

1 from being sufficiently involved in the decisions re-
2 garding the allowance of mineral resource develop-
3 ment, and have been harmful to the national inter-
4 est;

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

9 (5) it is not reasonably foreseeable that explo-
10 ration of a leased tract located more than 25 miles
11 seaward of the coastline, development and produc-
12 tion of a natural gas discovery located more than 25
13 miles seaward of the coastline, or development and
14 production of an oil discovery located more than 50
15 miles seaward of the coastline will adversely affect
16 resources near the coastline;

17 (6) transportation of oil from a leased tract
18 might reasonably be foreseen, under limited cir-
19 cumstances, to have the potential to adversely affect
20 resources near the coastline if the oil is within 50
21 miles of the coastline, but such potential to adversely
22 affect such resources is likely no greater, and prob-
23 ably less, than the potential impacts from tanker
24 transportation because tanker spills usually involve
25 large releases of oil over a brief period of time; and

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

9 **SEC. 203. 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 Puerto Rico and the other Territories of the
8 United States.

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

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

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

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

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

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

3 **SEC. 204. DETERMINATION OF ADJACENT ZONES AND**
4 **PLANNING AREAS.**

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

20 **SEC. 205. ADMINISTRATION OF LEASING.**

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

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

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

11 “(1) NATURAL GAS LEASE REGULATIONS.—Not later
12 than July 1, 2009, the Secretary shall publish a final regu-
13 lation that shall—

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

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

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

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

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

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

15 **SEC. 206. GRANT OF LEASES BY SECRETARY.**

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

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

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

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

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

9 “(B) The Secretary shall provide for the pay-
10 ment to coastal states, and their local coastal gov-
11 ernments, of 25 percent of Federal receipts from
12 projects authorized under this section located par-
13 tially or completely within the area extending sea-
14 ward of State submerged lands out to 4 marine
15 leagues from the coastline, and the payment to
16 coastal states of 25 percent of the receipts from
17 projects completely located in the area more than 4
18 marine leagues from the coastline. Payments shall
19 be based on a formula established by the Secretary
20 by rulemaking no later than 180 days after the date
21 of the enactment of the Deep Ocean Energy Re-
22 sources Act of 2008 that provides for equitable dis-
23 tribution, based on proximity to the project, among
24 coastal states that have coastline that is located

1 within 200 miles of the geographic center of the
2 project.”;

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

4 “(q) NATURAL GAS LEASES.—

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

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

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

24 “(4) DEFINITION OF NATURAL GAS.—For pur-
25 poses of a natural gas lease, natural gas means nat-

1 ural gas and all substances produced in association
2 with gas, including, but not limited to, hydrocarbon
3 liquids (other than crude oil) that are obtained by
4 the condensation of hydrocarbon vapors and sepa-
5 rate out in liquid form from the produced gas
6 stream.

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

17 “(s) ROYALTY SUSPENSION PROVISIONS.—The Sec-
18 retary shall agree to a request by any lessee to amend
19 any lease issued for Central and Western Gulf of Mexico
20 tracts during the period of January 1, 1998, through De-
21 cember 31, 1999, to incorporate price thresholds applica-
22 ble to royalty suspension provisions, or amend existing
23 price thresholds, in the amount of \$40.50 per barrel (2006
24 dollars) for oil and for natural gas of \$6.75 per million
25 Btu (2006 dollars). Any amended lease shall impose the

1 new or revised price thresholds effective October 1, 2008.
2 Existing lease provisions shall prevail through September
3 30, 2008. After the date of the enactment of the Deep
4 Ocean Energy Resources Act of 2008, price thresholds
5 shall apply to any royalty suspension volumes granted by
6 the Secretary. Unless otherwise set by Secretary by regu-
7 lation or for a particular lease sale, the price thresholds
8 shall be \$40.50 for oil (2006 dollars) and \$6.75 for nat-
9 ural gas (2006 dollars).

10 “(t) CONSERVATION OF RESOURCES FEES.—

11 “(1) Not later than one year after the date of
12 the enactment of the Deep Ocean Energy Resources
13 Act of 2008, the Secretary by regulation shall estab-
14 lish a conservation of resources fee for producing
15 leases that will apply to new and existing leases
16 which shall be set at \$9 per barrel for oil and \$1.25
17 per million Btu for gas. This fee shall only apply to
18 leases in production located in more than 200 me-
19 ters of water for which royalties are not being paid
20 when prices exceed \$40.50 per barrel for oil and
21 \$6.75 per million Btu for natural gas in 2006, dol-
22 lars. This fee shall apply to production from and
23 after October 1, 2008, and shall be treated as offset-
24 ting receipts.

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

9 (5) by striking subsection (a)(3)(A) and redesi-
10 gnating the subsequent subparagraphs as subpara-
11 graphs (A) and (B), respectively;

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

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

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

20 (B) by striking the last sentence of para-
21 graph (3); and

22 (C) by striking “(3)”.

23 **SEC. 207. RESERVATION OF LANDS AND RIGHTS.**

24 Section 12 of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1341) is amended—

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

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

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

22 “(1) PROHIBITION AGAINST LEASING.—

23 “(A) UNAVAILABLE FOR LEASING WITH-
24 OUT STATE REQUEST.—Except as otherwise
25 provided in this subsection, from and after en-

1 actment of the Deep Ocean Energy Resources
2 Act of 2008, the Secretary shall not offer for
3 leasing for oil and gas, or natural gas, any area
4 within 50 miles of the coastline that was with-
5 drawn from disposition by leasing in the Atlan-
6 tic OCS Region or the Pacific OCS Region, or
7 the Gulf of Mexico OCS Region Eastern Plan-
8 ning Area, as depicted on the maps referred to
9 in this subparagraph, under the ‘Memorandum
10 on Withdrawal of Certain Areas of the United
11 States Outer Continental Shelf from Leasing
12 Disposition’, 34 Weekly Comp. Pres. Doc.
13 1111, dated June 12, 1998, or any area within
14 50 miles of the coastline not withdrawn under
15 that Memorandum that is included within the
16 Gulf of Mexico OCS Region Eastern Planning
17 Area as indicated on the map entitled ‘Gulf of
18 Mexico OCS Region State Adjacent Zones and
19 OCS Planning Areas’ or the Florida Straits
20 Planning Area as indicated on the map entitled
21 ‘Atlantic OCS Region State Adjacent Zones and
22 OCS Planning Areas’, both of which are dated
23 September 2005 and on file in the Office of the
24 Director, Minerals Management Service.

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

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

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

1 “(3) PETITION FOR LEASING.—

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

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

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

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

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

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

7 “(iv) limiting some tracts to being
8 produced from shore or from platforms lo-
9 cated on other tracts; or

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

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

1 anticipated environmental effects of leasing in the
2 area included within the scope of the petition.

3 “(D) FAILURE TO ACT.—If the Secretary
4 fails to approve or deny a petition in accordance
5 with subparagraph (C) the petition shall be con-
6 sidered to be approved 90 days after receipt of
7 the petition.

8 “(E) AMENDMENT OF THE 5-YEAR LEAS-
9 ING PROGRAM.—Notwithstanding section 18,
10 within 180 days of the approval of a petition
11 under subparagraph (C) or (D), after the expi-
12 ration of the time limits in paragraph (1)(B),
13 and within 180 days after the enactment of the
14 Deep Ocean Energy Resources Act of 2008 for
15 the areas made available for leasing under
16 paragraph (2), the Secretary shall amend the
17 current 5-Year Outer Continental Shelf Oil and
18 Gas Leasing Program to include a lease sale or
19 sales for at least 75 percent of the associated
20 areas, unless there are, from the date of ap-
21 proval, expiration of such time limits, or enact-
22 ment, as applicable, fewer than 12 months re-
23 maining in the current 5-Year Leasing Program
24 in which case the Secretary shall include the as-
25 sociated areas within lease sales under the next

1 5-Year Leasing Program. For purposes of
2 amending the 5-Year Program in accordance
3 with this section, further consultations with
4 States shall not be required. For purposes of
5 this section, an environmental assessment per-
6 formed under the provisions of the National
7 Environmental Policy Act of 1969 to assess the
8 effects of approving the petition shall be suffi-
9 cient to amend the 5-Year Leasing Program.

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

1 leasing of any part of the Alabama Adjacent Zone that
2 is more than 50 miles, but less than 100 miles, from the
3 coastline that is a part of the Gulf of Mexico OCS Region
4 Eastern Planning Area, as indicated on the map entitled
5 ‘Gulf of Mexico OCS Region State Adjacent Zones and
6 OCS Planning Areas’ which is dated September 2005 and
7 on file in the Office of the Director, Minerals Management
8 Service, may be made by either Alabama or Florida.

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

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

1 “(1) Notwithstanding any other provision of
2 law, from and after the enactment of the Deep
3 Ocean Energy Resources Act of 2008, no area of the
4 outer Continental Shelf located in the Gulf of Mexico
5 east of the military mission line may be offered for
6 leasing for oil and gas or natural gas prior to Janu-
7 ary 1, 2022.

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

13 **SEC. 208. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

6 **SEC. 209. COORDINATION WITH ADJACENT STATES.**

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

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

12 (2) by adding the following:

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

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

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

8 **SEC. 210. ENVIRONMENTAL STUDIES.**

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

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

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

13 “(2) For all programs, lease sales, leases, and actions
14 under this Act, the following shall apply regarding the ap-
15 plication of the National Environmental Policy Act of
16 1969:

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

1 “(B) The environmental impact statement de-
2 veloped in support of each 5-year oil and gas leasing
3 program provides the environmental analysis for all
4 lease sales to be conducted under the program and
5 such sales shall not be subject to further environ-
6 mental analysis.

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

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

1 **SEC. 211. FEDERAL ENERGY NATURAL RESOURCES EN-**
2 **HANCEMENT ACT OF 2008.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (d) DEFINITIONS.—In this section:

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

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

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

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

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

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

7 (3) PAYMENT TO STATES.—

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

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

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

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

1 (h) REPORTS TO CONGRESS.—

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

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

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

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

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

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

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

7 **SEC. 212. TERMINATION OF EFFECT OF LAWS PROHIBITING**
8 **THE SPENDING OF APPROPRIATED FUNDS**
9 **FOR CERTAIN PURPOSES.**

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

15 **SEC. 213. OUTER CONTINENTAL SHELF INCOMPATIBLE**
16 **USE.**

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

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

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

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

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

13 **SEC. 214. REPURCHASE OF CERTAIN LEASES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **SEC. 215. OFFSITE ENVIRONMENTAL MITIGATION.**

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

20 **SEC. 216. MINERALS MANAGEMENT SERVICE.**

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

1 **SEC. 217. AUTHORITY TO USE DECOMMISSIONED OFF-**
2 **SHORE OIL AND GAS PLATFORMS AND**
3 **OTHER FACILITIES FOR ARTIFICIAL REEF,**
4 **SCIENTIFIC RESEARCH, OR OTHER USES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SEC. 218. REPEAL OF REQUIREMENT TO CONDUCT COM-**
13 **PREHENSIVE INVENTORY OF OCS OIL AND**
14 **NATURAL GAS RESOURCES.**

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

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

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

21 **SEC. 219. 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. 220. COASTAL IMPACT ASSISTANCE.**

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

19 **SEC. 221. OIL SHALE AND TAR SANDS AMENDMENTS.**

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

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

4 “(e) REVENUES.—

5 “(1) IN GENERAL.—Notwithstanding the provi-
6 sions of section 35, all revenues received from and
7 under an oil shale or tar sands lease shall be dis-
8 posed in the Treasury as miscellaneous receipts.

9 “(2) ROYALTY RATES FOR COMMERCIAL
10 LEASES.—

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

17 “(B) REDUCTION.—The Secretary shall re-
18 duce any royalty otherwise required to be paid
19 under subparagraph (A) under any oil shale or
20 tar sands lease on a sliding scale based upon
21 market price, with a 10 percent reduction if the
22 average futures price of NYMEX Light Sweet
23 Crude, or a similar index, drops, for the pre-
24 vious quarter year, below \$50 (in January 1,
25 2006, dollars), and an 80 percent reduction if

1 the average price drops below \$30 (in January
2 1, 2006, dollars) for the quarter previous to the
3 one in which the production is sold.”.

4 **TITLE III—NUCLEAR ENERGY**

5 **SEC. 301. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

6 (a) DEFINITION OF PROJECT COST.—Section
7 1701(1) of the Energy Policy Act of 2005 (42 U.S.C.
8 16511(1)) is amended by inserting a new paragraph (4)
9 and renumbering the paragraphs accordingly:

10 “(4) PROJECT COST.—The term ‘project cost’
11 means all costs associated with the development,
12 planning, design, engineering, permitting and licens-
13 ing, construction, commissioning, start-up, shake-
14 down and financing of the facility, including but not
15 limited to reasonable escalation and contingencies,
16 the cost of and fees for the guarantee, reasonably re-
17 quired reserve funds, initial working capital and in-
18 terest during construction.”.

19 (b) TERMS AND CONDITIONS.—Section 1702 of the
20 Energy Policy Act of 2005 (42 U.S.C. 16512) is amended
21 by striking subsections (b) and (c) and inserting the fol-
22 lowing:

23 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-
24 TION.—

1 “(1) IN GENERAL.—No guarantee shall be
2 made unless—

3 “(A) an appropriation for the cost has
4 been made; or

5 “(B) the Secretary has received from the
6 borrower a payment in full for the cost of the
7 obligation and deposited the payment into the
8 Treasury; or

9 “(C) a combination of (A) and (B) has
10 been made, that when combined is sufficient to
11 cover the cost of the obligation.

12 “(2) RELATION TO OTHER LAWS.—Section 504
13 (b) of the Federal Credit Reform Act of 1990 (2
14 U.S.C. 661c (b)) shall not apply to a loan guarantee
15 made in accordance with paragraph (1)(B).”.

16 “(c) AMOUNT.—Section 1702 of the Energy Policy Act
17 of 2005 (42 U.S.C. 16512) is amended by striking sub-
18 section (c) and inserting the following:

19 “(c) AMOUNT.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 the Secretary shall guarantee 100 percent of the ob-
22 ligation for a facility that is the subject of the guar-
23 antee, or a lesser amount if requested by the bor-
24 rower.

1 “(2) LIMITATION.—The total amount of loans
2 guaranteed for a facility by the Secretary shall not
3 exceed 80 percent of the total cost of the facility, as
4 estimated at the time at which the guarantee is
5 issued.”.

6 (d) FEES.—Section 1702(h) of the Energy Policy Act
7 of 2005 (42 U.S.C. 16512(h)) is amended by striking
8 paragraph (2) and inserting the following:

9 “(2) AVAILABILITY.—Fees collected under this
10 subsection shall—

11 “(A) be deposited by the Secretary into a
12 special fund in the Treasury to be known as the
13 ‘Incentives For Innovative Technologies Fund’;
14 and

15 “(B) remain available to the Secretary for
16 expenditure, without further appropriation or
17 fiscal year limitation, for administrative ex-
18 penses incurred in carrying out this title.”.

19 **SEC. 302. STANDBY SUPPORT FOR CERTAIN NUCLEAR**
20 **PLANT DELAYS.**

21 (a) DEFINITIONS.—Section 638(a) of the Energy
22 Policy Act of 2005 (42 U.S.C. 16014(a)) is amended as
23 follows:

24 (1) By inserting the following:

1 “(4) FULL POWER OPERATION.—The term ‘full
2 power operation’ means whichever occurs first of—

3 “(A) the ‘commercial operation date’ or
4 the equivalent under the terms of the financing
5 documents for such facility, or

6 “(B) operation of such facility at an aver-
7 age of 50 percent or greater of nameplate ca-
8 pacity over any consecutive 30-day period.

9 “(5) INCREASED PROJECT COSTS.—The term
10 ‘increased project costs’ means the increased cost of
11 constructing, commissioning, testing, operating or
12 maintaining a reactor prior to full-power operation
13 incurred as a result of a delay covered by the con-
14 tract including but not limited to costs of demobili-
15 zation and remobilization, increased costs of equip-
16 ment, materials and labor due to delay (including
17 idle time), increased general and administrative
18 costs, and escalation costs for completing construc-
19 tion.

20 “(6) LITIGATION.—The term ‘litigation’ means
21 adjudication in Federal, State, local or tribal courts
22 and administrative proceedings or hearings at or be-
23 fore Federal, State, local or tribal agencies or ad-
24 ministrative bodies.”.

1 (2) By redesignating paragraph (4) as para-
2 graph (7).

3 (b) CONTRACT AUTHORITY.—Section 638(b) of the
4 Energy Policy Act of 2005 (42 U.S.C. §16014(b)) is
5 amended by striking paragraph (1) and inserting the fol-
6 lowing:

7 “(1) IN GENERAL.—The Secretary may enter
8 into contracts under this section with sponsors of an
9 advanced nuclear facility that cover at any one time
10 outstanding a total of not more than 6 reactors,
11 with the 6 reactors consisting of not more than 3
12 different reactor designs, in accordance with para-
13 graph (2). In the event that any contract entered
14 into under this section terminates or expires without
15 a claim being paid by the Secretary thereunder, then
16 the Secretary may enter into a new contract under
17 this section in replacement or substitution for such
18 contract.”.

19 (c) COVERED COSTS.—Section 638(d) of the Energy
20 Policy Act of 2005 (42. U.S.C. §16014(d)) is amended
21 by striking paragraphs (2) and (3) and inserting the fol-
22 lowing:

23 “(2) COVERAGE.—In the case of reactors that
24 receive combined licenses and on which construction
25 is commenced, the Secretary shall pay—

1 “(A) 100 percent of the covered costs of
2 delay that occur after the initial 30-day period
3 of covered delay; but

4 “(B) not more than \$500,000,000 per con-
5 tract.

6 “(3) COVERED DEBT OBLIGATIONS.—Debt obli-
7 gations covered under subparagraph (A) of para-
8 graph (5) shall include but not be limited to debt ob-
9 ligations incurred to pay increased project costs.”.

10 (d) DISPUTE RESOLUTION.—Section 638 of the En-
11 ergy Policy Act of 2005 (42 U.S.C. 16014) is amended
12 as follows:

13 (1) by inserting the following:

14 “(f) DISPUTE RESOLUTION.—Any controversy or
15 claim arising out of or relating to any contract entered
16 into under this section shall be determined by arbitration
17 in Washington, DC according to the then prevailing Com-
18 mercial Arbitration Rules of the American Arbitration As-
19 sociation. A decision by the arbitrator(s) shall be final and
20 binding, and any court having jurisdiction may enter judg-
21 ment on it.”; and

22 (2) by designating subsections (f), (g), and (h)
23 as subsections (g), (h), and (i) respectively.

1 **SEC. 303. AUTHORIZATION FOR NUCLEAR POWER 2010 PRO-**
2 **GRAM.**

3 Section 952(c) of the Energy Policy Act of 2005 (42
4 U.S.C. 16014) is amended by striking subsections (1) and
5 (2) and substituting the following:

6 (1) IN GENERAL.—The Secretary shall carry
7 out a Nuclear Power 2010 Program to position the
8 nation to start construction of new nuclear power
9 plants by 2010 or as close to 2010 as achievable.

10 (2) SCOPE OF PROGRAM.—The Nuclear Power
11 2010 Program shall be cost-shared with the private
12 sector and shall support the following objectives:

13 (A) Demonstrating the licensing process
14 for new nuclear power plants, including the Nu-
15 clear Regulatory Commission process for ob-
16 taining early site permits (EPS), combined con-
17 struction/operating licenses (cols), and design
18 certifications.

19 (B) Conducting first-of-a-kind design and
20 engineering work on at least two advanced nu-
21 clear reactor designs sufficient to bring those
22 designs to a state of design completion suffi-
23 cient to allow development of firm cost esti-
24 mates.

25 (3) AUTHORIZATION OF APPROPRIATIONS.—
26 There are authorized to be appropriated to the Sec-

1 retary to carry out the Nuclear Power 2010 Pro-
2 gram—

3 (A) \$182,800,000 for fiscal year 2008;

4 (B) \$159,600,000 for fiscal year 2009;

5 (C) \$135,600,000 for fiscal year 2010;

6 (D) \$46,900,000 for fiscal year 2011; and

7 (E) \$2,200,000 for fiscal year 2012.

8 **SEC. 304. DOMESTIC MANUFACTURING BASE FOR NUCLEAR**
9 **COMPONENTS AND EQUIPMENT.**

10 (a) ESTABLISHMENT OF INTERAGENCY WORKING
11 GROUP.—

12 (1) PURPOSES.—

13 (A) to increase the competitiveness of the
14 United States nuclear energy products and
15 services industries;

16 (B) to identify the stimulus or incentives
17 necessary to cause United States manufacturers
18 of nuclear energy products to expand manufac-
19 turing capacity;

20 (C) to facilitate the export of United
21 States nuclear energy products and services;

22 (D) to reduce the trade deficit of the
23 United States through the export of United
24 States nuclear energy products and services;

1 (E) to retain and create nuclear energy
2 manufacturing and related service jobs in the
3 United States;

4 (F) to integrate the objectives in para-
5 graphs (1) through (4) in a manner consistent
6 with the interests of the United States, into the
7 foreign policy of the United States; and

8 (G) to authorize funds for increasing
9 United States capacity to manufacture nuclear
10 energy products and supply nuclear energy
11 services.

12 (2) ESTABLISHMENT.—

13 (A) There shall be established an inter-
14 agency working group that, in consultation with
15 representative industry organizations and man-
16 ufacturers of nuclear energy products, shall
17 make recommendations to coordinate the ac-
18 tions and programs of the Federal Government
19 in order to promote increasing domestic manu-
20 facturing capacity and export of domestic nu-
21 clear energy products and services.

22 (B) The Interagency Working Group shall
23 be composed of—

24 (i) The Secretary of Energy, or the
25 Secretary's designee, shall chair the inter-

1 agency working group. The Secretary of
2 Energy shall provide staff for carrying out
3 the functions of the interagency working
4 group established under this section.

5 (ii) representatives of—

6 (I) the Department of Energy;

7 (II) the Department of Com-
8 merce;

9 (III) the Department of Defense;

10 (IV) the Department of Treas-
11 ury;

12 (V) the Department of State;

13 (VI) the Environmental Protec-
14 tion Agency;

15 (VII) the United States Agency
16 for International Development;

17 (VIII) the Export-Import Bank
18 of the United States;

19 (IX) the Trade and Development
20 Agency;

21 (X) the Small Business Adminis-
22 tration;

23 (XI) the Office of the U.S. Trade
24 Representative; and

1 (XII) other Federal agencies, as
2 determined by the President.

3 (iii) The heads of appropriate agencies
4 shall detail such personnel and furnish
5 such services to the interagency group,
6 with or without reimbursement, as may be
7 necessary to carry out the group's func-
8 tions.

9 (3) DUTIES OF THE INTERAGENCY WORKING
10 GROUP.—

11 (A) Within six months of enactment, the
12 interagency working group established under
13 section (1)(A) shall identify the actions nec-
14 essary to promote the safe development and ap-
15 plication in foreign countries of nuclear energy
16 products and services in order to—

17 (i) increase electricity generation from
18 nuclear energy sources through develop-
19 ment of new generation facilities;

20 (ii) improve the efficiency, safety and/
21 or reliability of existing nuclear generating
22 facilities through modifications; and

23 (iii) enhance the safe treatment, han-
24 dling, storage and disposal of used nuclear
25 fuel.

1 (B) Within 6 months of enactment, the
2 interagency working group shall identify mecha-
3 nisms (including, but not limited to, tax stim-
4 ulus for investment, loans and loan guarantees,
5 and grants) necessary for United States compa-
6 nies to increase their capacity to produce or
7 provide nuclear energy products and services,
8 and to increase their exports of nuclear energy
9 products and services. The interagency working
10 group shall identify administrative or legislative
11 initiatives necessary to—

12 (i) encourage United States compa-
13 nies to increase their manufacturing capac-
14 ity for nuclear energy products;

15 (ii) provide technical and financial as-
16 sistance and support to small and mid-
17 sized businesses to establish quality assur-
18 ance programs in accordance with domestic
19 and international nuclear quality assurance
20 code requirements;

21 (iii) encourage, through financial in-
22 centives, private sector capital investment
23 to expand manufacturing capacity; and

24 (iv) provide technical assistance and
25 financial incentives to small and mid-sized

1 businesses to develop the work-force nec-
2 essary to increase manufacturing capacity
3 and meet domestic and international nu-
4 clear quality assurance code requirements.

5 (C) Within 9 months of enactment, the
6 interagency working group shall provide a re-
7 port to Congress on its findings under Section
8 (2)(A) and (B), including recommendations for
9 new legislative authority where necessary.

10 (4) TRADE ASSISTANCE.—The interagency
11 working group shall encourage the member agencies
12 of the interagency working group to—

13 (A) provide technical training and edu-
14 cation for international development personnel
15 and local users in their own country;

16 (B) provide financial and technical assist-
17 ance to nonprofit institutions that support the
18 marketing and export efforts of domestic com-
19 panies that provide nuclear energy products and
20 services;

21 (C) develop nuclear energy projects in for-
22 eign countries;

23 (D) provide technical assistance and train-
24 ing materials to loan officers of the World
25 Bank, international lending institutions, com-

1 mercial and energy attaches at embassies of the
2 United States and other appropriate personnel
3 in order to provide information about nuclear
4 energy products and services to foreign govern-
5 ments or other potential project sponsors;

6 (E) support, through financial incentives,
7 private sector efforts to commercialize and ex-
8 port nuclear energy products and services in ac-
9 cordance with the subsidy codes of the World
10 Trade Organization; and

11 (F) augment budgets for trade and devel-
12 opment programs in order to support
13 prefeasibility or feasibility studies for projects
14 that utilize nuclear energy products and serv-
15 ices.

16 (5) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated to the Sec-
18 retary for purposes of carrying out this title
19 \$20,000,000 for fiscal years 2008 and 2009.

20 (b) CREDIT FOR QUALIFYING NUCLEAR POWER
21 MANUFACTURING.—Subpart E of part IV of subchapter
22 A of chapter 1 of the Internal Revenue Code is amended
23 by inserting after section 48B the following new section:

1 **“SEC. 48C. QUALIFYING NUCLEAR POWER MANUFAC-**
2 **TURING CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
4 qualifying nuclear power manufacturing credit for any
5 taxable year is an amount equal to 20 percent of the quali-
6 fied investment for such taxable year.

7 “(b) QUALIFIED INVESTMENT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the qualified investment for any taxable year is
10 the basis of eligible property placed in service by the
11 taxpayer during such taxable year—

12 “(A) which is either part of a qualifying
13 nuclear power manufacturing project or is
14 qualifying nuclear power manufacturing equip-
15 ment,

16 “(B)(i) the construction, reconstruction, or
17 erection of which is completed by the taxpayer,
18 or

19 “(ii) which is acquired by the taxpayer if
20 the original use of such property commences
21 with the taxpayer,

22 “(C) with respect to which depreciation (or
23 amortization in lieu of depreciation) is allow-
24 able, and

25 “(D) which is placed in service on or be-
26 fore December 31, 2015.

1 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
2 PROPERTY.—Rules similar to section 48(a)(4) shall
3 apply for purposes of this section.

4 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
5 TURES RULES MADE APPLICABLE.—Rules similar to
6 the rules of subsections (c)(4) and (d) of section 46
7 (as in effect on the day before the enactment of the
8 Revenue Reconciliation Act of 1990) shall apply for
9 purposes of this section.

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

11 “(1) QUALIFYING NUCLEAR POWER MANUFAC-
12 TURING PROJECT.—The term ‘qualifying nuclear
13 power manufacturing project’ means any project
14 which is designed primarily to enable the taxpayer to
15 produce or test equipment necessary for the con-
16 struction or operation of a nuclear power plant.

17 “(2) QUALIFYING NUCLEAR POWER MANUFAC-
18 TURING EQUIPMENT.—The term ‘qualifying nuclear
19 power manufacturing equipment’ means machine
20 tools and other similar equipment, including com-
21 puters and other peripheral equipment, acquired or
22 constructed primarily to enable the taxpayer to
23 produce or test equipment necessary for the con-
24 struction or operation of a nuclear power plant.

1 “(3) PROJECT.—The term ‘project’ includes
2 any building constructed to house qualifying nuclear
3 power manufacturing equipment.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) ADDITIONAL INVESTMENT CREDIT.—Sec-
6 tion 46 is amended by—

7 (A) striking “and” at the end of paragraph
8 (3);

9 (B) striking the period at the end of para-
10 graph (4) and inserting “, and”; and

11 (C) inserting after paragraph (4) the fol-
12 lowing new paragraph:

13 “(5) the qualifying nuclear power manufac-
14 turing credit.”.

15 (2) APPLICATION OF SECTION 49.—Subpara-
16 graph (C) of section 49(a)(1) is amended by—

17 (A) striking “and” at the end of clause
18 (iii);

19 (B) striking the period at the end of clause
20 (iv) and inserting “, and”; and

21 (C) inserting after clause (iv) the following
22 new clause:

23 “(v) the basis of any property which
24 is part of a qualifying nuclear power equip-

1 ment manufacturing project under section
2 48C.”.

3 (3) TABLE OF SECTIONS.—The table of sections
4 preceding section 46 is amended by inserting after
5 the line for section 48B the following new line:

“Sec. 48C. Qualifying nuclear power manufacturing credit.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property—

8 (1) the construction, reconstruction, or erection
9 of which of began after the date of enactment; or

10 (2) which was acquired by the taxpayer on or
11 after the date of enactment and not pursuant to a
12 binding contract which was in effect on the day prior
13 to the date of enactment.

14 **SEC. 305. NUCLEAR ENERGY WORKFORCE.**

15 Section 1101 of the Energy Policy Act of 2005 (42
16 U.S.C. 16411) is amended (1) by redesignating subsection
17 (d) as subsection (e); and by inserting after subsection (c)
18 the following:

19 “(d) WORKFORCE TRAINING.—

20 “(1) IN GENERAL.—The Secretary of Labor, in
21 cooperation with the Secretary of Energy, shall pro-
22 mulgate regulations to implement a program to pro-
23 vide workforce training to meet the high demand for
24 workers skilled in the nuclear utility and nuclear en-
25 ergy products and services industries.

1 “(2) CONSULTATION.—In carrying out this sub-
2 section, the Secretary of Labor shall consult with
3 representatives of the nuclear utility and nuclear en-
4 ergy products and services industries, and organized
5 labor, concerning skills that are needed in those in-
6 dustries.

7 “(3) AUTHORIZATION OF APPROPRIATIONS.—
8 There are authorized to be appropriated to the Sec-
9 retary of Labor, working in coordination with the
10 Secretaries of Education and Energy \$20,000,000
11 for each of fiscal years 2008 through 2012 for use
12 in implementing a program to provide workforce
13 training to meet the high demand for workers skilled
14 in the nuclear utility and nuclear energy products
15 and services industries.”.

16 **SEC. 306. LICENSING OF NEW NUCLEAR POWER PLANTS.**

17 Sections 189 and 185 of the Atomic Energy Act are
18 amended thus:

19 (1) HEARINGS AND JUDICIAL REVIEW.—Section
20 189a.(1)(A) is modified thus: “In any proceeding
21 under this Act, for the granting, suspending, revok-
22 ing, or amending of any license or construction per-
23 mit, or application to transfer control, and in any
24 proceeding for the issuance or modification of rules
25 and regulations dealing with the activities of licens-

1 ees, and in any proceeding for the payment of com-
2 pensation, an award, or royalties under section 153,
3 157, 186c., or 188, the Commission shall grant a
4 hearing upon the request of any person whose inter-
5 est may be affected by the proceeding, and shall
6 admit any such person as a party to such pro-
7 ceeding. The Commission may, in the absence of a
8 request therefor by any person whose interest may
9 be affected, issue a construction permit, an oper-
10 ating license or an amendment to a construction per-
11 mit or an amendment to an operating license with-
12 out a hearing, but upon thirty days' notice and pub-
13 lication once in the Federal Register of its intent to
14 do so. The Commission may dispense with such thir-
15 ty days' notice and publication with respect to any
16 application for an amendment to a construction per-
17 mit or an amendment to an operating license upon
18 a determination by the Commission that the amend-
19 ment involves no significant hazards consideration.”.

20 (2) CONSTRUCTION PERMITS AND OPERATING
21 LICENSES.—Section 185b is modified thus: “After
22 any public hearing held under section 189a.(1)(A),
23 the Commission shall issue to the applicant a com-
24 bined construction and operating license if the appli-
25 cation contains sufficient information to support the

1 issuance of a combined license and the Commission
2 determines that there is reasonable assurance that
3 the facility will be constructed and will operate in
4 conformity with the license, the provisions of this
5 Act, and the Commission's rules and regulations.
6 The Commission shall identify within the combined
7 license the inspections, tests, and analyses, including
8 those applicable to emergency planning, that the li-
9 censee shall perform, and the acceptance criteria
10 that, if met, are necessary and sufficient to provide
11 reasonable assurance that the facility has been con-
12 structed and will be operated in conformity with the
13 license, the provisions of this Act, and the Commis-
14 sion's rules and regulations. Following issuance of
15 the combined license, the Commission shall ensure
16 that the prescribed inspections, tests, and analyses
17 are performed and, prior to operation of the facility,
18 shall find that the prescribed acceptance criteria are
19 met. Any finding made under this subsection shall
20 not require a hearing except as provided in section
21 189a.(1)(B).”.

22 **SEC. 307. INVESTMENT TAX CREDIT FOR INVESTMENTS IN**
23 **NUCLEAR POWER FACILITIES.**

24 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-
25 TIES.—Section 46 is amended by—

1 (1) striking “and” at the end of paragraph (3);

2 (2) striking the period at the end of paragraph

3 (4) and inserting “, and”; and

4 (3) inserting after paragraph (4) the following
5 new paragraph:

6 “(5) the nuclear power facility construction
7 credit.”.

8 (b) NUCLEAR POWER FACILITY CONSTRUCTION
9 CREDIT.—Subpart E of part IV of subchapter A of chap-
10 ter 1 is amended by inserting after section 48B the fol-
11 lowing new section:

12 **“SEC. 48C. NUCLEAR POWER FACILITY CONSTRUCTION**
13 **CREDIT.**

14 “(a) IN GENERAL.—For purposes of section 46, the
15 nuclear power facility construction credit for any taxable
16 year is 10 percent of the qualified nuclear power facility
17 expenditures with respect to a qualified nuclear power fa-
18 cility.

19 “(b) WHEN EXPENDITURES TAKEN INTO AC-
20 COUNT.—

21 “(1) IN GENERAL.—Qualified nuclear power fa-
22 cility expenditures shall be taken into account for
23 the taxable year in which the qualified nuclear power
24 facility is placed in service.

1 “(2) COORDINATION WITH SUBSECTION (c).—

2 The amount which would (but for this paragraph) be
3 taken into account under paragraph (1) with respect
4 to any qualified nuclear power facility shall be re-
5 duced (but not below zero) by any amount of quali-
6 fied nuclear power facility expenditures taken into
7 account under subsection (c) by the taxpayer or a
8 predecessor of the taxpayer (or, in the case of a sale
9 and leaseback described in section 50(a)(2)(C), by
10 the lessee), to the extent any amount so taken into
11 account has not been required to be recaptured
12 under section 50(a).

13 “(c) PROGRESS EXPENDITURES.—

14 “(1) IN GENERAL.—A taxpayer may elect to
15 take into account qualified nuclear power facility ex-
16 penditures.

17 “(A) SELF-CONSTRUCTED PROPERTY.—In
18 the case of a qualified nuclear power facility
19 which is a self-constructed facility, in the tax-
20 able year for which such expenditures are prop-
21 erly chargeable to capital account with respect
22 to such facility.

23 “(B) ACQUIRED FACILITY.—In the case of
24 a qualified nuclear facility which is not self-con-

1 structured property, in the taxable year in which
2 such expenditures are paid.

3 “(2) SPECIAL RULES FOR APPLYING PARA-
4 GRAPH (1).—For purposes of paragraph (1):

5 “(A) COMPONENT PARTS, ETC.—Property
6 which is not self-constructed property and
7 which is to be a component part of, or is other-
8 wise to be included in, any facility to which this
9 subsection applies shall be taken into account in
10 accordance with paragraph (1)(B).

11 “(B) CERTAIN BORROWING DIS-
12 REGARDED.—Any amount borrowed directly or
13 indirectly by the taxpayer on a nonrecourse
14 basis from the person constructing the facility
15 for the taxpayer shall not be treated as an
16 amount expended for such facility.

17 “(C) LIMITATION FOR FACILITIES OR COM-
18 PONENTS WHICH ARE NOT SELF-CON-
19 STRUCTED.—

20 “(i) IN GENERAL.—In the case of a
21 facility or a component of a facility which
22 is not self-constructed, the amount taken
23 into account under paragraph (1)(B) for
24 any taxable year shall not exceed the
25 amount which represents the portion of the

1 overall cost to the taxpayer of the facility
2 or component of a facility which is prop-
3 erly attributable to the portion of the facil-
4 ity or component which is completed dur-
5 ing such taxable year.

6 “(ii) CARRY-OVER OF CERTAIN
7 AMOUNTS.—In the case of a facility or
8 component of a facility which is not self-
9 constructed, if for the taxable year—

10 “(I) the amount which (but for
11 clause (i)) would have been taken into
12 account under paragraph (1)(B) ex-
13 ceeds the limitation of clause (i), then
14 the amount of such excess shall be
15 taken into account under paragraph
16 (1)(B) for the succeeding taxable
17 year; or

18 “(II) the limitation of clause (i)
19 exceeds the amount taken into ac-
20 count under paragraph (1)(B), then
21 the amount of such excess shall in-
22 crease the limitation of clause (i) for
23 the succeeding taxable year.

24 “(D) DETERMINATION OF PERCENTAGE OF
25 COMPLETION.—The determination under sub-

1 paragraph (C)(i) of the portion of the overall
2 cost to the taxpayer of the construction which
3 is properly attributable to construction com-
4 pleted during any taxable year shall be made on
5 the basis of engineering or architectural esti-
6 mates or on the basis of cost accounting
7 records. Unless the taxpayer establishes other-
8 wise by clear and convincing evidence, the con-
9 struction shall be deemed to be completed not
10 more rapidly than ratably over the normal con-
11 struction period.

12 “(E) NO PROGRESS EXPENDITURES FOR
13 CERTAIN PRIOR PERIODS.—No qualified nuclear
14 facility expenditures shall be taken into account
15 under this subsection for any period before the
16 first day of the first taxable year to which an
17 election under this subsection applies.

18 “(F) NO PROGRESS EXPENDITURES FOR
19 PROPERTY FOR YEAR IT IS PLACED IN SERVICE,
20 ETC.—In the case of any qualified nuclear facil-
21 ity, no qualified nuclear facility expenditures
22 shall be taken into account under this sub-
23 section for the earlier of—

24 “(i) the taxable year in which the fa-
25 cility is placed in service; or

1 “(ii) the first taxable year for which
2 recapture is required under section
3 50(a)(2) with respect to such facility, or
4 for any taxable year thereafter.

5 “(3) SELF-CONSTRUCTED.—For purposes of
6 this subsection:

7 “(A) The term ‘self-constructed facility’
8 means any facility if it is reasonable to believe
9 that more than half of the qualified nuclear fa-
10 cility expenditures for such facility will be made
11 directly by the tax-payer.

12 “(B) A component of a facility shall be
13 treated as not self-constructed if the cost of the
14 component is at least 5 percent of the expected
15 cost of the facility and the component is ac-
16 quired by the taxpayer.

17 “(4) ELECTION.—An election shall be made
18 under this section for a qualified nuclear power facil-
19 ity by claiming the nuclear power facility construc-
20 tion credit for expenditures described in paragraph
21 (1) on a tax return filed by the due date for such
22 return (taking into account extensions). Such an
23 election shall apply to the taxable year for which
24 made and all subsequent taxable years. Such an

1 election, once made, may be revoked only with the
2 consent of the Secretary.

3 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this section:

5 “(1) QUALIFIED NUCLEAR POWER FACILITY.—
6 The term ‘qualified nuclear power facility’ means an
7 advanced nuclear power facility, as defined in section
8 45J, the construction of which was approved by the
9 Nuclear Regulatory Commission on or before De-
10 cember 31, 2013.

11 “(2) QUALIFIED NUCLEAR POWER FACILITY
12 EXPENDITURES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 nuclear power facility expenditures’ means any
15 amount properly chargeable to capital ac-
16 count—

17 “(i) with respect to a qualified nuclear
18 power facility;

19 “(ii) for which depreciation is allow-
20 able under section 168; and

21 “(iii) which are incurred before the
22 qualified nuclear power facility is placed in
23 service or in connection with the placement
24 of such facility in service.

1 “(B) PRE-EFFECTIVE DATE EXPENDI-
2 TURES.—Qualified nuclear power facility ex-
3 penditures do not include any expenditures in-
4 curred by the taxpayer before January 1, 2007,
5 unless such expenditures constitute less than 20
6 percent of the total qualified nuclear power fa-
7 cility expenditures (determined without regard
8 to this subparagraph) for the qualified nuclear
9 power facility.

10 “(3) DELAYS AND SUSPENSION OF CONSTRUC-
11 TION.—

12 “(A) IN GENERAL.—For purposes of ap-
13 plying this section and section 50, a nuclear
14 power facility that is under construction shall
15 cease to be treated as a facility that will be a
16 qualified nuclear power facility as of the earlier
17 of—

18 “(i) the date on which the taxpayer
19 decides to terminate construction of the fa-
20 cility; or

21 “(ii) the last day of any 24-month pe-
22 riod in which the taxpayer has failed to
23 incur qualified nuclear power facility ex-
24 penditures totaling at least 20 percent of

1 the expected total cost of the nuclear
2 power facility.

3 “(B) AUTHORITY TO WAIVE.—The Sec-
4 retary may waive the application of clause (ii)
5 of subparagraph (A) if the Secretary deter-
6 mines that the taxpayer intended to continue
7 the construction of the qualified nuclear power
8 facility and the expenditures were not incurred
9 for reasons outside the control of the taxpayer.

10 “(C) RESUMPTION OF CONSTRUCTION.—If
11 a nuclear power facility that is under construc-
12 tion ceases to be a qualified nuclear power facil-
13 ity by reason of paragraph (2) and work is sub-
14 sequently resumed on the construction of such
15 facility—

16 “(i) the date work is subsequently re-
17 sumed shall be treated as the date that
18 construction began for purposes of para-
19 graph (1); and

20 “(ii) if the facility is a qualified nu-
21 clear power facility, the qualified nuclear
22 power facility expenditures shall be deter-
23 mined without regard to any delay or tem-
24 porary termination of construction of the
25 facility.”.

1 (c) PROVISIONS RELATING TO CREDIT RECAP-
2 TURE.—

3 (1) PROGRESS EXPENDITURE RECAPTURE
4 RULES.—

5 (A) BASIC RULES.—Subparagraph (A) of
6 section 50(a)(2) is amended to read as follows:

7 “(A) IN GENERAL.—If during any taxable
8 year any building to which section 47(d) applied
9 or any facility to which section 48C(e) applied
10 ceases (by reason of sale or other disposition,
11 cancellation or abandonment of contract, or
12 otherwise) to be, with respect to the taxpayer,
13 property which, when placed in service, will be
14 a qualified rehabilitated building or a qualified
15 nuclear power facility, then the tax under this
16 chapter for such taxable year shall be increased
17 by an amount equal to the aggregate decrease
18 in the credits allowed under section 38 for all
19 prior taxable years which would have resulted
20 solely from reducing to zero the credit deter-
21 mined under this subpart with respect to such
22 building or facility.”.

23 (B) AMENDMENT TO EXCESS CREDIT RE-
24 CAPTURE RULE.—Subparagraph (B) of section
25 50(a)(2) is amended by—

1 (i) inserting “or paragraph (2) of sec-
2 tion 48C(b)” after “paragraph (2) of sec-
3 tion 47(b)”;

4 (ii) inserting “or section 48C(b)(1)”
5 after “section 47(b)(1)”; and

6 (iii) inserting “or facility” after
7 “building”.

8 (C) AMENDMENT OF SALE AND LEASE-
9 BACK RULE.—Subparagraph (C) of section
10 50(a)(2) is amended by—

11 (i) inserting “or section 48C(e)” after
12 “section 47(d)”; and

13 (ii) inserting “or qualified nuclear
14 power facility expenditures” after “quali-
15 fied rehabilitation expenditures”.

16 (D) OTHER AMENDMENT.—Subparagraph
17 (D) of section 50(a)(2) is amended by inserting
18 “or section 48C(e)” after “section 47(d)”.

19 (d) NO BASIS ADJUSTMENT.—Section 50(c) is
20 amended by inserting at the end thereof the following new
21 paragraph:

22 “(6) NUCLEAR POWER FACILITY CONSTRUC-
23 TION CREDIT.—Paragraphs (1) and (2) shall not
24 apply to the nuclear power facility construction cred-
25 it.”.

1 (e) TECHNICAL AMENDMENTS.—The table of sec-
2 tions for subpart E of part IV of subchapter A of chapter
3 1 is amended by inserting after the line for section 48B
4 the following new line:

“Sec. 48C. Nuclear power facility construction credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall be effective for expenditures incurred and
7 property placed in service in taxable years beginning after
8 the date of enactment.

9 **SEC. 308. NATIONAL NUCLEAR ENERGY COUNCIL.**

10 (a) IN GENERAL.—

11 (1) The Secretary of Energy shall establish a
12 National Nuclear Energy Council (hereinafter the
13 “Council”).

14 (2) The National Nuclear Energy Council shall
15 be subject to the requirements of the Federal Advi-
16 sory Committee Act (5 U.S.C. Appendix 2).

17 (b) PURPOSE.—The National Nuclear Energy Coun-
18 cil shall—

19 (1) serve in an advisory capacity to the Sec-
20 retary of Energy regarding nuclear energy on mat-
21 ters submitted to the Council by the Secretary of
22 Energy; and

23 (2) advise, inform, and make recommendations
24 to the Secretary of Energy, and represent the views

1 of the nuclear energy industry with respect to any
2 matter relating to nuclear energy.

3 (c) MEMBERSHIP AND ORGANIZATION.—

4 (1) The members of the Council shall be ap-
5 pointed by the Secretary of Energy.

6 (2) The Council may establish such study and
7 administrative committees as it may deem appro-
8 priate. Study committees shall only assist the Coun-
9 cil in preparing its advice, information, or rec-
10 ommendations to the Secretary of Energy. Adminis-
11 trative committees shall be formed solely for the
12 purpose of assisting the Council or its Chairman in
13 the management of the internal affairs of the Coun-
14 cil.

15 (3) The officers of the Council shall consist of
16 a Chairman, a Vice Chairman, and such other offi-
17 cers as may be approved by the Council. The Chair-
18 man and Vice Chairman must be members of the
19 Council and shall receive no compensation for service
20 as officers of the Council.

21 (4) The Secretary of Energy shall be Cochair-
22 man of the Council. If the Secretary of Energy des-
23 ignates a full-time, salaried official of the Depart-
24 ment of Energy as his alternate, such alternate may
25 exercise any duties of the Secretary of Energy and

1 may perform any function on the Council otherwise
2 reserved for the Secretary of Energy.

3 (5) The Chairman and the Vice Chairman shall
4 be elected by the Council at its organizational meet-
5 ing to serve until their successors are elected at the
6 next organizational meeting of the Council.

7 (d) MEETINGS.—

8 (1) Regular meetings of the Council shall be
9 held at least twice each year at times determined by
10 the Chairman and approved by the Government Co-
11 chairman.

12 (2) No meeting of the Council shall be held un-
13 less the Government Cochairman approves the agen-
14 da thereof, approves the calling thereof, and is
15 present thereat.

16 (3) The time and place of all Council meetings
17 shall be given general publicity and such meetings
18 shall be open to the public.

19 (e) STUDIES BY THE COUNCIL.—

20 (1) The Council may establish study committees
21 to prepare reports for the consideration of the Coun-
22 cil pursuant to requests from the Secretary of En-
23 ergy for advice, information, and recommendations.

24 (2) The Secretary of Energy or a full-time em-
25 ployee of the Department of Energy designated by

1 the Secretary shall be the Cochairman of each study
2 committee.

3 (3) The members of study committees shall be
4 selected from the Council membership on the basis
5 of their training, experience, and general qualifica-
6 tions to deal with the matters assigned.

7 **SEC. 309. TEMPORARY SPENT NUCLEAR FUEL STORAGE**
8 **AGREEMENTS.**

9 (a) AUTHORIZATION AND LOCATION.—The Secretary
10 of Energy (Secretary) is authorized to initiate spent nu-
11 clear fuel storage agreements as provided herein.

12 (1) No later than 180 days from the date of en-
13 actment of this Act, representatives of a community
14 may submit written notice to the Secretary that the
15 community is willing to host a temporary spent nu-
16 clear fuel storage facility within its jurisdiction.

17 (2) Within 90 days of the receipt of the notifi-
18 cation under subsection (a)(1), the Secretary shall
19 determine whether the identified site is suitable for
20 a temporary storage facility. In determining the
21 site's suitability, the Secretary will evaluate technical
22 feasibility and consider favorably local support for
23 collocating a temporary spent nuclear fuel storage
24 facility with facilities in-tended to develop and imple-
25 ment advanced nuclear fuel cycle technologies.

1 (b) CONTENT OF AGREEMENTS.—If the Secretary
2 determines one or more sites to be suitable in accordance
3 with subsection (a)(2), negotiation of a temporary spent
4 nuclear fuel storage facility agreement shall proceed.

5 (1) Any temporary spent nuclear fuel storage
6 agreement shall contain such terms and conditions,
7 including financial, institutional and such other ar-
8 rangements as the Secretary and community deter-
9 mine to be reasonable and appropriate.

10 (2) Any temporary spent nuclear fuel storage
11 agreement may be amended only with the mutual
12 consent of the parties to the agreement.

13 (c) ENVIRONMENTAL IMPACT STATEMENT.—Execu-
14 tion of a temporary spent nuclear fuel storage agreement
15 shall not require preparation of an environmental impact
16 statement under section 102(2)(C) of the National Envi-
17 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or
18 require any environmental review under subparagraph (E)
19 or (F) of section 102(2) of such Act (42 U.S.C.
20 4332(2)(E), (F)).

21 **SEC. 310. IMPLEMENTATION OF TEMPORARY SPENT NU-**
22 **CLEAR FUEL STORAGE AGREEMENTS.**

23 (a) IN GENERAL.—Any temporary spent nuclear fuel
24 storage agreement or agreements entered into under sec-

1 tion 1 shall enter into force with respect to the United
2 States if (and only if)—

3 (1) the Secretary, at least 60 days before the
4 day on which he or she enters into the temporary
5 spent nuclear fuel storage agreement or agreements
6 notifies the House of Representatives and the Senate
7 of his intention to enter into the agreement or agree-
8 ments, and promptly thereafter publishes notice of
9 such intention in the Federal Register;

10 (2) the Governor of the State or States in
11 which the facility is proposed to be located submits
12 written notice to the Secretary that the Governor
13 supports the temporary spent nuclear fuel storage
14 agreement; and

15 (3) after entering into the agreement, the Sec-
16 retary submits to the House of Representatives and
17 to the Senate a copy of the final text of the agree-
18 ment, together with—

19 (A) a draft of an implementing bill; and

20 (B) a statement of any administrative ac-
21 tion proposed to implement the agreement.

22 (b) APPLICATION OF EXPEDITED PROCEDURES TO
23 IMPLEMENTING BILLS.—The provisions of section 3 apply
24 to implementing bills submitted with respect to temporary

1 spent nuclear fuel storage agreements entered into and
2 submitted pursuant to section 2.

3 **SEC. 311. EXPEDITED PROCEDURES FOR CONGRESSIONAL**
4 **REVIEW OF TEMPORARY SPENT NUCLEAR**
5 **FUEL STORAGE AGREEMENTS.**

6 (a) RULES OF HOUSE OF REPRESENTATIVE AND
7 SENATE.—The provisions of this subsection are enacted
8 by the Congress—

9 (1) as an exercise of the rulemaking power of
10 the House of Representatives and the Senate, re-
11 spectively, and as such they are deemed a part of
12 the rules of each House, respectively, but applicable
13 only with respect to the procedure to be followed in
14 that House in the case of implementing bills de-
15 scribed in subsection (b)(2) of this section and ap-
16 proval resolutions described in subsection (b)(3) of
17 this section; and they supersede other rules only to
18 the extent that they are inconsistent therewith; and

19 (2) with full recognition of the constitutional
20 right of either House to change the rules (so far as
21 relating to the procedure of that House) at any time,
22 in the same manner and to the same extent as in
23 the case of any other rule of that House.

24 (b) DEFINITIONS.—For purposes of this section—

1 (1) The term “community” means any entity of
2 local government appropriate, in terms of legal au-
3 thority, for negotiating and entering into temporary
4 spent nuclear fuel storage agreements provided for
5 in section 1.

6 (2) The term “implementing bill” means only a
7 bill of either House of Congress which is introduced
8 as provided in subsection (c) of this section with re-
9 spect to one or more temporary spent nuclear fuel
10 storage agreements and which contain—

11 (A) a provision approving such storage
12 agreements;

13 (B) a provision approving the statement of
14 administrative action (if any) proposed to im-
15 plement such storage agreements;

16 (C) if changes in existing laws or new stat-
17 utory authority is required to implement such
18 storage agreement or agreements, provisions
19 necessary or appropriate to implement such
20 agreement or agreements either repealing or
21 amending existing laws or providing new statu-
22 tory authority; and

23 (D) a provision containing revenue meas-
24 ures (if any), by reason of which the bill must

1 originate in the House of Representatives as
2 provided for in subsection (c).

3 (3) The term “approval resolution” means only
4 a joint resolution of the two Houses of the Congress,
5 the matter after the resolving clause of which is as
6 follows: “That the Congress approves the temporary
7 spent nuclear fuel storage agreement between the
8 Secretary of Energy and _____ on
9 _____,” the first blank space being filled
10 with the name of the governor involved and the sec-
11 ond blank space being filled in with the appropriate
12 date.

13 (c) INTRODUCTION AND REFERRAL.—On the day on
14 which the temporary spent nuclear fuel storage agreement
15 is submitted to the House of Representatives and the Sen-
16 ate under this title, the implementing bill submitted by
17 the Secretary with respect to such temporary spent nu-
18 clear fuel storage agreement shall be introduced (by re-
19 quest) in the House by the majority leader of the House,
20 for himself and the minority leader of the House, or by
21 Members of the House designated by the majority leader
22 and minority leader of the House; and shall be introduced
23 (by request) in the Senate by the majority leader of the
24 Senate, for himself and the minority leader of the Senate,
25 or by Members of the Senate designated by the majority

1 leader and minority leader of the Senate. If either House
2 is not in session on the day on which such temporary spent
3 nuclear fuel storage agreement is submitted, the imple-
4 menting bill shall be introduced in that House, as provided
5 in the preceding sentence, on the first day thereafter on
6 which that House is in session. Such bills shall be referred
7 by the Presiding Officers of the respective Houses to the
8 appropriate committee, or, in the case of a bill containing
9 provisions within the jurisdiction of two or more commit-
10 tees, jointly to such committees for consideration of those
11 provisions within their respective jurisdictions.

12 (d) AMENDMENTS PROHIBITED.—No amendment to
13 an implementing bill or approval resolution shall be in
14 order in either the House of Representatives or the Sen-
15 ate; and no motion to suspend the application of this sub-
16 section shall be in order in either House, nor shall it be
17 in order in either House for the Presiding Officer to enter-
18 tain a request to suspend the application of this subsection
19 by unanimous consent.

20 (e) PERIOD FOR COMMITTEE AND FLOOR CONSIDER-
21 ATION.—

22 (1) Except as provided in subsection (e)(2), if
23 the committee or committees of either House to
24 which an implementing bill or approval resolution
25 has been referred have not reported it at the close

1 of the 45th day after its introduction, such com-
2 mittee or committees shall be automatically dis-
3 charged from further consideration of the bill or res-
4 olution and it shall be placed on the appropriate cal-
5 endar. A vote on final passage of the bill or resolu-
6 tion shall be taken in each House on or before the
7 close of the 15th day after the bill or resolution is
8 reported by the committee or committees of that
9 House to which it was referred, or after such com-
10 mittee or committees have been discharged from fur-
11 ther consideration of the bill or resolution. If prior
12 to the passage by one House of an implementing bill
13 or approval resolution of that House, that House re-
14 ceives the same implementing bill or approval resolu-
15 tion from the other House, then—

16 (A) the procedure in that House shall be
17 the same as if no implementation bill or ap-
18 proval resolution had been received from the
19 other House; but

20 (B) the vote on final passage shall be on
21 the implementing bill or approval resolution of
22 the other House.

23 (2) For purposes of computing a number of
24 days in either House as provided for in subsection

1 (e)(1), there shall be excluded any day on which that
2 House is not in session.

3 (3) If the implementing bill contains one or
4 more revenue measures—

5 (A) the provisions of subsection (e)(1)
6 shall not apply; and

7 (B) the Senate shall not take final action
8 on the bill until it is received from the House.

9 (f) FLOOR CONSIDERATION IN THE HOUSE.—

10 (1) A motion in the House of Representatives
11 to proceed to the consideration of an implementing
12 bill or approval resolution shall be highly privileged
13 and not debatable. An amendment to the motion
14 shall not be in order, nor shall it be in order to move
15 to reconsider the vote by which the motion is agreed
16 to or disagreed to.

17 (2) Debate in the House of Representatives on
18 an implementing bill or approval resolution shall be
19 limited to not more than 10 hours, which shall be
20 divided equally between those favoring and those op-
21 posing the bill or resolution. A motion further to
22 limit debate shall not be debatable. It shall not be
23 in order to move to recommit an implementing bill
24 or approval resolution or to move to reconsider the

1 vote by which an implementing bill or approval reso-
2 lution is agreed to or disagreed to.

3 (3) Motions to postpone, made in the House of
4 Representatives with respect to the consideration of
5 an implementing bill or approval resolution, and mo-
6 tions to proceed to the consideration of other busi-
7 ness, shall be decided without debate. If a motion to
8 proceed to consideration is agreed to, such resolution
9 shall remain unfinished business of House until dis-
10 posed of.

11 (4) All appeals from the decisions of the Chair
12 relating to the application of the Rules of the House
13 of Representatives to the procedure relating to an
14 implementing bill or approval resolution shall be de-
15 cided without debate.

16 (5) Except to the extent specifically provided in
17 the preceding provisions of this subsection, consider-
18 ation of an implementing bill or approval resolution
19 shall be governed by the Rules of the House of Rep-
20 resentatives applicable to other bills and resolutions
21 in similar circumstances.

22 (g) FLOOR CONSIDERATION IN THE SENATE.—

23 (1) A motion in the Senate to proceed to the
24 consideration of an implementing bill or approval
25 resolution shall be privileged and not debatable. An

1 amendment to the motion shall not be in order, nor
2 shall it be in order to move to reconsider the vote
3 by which the motion is agreed to or disagreed to.

4 (2) Debate in the Senate on an implementing
5 bill or approval resolution, and all debatable motions
6 and appeals in connection therewith, shall be limited
7 to not more than 10 hours. The time shall be equally
8 divided between, and controlled by, the majority
9 leader and the minority leader or their designees.

10 (3) Debate in the Senate on any debatable mo-
11 tion or appeal in connection with an implementing
12 bill or approval resolution shall be limited to not
13 more than 1 hour, to be equally divided between,
14 and controlled by, the mover and the manager of the
15 bill or resolution, except that in the event the man-
16 ager of the bill or resolution is in favor of any such
17 motion or appeal, the time in opposition thereto
18 shall be controlled by the minority leader or his des-
19 ignee. Such leaders, or either of them, may, from
20 time under their control on the passage of an imple-
21 menting bill or approval resolution, allot additional
22 time to any Senator during the consideration of any
23 debatable motion or appeal.

24 (4) A motion in the Senate to further limit de-
25 bate is not debatable. A motion to recommit an im-

1 plementation bill or approval resolution is not in
2 order.

3 **SEC. 312. CONTRACTING AND NUCLEAR WASTE FUND.**

4 Section 302 of the Nuclear Waste Policy Act of 1982
5 (42 U.S.C. 10222) is amended—

6 (1) in subsection (a)(1), by adding at the end
7 the following: “For any civilian nuclear power reac-
8 tor a license application for which is filed with the
9 Commission, pursuant to its authority under section
10 103 or 104 of the Atomic Energy Act of 1954, after
11 the date of enactment of this Act, contracts entered
12 into under this section shall—

13 “(A) except as provided in subsections
14 302(a)(1)(B), (C), (D), and (E), below, be gen-
15 erally consistent with the terms and conditions
16 of the ‘Standard Contract for Disposal of Spent
17 Nuclear Fuel and/or High-Level Radioactive
18 Waste,’ as codified at 10 C.F.R. Part 961 and
19 in effect on January 1, 2007;

20 “(B) provide for the taking of title to, and
21 for the Secretary to dispose of, the high-level
22 waste or spent nuclear fuel involved beginning
23 no later than 15 years following the start of
24 commercial operation;

1 “(C) contain no provisions providing for
2 adjustment of the 1.0 mil per kilowatt-hour fee
3 established by paragraph (2);

4 “(D) be entered into no later than 60 days
5 following the docketing of the license applica-
6 tion by the Commission, or the date of enact-
7 ment of this Act, whichever is later; and

8 “(E) provide that, on a schedule consistent
9 with the Secretary’s acceptance of spent nuclear
10 fuel from each civilian nuclear power reactor or
11 site, and completed not later than the Sec-
12 retary’s completing the acceptance of all spent
13 nuclear fuel from that commercial nuclear
14 power reactor or site, the Secretary shall accept
15 from each such reactor or site, all low-level ra-
16 dioactive waste defined in section 3(b)(1)(D) of
17 the Low-level Radioactive Waste Policy Act, as
18 amended, 42 U.S.C. 2021c(b)(1)(D).”; and

19 (2) in subsection (a)(4), by striking all after
20 “herein.” in the second sentence;

21 (3) in subsection (a)(6), by adding at the end
22 the following: “Further, the Secretary shall offer to
23 settle any actions pending on the date of enactment
24 of this Act for damages resulting from failure to
25 commence accepting spent nuclear fuel or high-level

1 radioactive waste on or before January 31, 1998.
2 Each offer to settle shall provide for the payment of
3 \$150 to the other party to a contract for disposal of
4 spent nuclear fuel and high-level radioactive waste
5 for each kilogram of spent nuclear fuel which such
6 party was or shall be entitled to deliver to the De-
7 partment in a particular year, based on the following
8 aggregate acceptance rates: 400 MTU for 1998; 600
9 MTU for 1999; 1,200 MTU for 2000; 2,000 MTU
10 for 2001; and 3,000 MTU for 2002 and thereafter;
11 provided that the Secretary shall adjust the payment
12 amount per kilogram of spent nuclear fuel under
13 this subsection (a)(6) annually according to the most
14 recent Producer Price Index published by the De-
15 partment of Labor. Such aggregate acceptance rates
16 shall be allocated among parties to contracts with
17 the United States based upon the age of spent nu-
18 clear fuel, as measured by the date of the discharge
19 of such spent nuclear fuel from the civilian nuclear
20 power reactor. Such offer to settle also shall include
21 an annual payment to be determined by the Sec-
22 retary to any such party where a civilian nuclear
23 power reactor has been decommissioned, except for
24 those portions of the facility that cannot be decom-
25 missioned until removal of spent nuclear fuel and

1 high-level radioactive waste. The Secretary also shall
2 offer like compensation to parties to contracts en-
3 tered into pursuant to section 302 of the Nuclear
4 Waste Policy Act of 1982 (42 U.S.C. 10222) who
5 brought actions for damages prior to the date of en-
6 actment of this Act, but which were no longer pend-
7 ing as of said date, provided that such compensation
8 shall be reduced by the amount of any settlement or
9 judgment received by such party.”; and

10 (4) in subsection (d), by adding at the end the
11 following: “No amount may be expended by the Sec-
12 retary from the Waste Fund to carry out research
13 and development activities on advanced nuclear fuel
14 cycle technologies.”.

15 **SEC. 313. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**
16 **POSAL.**

17 (a) CONGRESSIONAL DETERMINATION.—The Con-
18 gress finds that—

19 (1) there is reasonable assurance that high-level
20 radioactive waste and spent nuclear fuel generated
21 in reactors licensed by the Nuclear Regulatory Com-
22 mission in the past, currently, or in the future will
23 be managed in a safe manner without significant en-
24 vironmental impact until capacity for ultimate dis-
25 posal is available; and

1 (2) the Federal Government is responsible and
2 has established a policy for the ultimate safe and en-
3 vironmentally sound disposal of such high-level ra-
4 dioactive waste and spent nuclear fuel.

5 (b) REGULATORY CONSIDERATION.—Notwith-
6 standing any other provision of law, for the period fol-
7 lowing the licensed operation of a civilian nuclear power
8 reactor or any facility for the treatment or storage of
9 spent nuclear fuel or high-level radioactive waste, no con-
10 sideration of the public health and safety, common defense
11 and security, or environmental impacts of the storage of
12 high-level radioactive waste and spent nuclear fuel gen-
13 erate d in reactors licensed by the Nuclear Regulatory
14 Commission in the past, currently, or in the future, is re-
15 quired by the Department of Energy or the Nuclear Regu-
16 latory Commission in connection with the development,
17 construction, and operation of, or any permit, license, li-
18 cense amendment, or siting approval for, a civilian nuclear
19 power reactor or any facility for the treatment or storage
20 of spent nuclear fuel or high-level radioactive waste. Noth-
21 ing in this section shall affect the Department of Energy’s
22 and Nuclear Regulatory Commission’s obligation to con-
23 sider the public health and safety, common defense and
24 security, and environmental impacts of storage during the
25 period of licensed operation of a civilian nuclear power re-

1 actor or facility for the treatment or storage of spent nu-
2 clear fuel or high-level radioactive waste.

3 **TITLE IV—AMENDMENTS TO THE**
4 **INTERNAL REVENUE CODE**
5 **OF 1986**

6 **SEC. 401. CREDIT FOR INVESTMENT IN COAL-TO-LIQUID**
7 **FUELS PROJECTS.**

8 (a) IN GENERAL.—Section 46 of the Internal Rev-
9 enue Code of 1986 (relating to amount of credit) is
10 amended by striking “and” at the end of paragraph (3),
11 by striking the period at the end of paragraph (4) and
12 inserting “, and”, and by adding at the end the following
13 new paragraph:

14 “(5) the qualifying coal-to-liquid fuels project
15 credit.”.

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

21 **“SEC. 48C. QUALIFYING COAL-TO-LIQUID FUELS PROJECT**
22 **CREDIT.**

23 “(a) IN GENERAL.—For purposes of section 46, the
24 qualifying coal-to-liquid fuels project credit for any taxable

1 year is an amount equal to 20 percent of the qualified
2 investment for such taxable year.

3 “(b) QUALIFIED INVESTMENT.—

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

9 “(A)(i) the construction, reconstruction, or
10 erection of which is completed by the taxpayer,
11 or

12 “(ii) which is acquired by the taxpayer if
13 the original use of such property commences
14 with the taxpayer, and

15 “(B) with respect to which depreciation (or
16 amortization in lieu of depreciation) is allow-
17 able.

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

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

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

1 “(A) employs either the class of reactions
2 known as Fischer-Tropsch or the Schobert
3 process to produce at least 10,000 barrels per
4 day of transportation grade liquid fuels from a
5 feedstock that is primarily domestic coal (in-
6 cluding any property which allows for the cap-
7 ture, transportation, or sequestration of by-
8 products resulting from such process, including
9 carbon emissions), and

10 “(B) any portion of the qualified invest-
11 ment in which is certified under the qualifying
12 coal-to-liquid program as eligible for credit
13 under this section in an amount (not to exceed
14 \$200,000,000) determined by the Secretary.

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

17 “(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT
18 PROGRAM.—

19 “(1) IN GENERAL.—The Secretary, in consulta-
20 tion with the Secretary of Energy, shall establish a
21 qualifying coal-to-liquid fuels project program to
22 consider and award certifications for qualified in-
23 vestment eligible for credits under this section to 10
24 qualifying coal-to-liquid fuels project sponsors under
25 this section. The total qualified investment which

1 may be awarded eligibility for credit under the pro-
2 gram shall not exceed \$2,000,000,000.

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

7 “(3) SELECTION CRITERIA.—The Secretary
8 shall not make a competitive certification award for
9 qualified investment for credit eligibility under this
10 section unless the recipient has documented to the
11 satisfaction of the Secretary that—

12 “(A) the proposal of the award recipient is
13 financially viable,

14 “(B) the recipient will provide sufficient
15 information to the Secretary for the Secretary
16 to ensure that the qualified investment is spent
17 efficiently and effectively,

18 “(C) the fuels identified with respect to the
19 gasification technology for such project will
20 comprise at least 90 percent of the fuels re-
21 quired by the project for the production of
22 transportation grade liquid fuels,

23 “(D) the award recipient’s project team is
24 competent in the planning and construction of
25 coal gasification facilities and familiar with op-

1 eration of either the Fischer-Tropsch process or
2 the Schobert process, with preference given to
3 those recipients with experience which dem-
4 onstrates successful and reliable operations of
5 such process, and

6 “(E) the award recipient has met other cri-
7 teria established and published by the Sec-
8 retary.

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

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 49(a)(1)(C) of the Internal Revenue
15 Code of 1986 is amended by striking “and” at the
16 end of clause (iii), by striking the period at the end
17 of clause (iv) and inserting “, and”, and by adding
18 after clause (iv) the following new clause:

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

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

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

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to periods after the date of the
3 enactment of this Act, under rules similar to the rules of
4 section 48(m) of the Internal Revenue Code of 1986 (as
5 in effect on the day before the date of the enactment of
6 the Revenue Reconciliation Act of 1990).

7 **SEC. 402. TEMPORARY EXPENSING FOR EQUIPMENT USED**
8 **IN COAL-TO-LIQUID FUELS PROCESS.**

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

12 **“SEC. 179F. ELECTION TO EXPENSE CERTAIN COAL-TO-LIQ-**
13 **UID FUELS FACILITIES.**

14 “(a) TREATMENT AS EXPENSES.—A taxpayer may
15 elect to treat the cost of any qualified coal-to-liquid fuels
16 process property as an expense which is not chargeable
17 to capital account. Any cost so treated shall be allowed
18 as a deduction for the taxable year in which the expense
19 is incurred.

20 “(b) ELECTION.—

21 “(1) IN GENERAL.—An election under this sec-
22 tion for any taxable year shall be made on the tax-
23 payer’s return of the tax imposed by this chapter for
24 the taxable year. Such election shall be made in such

1 manner as the Secretary may by regulations pre-
2 scribe.

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

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

10 “(1) which employs the Fischer-Tropsch process
11 or the Schobert process to produce transportation
12 grade liquid fuels from a feedstock that is primarily
13 domestic coal (including any property which allows
14 for the capture, transportation, or sequestration of
15 by-products resulting from such process, including
16 carbon emissions),

17 “(2) the original use of which commences with
18 the taxpayer,

19 “(3) the construction of which—

20 “(A) except as provided in subparagraph
21 (B), is subject to a binding construction con-
22 tract entered into after the date of the enact-
23 ment of this section and before January 1,
24 2011, but only if there was no written binding

1 construction contract entered into on or before
2 such date of enactment, or

3 “(B) in the case of self-constructed prop-
4 erty, began after the date of the enactment of
5 this section and before January 1, 2011, and

6 “(4) which is placed in service by the taxpayer
7 after the date of the enactment of this section and
8 before January 1, 2016.

9 “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-
10 ERATIVE OWNER.—If—

11 “(1) a taxpayer to which subsection (a) applies
12 is an organization to which part I of subchapter T
13 applies, and

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

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

19 Such allocation shall be equal to the person’s ratable share
20 of the total amount allocated, determined on the basis of
21 the person’s ownership interest in the taxpayer. The tax-
22 able income of the taxpayer shall not be reduced under
23 section 1382 by reason of any amount to which the pre-
24 ceding sentence applies.

25 “(e) BASIS REDUCTION.—

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

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

12 “(f) APPLICATION WITH OTHER DEDUCTIONS AND
13 CREDITS.—

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

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

22 “(g) REPORTING.—No deduction shall be allowed
23 under subsection (a) to any taxpayer for any taxable year
24 unless such taxpayer files with the Secretary a report con-
25 taining such information with respect to the operation of

1 the property of the taxpayer as the Secretary shall re-
2 quire.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1016(a) of the Internal Revenue
5 Code of 1986 is amended by striking “and” at the
6 end of paragraph (36), by striking the period at the
7 end of paragraph (37) and inserting “, and”, and by
8 adding at the end the following new paragraph:

9 “(38) to the extent provided in section
10 179F(e)(1).”.

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

14 (3) Section 263(a)(1) of such Code is amended
15 by striking “or” at the end of subparagraph (J), by
16 striking the period at the end of subparagraph (K)
17 and inserting “, or”, and by inserting after subpara-
18 graph (K) the following new subparagraph:

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

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

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

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

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

8 **SEC. 403. EXTENSION OF ALTERNATIVE FUEL CREDIT FOR**
9 **FUEL DERIVED FROM COAL THROUGH THE**
10 **FISCHER-TROPSCH PROCESS OR THE**
11 **SCHOBERT PROCESS.**

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

15 “(4) TERMINATION.—This subsection shall not
16 apply to—

17 “(A) any sale or use involving liquid fuel
18 derived from a feedstock that is primarily do-
19 mestic coal (including peat) through the Fisch-
20 er-Tropsch process or the Schobert process for
21 any period after September 30, 2020,

22 “(B) any sale or use involving liquified hy-
23 drogen for any period after September 30,
24 2014, and

1 “(C) any other sale or use for any period
2 after September 30, 2009.”.

3 (b) PAYMENTS.—

4 (1) IN GENERAL.—Paragraph (5) of section
5 6427(e) of the Internal Revenue Code of 1986 is
6 amended by striking “and” and the end of subpara-
7 graph (C), by striking the period at the end of sub-
8 paragraph (D) and inserting “, and”, and by adding
9 at the end the following new subparagraph:

10 “(E) any alternative fuel or alternative fuel
11 mixture (as so defined) involving liquid fuel de-
12 rived from coal (including peat) through the
13 Fischer-Tropsch process or the Schobert proc-
14 ess sold or used after September 30, 2020.”.

15 (2) CONFORMING AMENDMENT.—Section
16 6427(e)(5)(C) of such Code is amended by striking
17 “subparagraph (D)” and inserting “subparagraphs
18 (D) and (E)”.

○