SUBSTITUTE AMENDMENT

OFFERED BY MR. BARTON OF TEXAS

In lieu of the matter proposed to be inserted by the amendment offered by _____, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Production, Innovation, and Conservation Act".

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

Sec. 1. Short title and table of contents.

TITLE I—CLEAN ENERGY STANDARD

Sec. 101. Federal clean energy standard.

TITLE II—AMERICAN ENERGY

Subtitle A—CONSERVATION AND EFFICIENCY

CHAPTER 1—TAPPING AMERICA'S INGENUITY AND CREATIVITY

Sec. 201. Definitions.
Sec. 202. Statement of policy.
Sec. 203. Prize authority.
Sec. 204. Eligibility.
Sec. 205. Intellectual property.
Sec. 206. Waiver of liability.
Sec. 207. Authorization of appropriations.
Sec. 208. Next generation automobile prize program.
Sec. 209. Advanced battery manufacturing incentive program.

CHAPTER 2—REFINERY PERMIT PROCESS SCHEDULE

Sec. 221. Short title.
Sec. 222. Definitions.
Sec. 223. State assistance.
Sec. 224. Refinery process coordination and procedures.
Sec. 225. Savings clause.

Sec. 226. Refinery revitalization repeal.

Subtitle B—NEW AND EXPANDING TECHNOLOGIES

CHAPTER 1—ALTERNATIVE FUELS

Sec. 261. Repeal.
Sec. 262. Government auction of long term put option contracts on coal-to-liquid fuel produced by qualified coal-to-liquid facilities.
Sec. 263. Standby loans for qualifying coal-to-liquids projects.

CHAPTER 2—NUCLEAR

Sec. 271 ASME Nuclear Certification credit.

CHAPTER 3—AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND

Sec. 281. American Renewable and Alternative Energy Trust Fund.

TITLE III—NUCLEAR DEVELOPMENT

Sec. 301. Use of funds for recycling.
Sec. 302. Rulemaking for licensing of spent nuclear fuel recycling facilities.
Sec. 304. Yucca Mountain.

TITLE IV—CARBON CAPTURE AND STORAGE

Subtitle A—Funding for Carbon Capture and Storage

Sec. 401. Subrogation.

Subtitle B—Early Deployment of Carbon Capture and Storage

Sec. 411. Definitions.
Sec. 412. Carbon Storage Research Corporation.
Sec. 413. Functions and administration of the Corporation.
Sec. 414. Assessments.
Sec. 415. ERCOT.
Sec. 416. Determination of fossil fuel-based electricity deliveries.
Sec. 417. Compliance with Corporation assessments.
Sec. 418. Midcourse review.
Sec. 419. Recovery of costs.
Sec. 420. Technical Advisory Committee.
Sec. 421. Lobbying restrictions.

Subtitle C—Reforestation Assistance

Sec. 431. Reforestation activities.

TITLE V—ENERGY EFFICIENCY

Sec. 501. Decoupling.
Sec. 502. Grants to monitor and enforce State building codes.

TITLE VI—EXPANSION OF ELECTRIC ENERGY TRANSMISSION SYSTEM

Sec. 601. Amendment of Federal Power Act.
Sec. 602. Federal interconnection standards for certain facilities.

TITLE VII—PERFORMANCE STANDARD FOR ELECTRIC GENERATION

Sec. 701. Performance standards for electric generation.

TITLE VIII—REGULATION OF CARBON DIOXIDE UNDER OTHER LAW

Sec. 801. Greenhouse gas regulation under Clean Air Act.
Sec. 802. Preemption of State authority to regulate certain fuels.

TITLE IX—RENEWABLE FUEL STANDARD

Sec. 901. National Academy of Sciences study and review of fuel blends containing greater than 10 percent ethanol by volume.
Sec. 902. Modification of Renewable Fuel Standard.

TITLE X—TRANSPORTATION

Sec. 1001. Vehicle trade-in program.

TITLE XI—MISCELLANEOUS

Sec. 1101. Study of carbon emissions associated with electric vehicles.

TITLE I—CLEAN ENERGY STANDARD

SEC. 101. FEDERAL CLEAN ENERGY STANDARD.

(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601) is amended by adding at the end the following:

"SEC. 610. FEDERAL CLEAN ENERGY STANDARD.

"(a) DEFINITIONS.—For purposes of this section:

"(1) BIOMASS.—The term 'biomass' means—

"(A) materials, precommercial thinnings, or removed exotic species that—

"(i) are products of forest management treatments (such as trees, wood, brush, thinnings, chips, and slash) that are removed—

"(I) to reduce hazardous fuels;

"(II) to reduce, prevent, or contain disease or insect infestation;

"(III) to restore ecosystem health;

"(IV) as debris from other forest management activities; or

"(V) to create and retain American jobs and business.

"(ii) would not otherwise be used for higher-value products; and

"(iii) are harvested from National Forest System land or public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976) in accordance with—

"(I) Federal and State law;

"(II) applicable land management plans; and

"(III) the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 and the re-

1 quirements for large-tree retention of
2 subsection (f) of that section; or
3 "(B) any organic matter that is available
4 on a renewable or recurring basis from non-
5 Federal land or land belonging to an Indian or
6 Indian tribe that is held in trust by the United
7 States or subject to a restriction against alien-
8 ation imposed by the United States, including—
9 "(i) renewable plant material, includ-
10 ing—
11 "(I) feed grains;
12 "(II) other agricultural commod-
13 ities;
14 "(III) other plants and trees; and
15 "(IV) algae; and
16 "(ii) waste material, including—
17 "(I) crop residue;
18 "(II) other vegetative waste ma-
19 terial (including wood waste and wood
20 residues);
21 "(III) animal waste and byprod-
22 ucts (including fats, oils, greases, and
23 manure);
24 "(IV) construction waste;
25 "(V) food waste and yard waste;

1 "(VI) non-hazardous pressure
2 treated wood; and
3 "(VII) municipal solid waste.
4 "(iii) Cellulosic (plant fiber) organic
5 materials from a plant that is planted for
6 the purpose of being used to produce en-
7 ergy.
8 "(iv) Nonhazardous, plant or algal
9 matter that is derived from any of the fol-
10 lowing:
11 "(I) An agricultural crop, crop
12 byproduct or residue resource.
13 "(II) Waste such as landscape or
14 right-of-way trimmings (but not in-
15 cluding, recyclable postconsumer
16 waste paper, or wood contaminated
17 with plastic or metals). Such term
18 also does not include painted, treated,
19 or pressurized wood unless it is com-
20 busted at a facility permitted by a
21 Federal or State agency.
22 "(v) Animal waste or animal byprod-
23 ucts.
24 "(vi) Landfill methane.
25 "(vii) Municipal solid waste.

"(2) DISTRIBUTED GENERATION.—The term 'distributed generation' means an electric power generation technology, including photovoltaic, small wind, and micro-combined heat and power, that serves electric consumers at or near the site of production.

"(3) CLEAN ENERGY.—The term 'clean energy' means electric energy generated by a clean energy resource.

"(4) CLEAN ENERGY RESOURCE.—The term 'clean energy resource' means solar, wind, geothermal energy, biomass, landfill gas, hydrokinetic, combined heat and power generation, mine methane gas, or hydroelectric facilities including in-stream, off-stream and pumped storage, diversion, run-of-the-river, in-line (channel or pipe), or ocean energy including hydrokinetic, wave, tidal, current, or ocean thermal energy, or nuclear energy. Such includes any carbon-based fuel for which at least 50 percent of the carbon will be captured and sequestered or converted in the production of electric energy. Such term also includes any other electric energy generation resource that the Secretary determines, by rule, to be renewable or to result in low-carbon emissions.

"(5) ELIGIBLE FACILITY.—The term 'eligible facility' means—

"(A) a facility for the generation of electric energy from a clean energy resource; or

"(B) a repowering or cofiring increment.

"(6) INDIAN LAND.—The term 'Indian land' means—

"(A) any land within the limits of any Indian reservation, pueblo, or rancheria;

"(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation;

"(C) any dependent Indian community; or

"(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

"(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as

1 defined in or established pursuant to the Alaska Na-
2 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
3 which is recognized as eligible for the special pro-
4 grams and services provided by the United States to
5 Indians because of their status as Indians.
6 "(8) REPOWERING OR COFIRING INCREMENT.—
7 The term 'repowering or cofiring increment'
8 means—
9 "(A) the additional generation from a
10 modification that is placed in service on or after
11 January 1, 2001, to expand electricity produc-
12 tion at a facility used to generate electric en-
13 ergy from a clean energy resource;
14 "(B) the additional generation above the
15 average generation in the 3 years preceding the
16 date of enactment of this section at a facility
17 used to generate electric energy from a clean
18 energy resource or to cofire biomass that was
19 placed in service before the date of enactment
20 of this section; or
21 "(C) the portion of the electric generation
22 from a facility placed in service on or after Jan-
23 uary 1, 2001, or a modification to a facility
24 placed in service before the date of enactment

1 of this section made on or after January 1,
2 2001, associated with cofiring biomass.
3 "(9) RETAIL ELECTRIC SUPPLIER.—(A) The
4 term 'retail electric supplier' means a person that
5 sells electric energy to electric consumers (other
6 than consumers in Hawaii) that sold not less than
7 1,000,000 megawatt-hours of electric energy to elec-
8 tric consumers for purposes other than resale during
9 the preceding calendar year. For purposes of this
10 section, a person that sells electric energy to electric
11 consumers that, in combination with the sales of any
12 affiliate organized after the date of enactment of
13 this section, sells not less that 1,000,000 megawatt
14 hours of electric energy to consumers for purposes
15 other than resale shall qualify as a retail electric
16 supplier. For purposes of this paragraph, sales by
17 any person to a parent company or to other affiliates
18 of such person shall not be treated as sales to elec-
19 tric consumers.
20 "(B) Such term does not include the United
21 States, a State or any political subdivision of a
22 State, or any agency, authority, or instrumentality
23 of any one or more of the foregoing, or a rural elec-
24 tric cooperative, except that a political subdivision of
25 a State, or an agency, authority or instrumentality

of the United States, a State or a political subdivision of a State, or a rural electric cooperative that sells electric energy to electric consumers or any other entity that sells electric energy to electric consumers that would not otherwise qualify as a retail electric supplier shall be deemed a retail electric supplier if such entity notifies the Secretary that it voluntarily agrees to participate in the Federal renewable electricity standard program.

"(10) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier, expressed in terms of kilowatt hours, to electric customers for purposes other than resale during the most recent calendar year for which information is available.

"(b) COMPLIANCE.—For each calendar year beginning in calendar year 2010, each retail electric supplier shall meet the requirements of subsection (c) by submitting to the Secretary, not later than April 1 of the following calendar year, one or more of the following:

"(1) Federal clean energy credits issued under subsection (e).

"(2) Federal energy efficiency credits issued under subsection (i). Energy efficiency credits may

only be used for compliance in a State where the Governor has petitioned the Secretary pursuant to subsection (i)(2).

"(3) Certification of the clean energy generated and electricity savings pursuant to the funds associated with State compliance payments as specified in subsection (e)(3)(A).

"(c) REQUIRED ANNUAL PERCENTAGE.—For calendar years 2010 through 2039, the required annual percentage of the retail electric supplier's base amount that shall be generated from clean energy resources, or otherwise credited towards such percentage requirement pursuant to subsection (d), shall be the percentage specified in the following table:

"Calendar year	Required annual percentage
2010	2.75
2011	2.75
2012	3.75
2013	4.5
2014	5.5
2015	6.5
2016	7.5
2017	8.25
2018	10.25
2019	12.25
2020 and thereafter through 2039	15

"(d) CLEAN ENERGY AND ENERGY EFFICIENCY CREDITS.—(1) A retail electric supplier may satisfy the requirements of subsection (b)(1) through the submission of Federal clean energy credits—

1 "(A) issued to the retail electric supplier under
2 subsection (c);
3 "(B) obtained by purchase or exchange under
4 subsection (f) or (g); or
5 "(C) borrowed under subsection (h).
6 "(2) A retail electric supplier may satisfy the require-
7 ments of subsection (b)(2) through the submission of Fed-
8 eral energy efficiency credits issued to the retail electric
9 supplier obtained by purchase or exchange pursuant to
10 subsection (i).
11 "(3) A Federal clean energy credit may be counted
12 toward compliance with subsection (b)(1) only once. A
13 Federal energy efficiency credit may be counted toward
14 compliance with subsection (b)(2) only once.
15 "(e) ISSUANCE OF FEDERAL CLEAN ENERGY CRED-
16 ITS.—(1) The Secretary shall establish by rule, not later
17 than 1 year after the date of enactment of this section,
18 a program to verify and issue Federal clean energy credits
19 to generators of clean energy, track their sale, exchange
20 and retirement and to enforce the requirements of this
21 section. To the extent possible, in establishing such pro-
22 gram, the Secretary shall rely upon existing and emerging
23 State or regional tracking systems that issue and track
24 non-Federal clean energy credits.

1 "(2) An entity that generates electric energy through
2 the use of a clean energy resource may apply to the Sec-
3 retary for the issuance of clean energy credits. The appli-
4 cant must demonstrate that the electric energy will be
5 transmitted onto the grid, consumed onsite, or, in the case
6 of a generation offset, that the electric energy offset would
7 have otherwise been consumed on site. The application
8 shall indicate—
9 "(A) the type of clean energy resource used to
10 produce the electricity;
11 "(B) the location where the electric energy was
12 produced; and
13 "(C) any other information the Secretary deter-
14 mines appropriate.
15 "(3)(A) Except as provided in subparagraphs (B),
16 (C), and (D) the Secretary shall issue to a generator of
17 electric energy one Federal clean energy credit for each
18 kilowatt hour of electric energy generated by the use of
19 a clean energy resource at an eligible facility.
20 "(B) The Secretary shall issue 2 clean energy credits
21 for each kilowatt hour of electric energy generated in a
22 calendar year and supplied to the grid in that calendar
23 year through the use of a clean energy resource at an eligi-
24 ble facility located on Indian land. For purposes of this
25 paragraph, clean energy generated by biomass cofired with

1 other fuels is eligible for two credits only if the biomass
2 was grown on such land.
3 "(C) For electric energy generated by a clean energy
4 resource at an on-site eligible facility no larger than one
5 megawatt in capacity and used to offset part or all of the
6 customer's requirements for electric energy, the Secretary
7 shall issue 3 clean energy credits to such customer for
8 each kilowatt hour generated.
9 "(D) The Secretary shall issue 2 clean energy credits
10 for each kilowatt hour of electric energy generated in a
11 calendar year in that calendar year through the use of a
12 clean energy resource at an eligible facility that is a dis-
13 tributed generation facility.
14 "(E) In the case of an on-site eligible facility on In-
15 dian land no more than 3 credits per kilowatt hour may
16 be issued.
17 "(F) If both a clean energy resource and a non-clean
18 energy resource are used to generate the electric energy,
19 the Secretary shall issue the Federal clean energy credits
20 based on the proportion of the clean energy resources
21 used.
22 "(G) When a generator has sold electric energy gen-
23 erated through the use of a clean energy resource to a
24 retail electric supplier under a contract for power, and the
25 contract has not determined ownership of the Federal

1 clean energy credits associated with such generation, the
2 Secretary shall issue such Federal clean energy credits to
3 the retail electric supplier for the duration of the contract.
4 "(H) Payments made by a retail electricity supplier,
5 directly or indirectly, to a State for compliance with a
6 State renewable portfolio standard program, or for an al-
7 ternative compliance mechanism, shall be valued at one
8 credit per kilowatt hour for the purpose of subsection
9 (b)(3) based on the amount of electric energy generation
10 from renewable resources and electricity savings that re-
11 sults from those payments.
12 "(f) CLEAN ENERGY CREDIT TRADING.—(1) A Fed-
13 eral clean energy credit, may be sold, transferred or ex-
14 changed by the entity to whom issued or by any other enti-
15 ty who acquires the Federal clean energy credit. A Federal
16 clean energy credit for any year that is not submitted to
17 satisfy the minimum renewable generation requirement of
18 subsection (c) for that year may be carried forward for
19 use pursuant to subsection (b)(1) within the next 3 years.
20 "(2) A Federally owned or cooperatively owned util-
21 ity, or a State or subdivision thereof, that is not a retail
22 electric supplier that generates electric energy by the use
23 of a clean energy resource at an eligible facility may only
24 sell, transfer or exchange a Federal clean energy credit
25 to a cooperatively owned utility or an agency, authority

1 or instrumentality of a State or political subdivision of a
2 State that is a retail electric supplier that has acquired
3 the electric energy associated with the credit.
4 "(3) The Secretary may delegate to an appropriate
5 market-making entity the administration of a national
6 tradeable clean energy credit market and a nation energy
7 efficiency credit market for purposes of creating a trans-
8 parent national market for the sale or trade of clean en-
9 ergy credits and a transparent national market for the sale
10 or trade of Federal energy efficiency credits.
11 "(g) CLEAN ENERGY CREDIT BORROWING.—At any
12 time before the end of calendar year 2012, a retail electric
13 supplier that has reason to believe it will not be able to
14 fully comply with subsection (b) may—
15 "(1) submit a plan to the Secretary dem-
16 onstrating that the retail electric supplier will earn
17 sufficient Federal clean energy credits and Federal
18 energy efficiency credits within the next 3 calendar
19 years which, when taken into account, will enable
20 the retail electric supplier to meet the requirements
21 of subsection (b) for calendar year 2012 and the
22 subsequent calendar years involved; and
23 "(2) upon the approval of the plan by the Sec-
24 retary, apply Federal clean energy credits and Fed-
25 eral energy efficiency credits that the plan dem-

1 onstrates will be earned within the next 3 calendar
2 years to meet the requirements of subsection (b) for
3 each calendar year involved.
4 The retail electric supplier must repay all of the borrowed
5 Federal clean energy credits and Federal energy efficiency
6 credits by submitting an equivalent number of Federal
7 clean energy credits and Federal energy efficiency credits,
8 in addition to those otherwise required under subsection
9 (b), by calendar year 2020 or any earlier deadlines speci-
10 fied in the approved plan. Failure to repay the borrowed
11 Federal clean energy credits and Federal energy efficiency
12 credits shall subject the retail electric supplier to civil pen-
13 alties under subsection (i) for violation of the requirements
14 of subsection (b) for each calendar year involved.
15 "(h) ENERGY EFFICIENCY CREDITS.—
16 "(1) DEFINITIONS.—In this subsection—
17 "(A) CUSTOMER FACILITY SAVINGS.—The
18 term 'customer facility savings' means a reduc-
19 tion in end-use electricity at a facility of an
20 end-use consumer of electricity served by a re-
21 tail electric supplier, as compared to—
22 "(i) consumption at the facility during
23 a base year;
24 "(ii) in the case of new equipment (re-
25 gardless of whether the new equipment re-

1 places existing equipment at the end of the
2 useful life of the existing equipment), con-
3 sumption by the new equipment of average
4 efficiency; or
5 "(iii) in the case of a new facility,
6 consumption at a reference facility.
7 "(B) ELECTRICITY SAVINGS.—The term
8 'electricity savings' means—
9 "(i) customer facility savings of elec-
10 tricity consumption adjusted to reflect any
11 associated increase in fuel consumption at
12 the facility;
13 "(ii) reductions in distribution system
14 losses of electricity achieved by a retail
15 electricity distributor, as compared to
16 losses during the base years;
17 "(iii) the output of new combined heat
18 and power systems, to the extent provided
19 under paragraph (5); and
20 "(iv) recycled energy savings.
21 "(C) QUALIFYING ELECTRICITY SAV-
22 INGS.—The term 'qualifying electricity savings'
23 means electricity saving that meet the measure-
24 ment and verification requirements of para-
25 graph (4).

1 "(D) RECYCLED ENERGY SAVINGS.—The
2 term 'recycled energy savings' means a reduc-
3 tion in electricity consumption that is attrib-
4 utable to electrical or mechanical power, or
5 both, produced by modifying an industrial or
6 commercial system that was in operation before
7 July 1, 2007, in order to recapture energy that
8 would otherwise be wasted.
9 "(2) PETITION.—The Governor of a State may
10 petition the Secretary to allow the requirements of
11 a retail electric supplier under subsection (c) in the
12 State to be met by submitting Federal energy effi-
13 ciency credits issued pursuant to this subsection.
14 "(3) ISSUANCE OF CREDITS.—(A) Upon peti-
15 tion by the Governor, the Secretary shall issue en-
16 ergy efficiency credits for electricity savings de-
17 scribed in subparagraph (B) achieved in States de-
18 scribed in paragraph (2) in accordance with this
19 subsection.
20 "(B) In accordance with regulations promul-
21 gated by the Secretary, the Secretary shall issue
22 credits for—
23 "(i) qualified electricity savings achieved
24 by a retail electric supplier in a calendar year;
25 and

"(ii) qualified electricity savings achieved by other entities if—

"(I) the measures used to achieve the qualifying electricity savings were installed or place in operation by the entity seeking the credit or the designated agent of the entity; and

"(II) no retail electric supplier paid a substantial portion of the cost of achieving the qualified electricity savings (unless the retail electric supplier has waived any entitlement to the credit).

"(4) MEASUREMENT AND VERIFICATION OF ELECTRICITY SAVINGS.—Not later than June 30, 2010, the Secretary shall promulgate regulations regarding the measurement and verification of electricity savings under this subsection, including regulations covering—

"(A) procedures and standards for defining and measuring electricity savings that will be eligible to receive credits under paragraph (3), which shall—

"(i) specify the types of energy efficiency and energy conservation that will be eligible for the credits;

"(ii) require that energy consumption for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production, and building area;

"(iii) account for the useful life of electricity savings measures;

"(iv) include specified electricity savings values for specific, commonly-used efficiency measures;

"(v) specify the extent to which electricity savings attributable to measures carried out before the date of enactment of this section are eligible to receive credits under this subsection; and

"(vi) exclude electricity savings that (I) are not properly attributable to measures carried out by the entity seeking the credit; or (II) have already been credited under this section to another entity;

"(B) procedures and standards for third-party verification of reported electricity savings; and

"(C) such requirements for information, reports, and access to facilities as may be necessary to carry out this subsection.

"(5) COMBINED HEAT AND POWER.—Under regulations promulgated by the Secretary, the increment of electricity output of a new combined heat and power system that is attributable to the higher efficiency of the combined system (as compared to the efficiency of separate production of the electric and thermal outputs), shall be considered electricity savings under this subsection.

"(i) ADJUSTMENT OF REQUIRED ANNUAL PERCENTAGES.—The Governor of each State shall determine whether or not meeting the required annual percentages set forth in subsection (b) would result in an increase in electricity costs in that State, and if so what alternative percentage would not cause an undue burden on electric consumers. If the Governor makes such determinations and submits them to the Secretary of Energy, the Secretary shall establish an alternative percentage for that States at a lower level determined by the Governor.

"(j) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

"(1) the annual clean energy generation of any retail electric supplier, Federal clean energy credits submitted by a retail electric supplier pursuant to subsection (b)(1) and Federal energy efficiency credits submitted by a retail electric supplier pursuant to subsection (b)(2);

"(2) annual electricity savings achieved pursuant to subsection (i);

"(3) the validity of Federal clean energy credits submitted for compliance by a retail electric supplier to the Secretary; and

"(4) the quantity of electricity sales of all retail electric suppliers.

"(k) STATE PROGRAMS.—(1) Nothing in this section diminishes any authority of a State or political subdivision of a State to—

"(A) adopt or enforce any law or regulation respecting clean energy or energy efficiency, including but not limited to programs that exceed the required amount of clean energy or energy efficiency under this section, or

"(B) regulate the acquisition and disposition of Federal clean energy credits and Federal energy efficiency credits by retail electric suppliers.

No law or regulation referred to in subparagraph (A) shall relieve any person of any requirement otherwise applicable

1 under this section. The Secretary, in consultation with
2 States having clean energy programs and energy efficiency
3 programs, shall preserve the integrity of such State pro-
4 grams, including programs that exceed the required
5 amount of clean energy and energy efficiency under this
6 section, and shall facilitate coordination between the Fed-
7 eral program and State programs.
8 "(2) In the rule establishing the program under this
9 section, the Secretary shall incorporate common elements
10 of existing clean energy and energy efficiency programs,
11 including State programs, to ensure administrative ease,
12 market transparency and effective enforcement. The Sec-
13 retary shall work with the States to minimize administra-
14 tive burdens and costs to retail electric suppliers.
15 "(l) RECOVERY OF COSTS.—An electric utility whose
16 sales of electric energy are subject to rate regulation, in-
17 cluding any utility whose rates are regulated by the Com-
18 mission and any State regulated electric utility, shall not
19 be denied the opportunity to recover the full amount of
20 the prudently incurred incremental cost of clean energy
21 and energy efficiency obtained to comply with the require-
22 ments of subsection (b). For purposes of this subsection,
23 the definitions in section 312 of this Act shall apply to
24 the terms electric utility, State regulated electric utility,

1 State agency, Commission, and State regulatory author-
2 ity.".
3 (h) TABLE OF CONTENTS.—The table of contents for
4 such title is amended by adding the following new item
5 at the end:

"Sec. 610. Federal clean energy standard.".

6 (c) SUNSET.—Section 610 of such title and the item
7 relating to such section 610 in the table of contents for
8 such title are each repealed as of December 31, 2039.

9 TITLE II—AMERICAN ENERGY
10 Subtitle A—CONSERVATION AND
11 EFFICIENCY

12 CHAPTER 1—TAPPING AMERICA'S
13 INGENUITY AND CREATIVITY

14 **SEC. 201. DEFINITIONS.**
15 In this chapter:
16 (1) ADMINISTERING ENTITY.—The term "ad-
17 ministering entity" means the entity with which the
18 Secretary enters into an agreement under this sub-
19 title.
20 (2) DEPARTMENT.—The term "Department"
21 means the Department of Energy.
22 (3) SECRETARY.—The term "Secretary" means
23 the Secretary of Energy.

1 **SEC. 202. STATEMENT OF POLICY.**

2 It is the policy of the United States to provide incen-
3 tives to encourage the development and implementation of
4 innovative energy technologies and new energy sources
5 that will reduce our reliance on foreign energy.

6 **SEC. 203. PRIZE AUTHORITY.**

7 (a) IN GENERAL.—The Secretary shall carry out a
8 program to competitively award cash prizes in conformity
9 with this chapter to advance the research, development,
10 demonstration, and commercial application of innovative
11 energy technologies and new energy sources.

12 (b) ADVERTISING AND SOLICITATION OF COMPETI-
13 TORS.—

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

19 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
20 ISTER NOTICE.—The Secretary shall announce each
21 prize competition by publishing a notice in the Fed-
22 eral Register. This notice shall include essential ele-
23 ments of the competition such as the subject of the
24 competition, the duration of the competition, the eli-
25 gibility requirements for participation in the com-
26 petition, the process for participants to register for

1 the competition, the amount of the prize, and the
2 criteria for awarding the prize.

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

8 (1) Advertise the competition and its results.

9 (2) Raise funds from private entities and indi-
10 viduals to pay for administrative costs and cash
11 prizes.

12 (3) Develop, in consultation with and subject to
13 the final approval of the Secretary, criteria to select
14 winners based upon the goal of safely and ade-
15 quately storing nuclear used fuel.

16 (4) Determine, in consultation with and subject
17 to the final approval of the Secretary, the appro-
18 priate amount of the awards.

19 (5) Protect against the administering entity's
20 unauthorized use or disclosure of a registered par-
21 ticipant's intellectual property, trade secrets, and
22 confidential business information. Any information
23 properly identified as trade secrets or confidential
24 business information that is submitted by a partici-

pant as part of a competitive program under this subtitle may be withheld from public disclosure.

(6) Develop and promulgate sufficient rules to define the parameters of designing and proposing innovative energy technologies and new energy sources with input from industry, citizens, and corporations familiar with such activities.

(d) FUNDING SOURCES.—Prizes under this chapter may consist of Federal appropriated funds, funds provided by the administering entity, or funds raised through grants or donations. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, United States Code, may use such funds for the cash prize program. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

(e) ANNOUNCEMENT OF PRIZES.—The Secretary may not publish a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated to the Department or the Department has received from the administering entity a written commitment to provide all necessary funds.

SEC. 204. ELIGIBILITY.

To be eligible to win a prize under this chapter an individual or entity—

(1) shall notify the administering entity of intent to submit ideas and intent to collect the prize upon selection;

(2) shall comply with all the requirements stated in the Federal Register notice required under section 213(b)(2);

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of the United States;

(4) shall not be a Federal entity, a Federal employee acting within the scope of his or her employment, or an employee of a national laboratory acting within the scope of employment;

(5) shall not use Federal funding or other Federal resources to compete for the prize; and

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

SEC. 205. INTELLECTUAL PROPERTY.

The Federal Government shall not, by virtue of offering or awarding a prize under this chapter, be entitled to any intellectual property rights derived as a con-

1 sequence of, or in direct relation to, the participation by
2 a registered participant in a competition authorized by
3 this chapter. This section shall not be construed to prevent
4 the Federal Government from negotiating a license for the
5 use of intellectual property developed for a prize competi-
6 tion under this subtitle. The Federal Government may
7 seek assurances that technologies for which prizes are
8 awarded under this subtitle are offered for commercializa-
9 tion in the event an award recipient does not take, or is
10 not expected to take within a reasonable time, effective
11 steps to achieve practical application of the technology.

12 **SEC. 206. WAIVER OF LIABILITY.**

13 The Secretary may require registered participants to
14 waive claims against the Federal Government and the ad-
15 ministering entity (except claims for willful misconduct)
16 for any injury, death, damage, or loss of property, revenue,
17 or profits arising from the registered participants' partici-
18 pation in a competition under this chapter. The Secretary
19 shall give notice of any waiver required under this section
20 in the notice required by section 213(b)(2). The Secretary
21 may not require a registered participant to waive claims
22 against the administering entity arising out of the unau-
23 thorized use or disclosure by the administering entity of
24 the registered participant's intellectual property, trade se-
25 crets, or confidential business information.

1 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

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

6 (b) TREATMENT OF AWARDS.—Amounts received
7 pursuant to an award under this chapter may not be taxed
8 by any Federal, State, or local authority.

9 (c) ADMINISTRATION.—In addition to the amounts
10 authorized under subsection (a), there are authorized to
11 be appropriated to the Secretary for each of fiscal years
12 2009 through 2020 $2,000,000 for the administrative
13 costs of carrying out this chapter.

14 (d) CARRYOVER OF FUNDS.—Funds appropriated for
15 prize awards under this chapter shall remain available
16 until expended and may be transferred, reprogrammed, or
17 expended for other purposes only after the expiration of
18 11 fiscal years after the fiscal year for which the funds
19 were originally appropriated. No provision in this chapter
20 permits obligation or payment of funds in violation of sec-
21 tion 1341 of title 31, United States Code.

22 **SEC. 208. NEXT GENERATION AUTOMOBILE PRIZE PRO-**
23 **GRAM.**

24 The Secretary of Energy shall establish a program
25 to award a prize in the amount of $500,000,000 to the
26 first automobile manufacturer incorporated in the United

1 States to manufacture and sell in the United States
2 50,000 midsized sedan automobiles which operate on gaso-
3 line and can travel 100 miles per gallon.

4 **SEC. 209. ADVANCED BATTERY MANUFACTURING INCEN-**
5 **TIVE PROGRAM.**

6 (a) DEFINITIONS.—In this section:
7 (1) ADVANCED BATTERY.—The term "advanced
8 battery" means an electrical storage device suitable
9 for vehicle applications.
10 (2) ENGINEERING INTEGRATION COSTS.—The
11 term "engineering integration costs" includes the
12 cost of engineering tasks relating to—
13 (A) incorporation of qualifying components
14 into the design of advanced batteries; and
15 (B) design of tooling and equipment and
16 developing manufacturing processes and mate-
17 rial suppliers for production facilities that
18 produce qualifying components or advanced bat-
19 teries.
20 (b) ADVANCED BATTERY MANUFACTURING FACIL-
21 ITY.—The Secretary shall provide facility funding awards
22 under this section to advanced battery manufacturers to
23 pay not more than 30 percent of the cost of reequipping,
24 expanding, or establishing a manufacturing facility in the
25 United States to produce advanced batteries.

1 (c) PERIOD OF AVAILABILITY.—An award under sub-
2 section (b) shall apply to—
3 (1) facilities and equipment placed in service
4 before December 30, 2020; and
5 (2) engineering integration costs incurred dur-
6 ing the period beginning on the date of enactment
7 of this Act and ending on December 30, 2020.
8 (d) DIRECT LOAN PROGRAM.—
9 (1) IN GENERAL.—Not later than 1 year after
10 the date of enactment of this Act. and subject to the
11 availability of appropriated funds, the Secretary
12 shall carry out a program to provide a total of not
13 more than $100,000,000 in loans to eligible individ-
14 uals and entities (as determined by the Secretary)
15 for the costs of activities described in subsection (b).
16 (2) SELECTION OF ELIGIBLE PROJECTS.—The
17 Secretary shall select eligible projects to receive
18 loans under this subsection in cases in which, as de-
19 termined by the Secretary, the award recipient—
20 (A) is financially viable without the receipt
21 of additional Federal funding associated with
22 the proposed project;
23 (B) will provide sufficient information to
24 the Secretary for the Secretary to ensure that

the qualified investment is expended efficiently and effectively; and

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

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

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

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

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

(ii) 25 years;

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

(D) shall be made by the Federal Financing Bank.

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

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term "covered firm" means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the American Energy Trust Fund such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

CHAPTER 2—REFINERY PERMIT PROCESS SCHEDULE

SEC. 221. SHORT TITLE.

This chapter may be cited as the "Refinery Permit Process Schedule Act".

1 **SEC. 222. DEFINITIONS.**

2 For purposes of this chapter:

3 (1) the term "Administrator" means the Ad-
4 ministrator of the Environmental Protection Agency;

5 (2) the term "applicant" means a person who
6 (with the approval of the governor of the State, or
7 in the case of Native American tribes or tribal terri-
8 tories the designated leader of the tribe or tribal
9 community, where the proposed refinery would be lo-
10 cated) is seeking a Federal refinery authorization;

11 (3) the term "biomass" has the meaning given
12 that term in section 932(a)(1) of the Energy Policy
13 Act of 2005;

14 (4) the term "Federal refinery authorization"—

15 (A) means any authorization required
16 under Federal law, whether administered by a
17 Federal or State administrative agency or offi-
18 cial, with respect to siting, construction, expan-
19 sion, or operation of a refinery; and

20 (B) includes any permits, licenses, special
21 use authorizations, certifications, opinions, or
22 other approvals required under Federal law
23 with respect to siting, construction, expansion,
24 or operation of a refinery;

25 (5) the term "refinery" means—

1 (A) a facility designed and operated to re-
2 ceive, load, unload, store, transport, process,
3 and refine crude oil by any chemical or physical
4 process, including distillation, fluid catalytic
5 cracking, hydrocracking, coking, alkylation,
6 etherification, polymerization, catalytic reform-
7 ing, isomerization, hydrotreating, blending, and
8 any combination thereof, in order to produce
9 gasoline or distillate;

10 (B) a facility designed and operated to re-
11 ceive, load, unload, store, transport, process,
12 and refine coal by any chemical or physical
13 process, including liquefaction, in order to
14 produce gasoline or diesel as its primary out-
15 put; or

16 (C) a facility designed and operated to re-
17 ceive, load, unload, store, transport, process (in-
18 cluding biochemical, photochemical, and bio-
19 technology processes), and refine biomass in
20 order to produce biofuel; and

21 (6) the term "State" means a State, the Dis-
22 trict of Columbia, the Commonwealth of Puerto
23 Rico, and any other territory or possession of the
24 United States.

1 **SEC. 223. STATE ASSISTANCE.**

2 (a) STATE ASSISTANCE.—At the request of a gov-
3 ernor of a State, or in the case of Native American tribes
4 or tribal territories the designated leader of the tribe or
5 tribal community, the Administrator is authorized to pro-
6 vide financial assistance to that State or tribe or tribal
7 community to facilitate the hiring of additional personnel
8 to assist the State or tribe or tribal community with exper-
9 tise in fields relevant to consideration of Federal refinery
10 authorizations.

11 (b) OTHER ASSISTANCE.—At the request of a gov-
12 ernor of a State, or in the case of Native American tribes
13 or tribal territories the designated leader of the tribe or
14 tribal community, a Federal agency responsible for a Fed-
15 eral refinery authorization shall provide technical, legal,
16 or other nonfinancial assistance to that State or tribe or
17 tribal community to facilitate its consideration of Federal
18 refinery authorizations.

19 **SEC. 224. REFINERY PROCESS COORDINATION AND PROCE-**
20 **DURES.**

21 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

22 (1) IN GENERAL.—The President shall appoint
23 a Federal coordinator to perform the responsibilities
24 assigned to the Federal coordinator under this chap-
25 ter.

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

5 (b) FEDERAL REFINERY AUTHORIZATIONS.—

6 (1) MEETING PARTICIPANTS.—Not later than
7 30 days after receiving a notification from an appli-
8 cant that the applicant is seeking a Federal refinery
9 authorization pursuant to Federal law, the Federal
10 coordinator appointed under subsection (a) shall
11 convene a meeting of representatives from all Fed-
12 eral and State agencies responsible for a Federal re-
13 finery authorization with respect to the refinery. The
14 governor of a State shall identify each agency of
15 that State that is responsible for a Federal refinery
16 authorization with respect to that refinery.

17 (2) MEMORANDUM OF AGREEMENT.—(A) Not
18 later than 90 days after receipt of a notification de-
19 scribed in paragraph (1), the Federal coordinator
20 and the other participants at a meeting convened
21 under paragraph (1) shall establish a memorandum
22 of agreement setting forth the most expeditious co-
23 ordinated schedule possible for completion of all
24 Federal refinery authorizations with respect to the
25 refinery, consistent with the full substantive and

1 procedural review required by Federal law. If a Fed-
2 eral or State agency responsible for a Federal refin-
3 ery authorization with respect to the refinery is not
4 represented at such meeting, the Federal coordinator
5 shall ensure that the schedule accommodates those
6 Federal refinery authorizations, consistent with Fed-
7 eral law. In the event of conflict among Federal re-
8 finery authorization scheduling requirements, the re-
9 quirements of the Environmental Protection Agency
10 shall be given priority.
11 (B) Not later than 15 days after completing the
12 memorandum of agreement, the Federal coordinator
13 shall publish the memorandum of agreement in the
14 Federal Register.
15 (C) The Federal coordinator shall ensure that
16 all parties to the memorandum of agreement are
17 working in good faith to carry out the memorandum
18 of agreement, and shall facilitate the maintenance of
19 the schedule established therein.
20 (c) CONSOLIDATED RECORD.—The Federal coordi-
21 nator shall, with the cooperation of Federal and State ad-
22 ministrative agencies and officials, maintain a complete
23 consolidated record of all decisions made or actions taken
24 by the Federal coordinator or by a Federal administrative
25 agency or officer (or State administrative agency or officer

1 acting under delegated Federal authority) with respect to
2 any Federal refinery authorization. Such record shall be
3 the record for judicial review under subsection (d) of deci-
4 sions made or actions taken by Federal and State admini-
5 strative agencies and officials, except that, if the Court de-
6 termines that the record does not contain sufficient infor-
7 mation, the Court may remand the proceeding to the Fed-
8 eral coordinator for further development of the consoli-
9 dated record.
10 (d) REMEDIES.—
11 (1) IN GENERAL.—The United States District
12 Court for the district in which the proposed refinery
13 is located shall have exclusive jurisdiction over any
14 civil action for the review of the failure of an agency
15 or official to act on a Federal refinery authorization
16 in accordance with the schedule established pursuant
17 to the memorandum of agreement.
18 (2) STANDING.—If an applicant or a party to
19 a memorandum of agreement alleges that a failure
20 to act described in paragraph (1) has occurred and
21 that such failure to act would jeopardize timely com-
22 pletion of the entire schedule as established in the
23 memorandum of agreement, such applicant or other
24 party may bring a cause of action under this sub-
25 section.

(3) COURT ACTION.—If an action is brought under paragraph (2), the Court shall review whether the parties to the memorandum of agreement have been acting in good faith, whether the applicant has been cooperating fully with the agencies that are responsible for issuing a Federal refinery authorization, and any other relevant materials in the consolidated record. Taking into consideration those factors, if the Court finds that a failure to act described in paragraph (1) has occurred, and that such failure to act would jeopardize timely completion of the entire schedule as established in the memorandum of agreement, the Court shall establish a new schedule that is the most expeditious coordinated schedule possible for completion of proceedings, consistent with the full substantive and procedural review required by Federal law. The court may issue orders to enforce any schedule it establishes under this paragraph.

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

(5) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

SEC. 225. SAVINGS CLAUSE.

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

SEC. 226. REFINERY REVITALIZATION REPEAL.

Subtitle H of title III of the Energy Policy Act of 2005 and the items relating thereto in the table of contents of such Act are repealed.

Subtitle B—NEW AND EXPANDING TECHNOLOGIES

CHAPTER 1—ALTERNATIVE FUELS

SEC. 261. REPEAL.

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

SEC. 262. GOVERNMENT AUCTION OF LONG TERM PUT OPTION CONTRACTS ON COAL-TO-LIQUID FUEL PRODUCED BY QUALIFIED COAL-TO-LIQUID FACILITIES.

(a) IN GENERAL.—The Secretary shall, from time to time, auction to the public coal-to-liquid fuel put option

contracts having expiration dates of 5 years, 10 years, 15 years, or 20 years.

(b) CONSULTATION WITH SECRETARY OF ENERGY.—The Secretary shall consult with the Secretary of Energy regarding—

(1) the frequency of the auctions;

(2) the strike prices specified in the contracts;

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

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

(c) DEFINITIONS.—In this section:

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

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

(A) gives the holder the right (but not the obligation) to sell to the Government of the United States a certain quantity of a specific type of coal-to-liquid fuel produced by a qualified coal-to-liquid facility specified in the contract, at a strike price specified in the contract,

on or before an expiration date specified in the contract; and

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

(3) QUALIFIED COAL-TO-LIQUID FACILITY.—The term "qualified coal-to-liquid facility" means a manufacturing facility that has the capacity to produce at least 10,000 barrels per day of transportation grade liquid fuels from a feedstock that is primarily domestic coal (including peat and any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(5) STRIKE PRICE.—The term "strike price" means, with respect to a put option contract, the price at which the holder of the contract has the right to sell the fuel which is the subject of the contract.

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

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

1 **SEC. 263. STANDBY LOANS FOR QUALIFYING COAL-TO-LIQ-**
2 **UIDS PROJECTS.**
3 Section 1702 of the Energy Policy Act of 2005 (42
4 U.S.C. 16512) is amended by adding at the end the fol-
5 lowing new subsection:
6 "(k) STANDBY LOANS FOR QUALIFYING CTL
7 PROJECTS.—
8 "(1) DEFINITIONS.—For purposes of this sub-
9 section:
10 "(A) CAP PRICE.—The term 'cap price'
11 means a market price specified in the standby
12 loan agreement above which the project is re-
13 quired to make payments to the United States.
14 "(B) FULL TERM.—The term 'full term'
15 means the full term of a standby loan agree-
16 ment, as specified in the agreement, which shall
17 not exceed the lesser of 30 years or 90 percent
18 of the projected useful life of the project (as de-
19 termined by the Secretary).
20 "(C) MARKET PRICE.—The term 'market
21 price' means the average quarterly price of a
22 petroleum price index specified in the standby
23 loan agreement.
24 "(D) MINIMUM PRICE.—The term 'min-
25 imum price' means a market price specified in
26 the standby loan agreement below which the

1 United States is obligated to make disburse-
2 ments to the project.
3 "(E) OUTPUT.—The term 'output' means
4 some or all of the liquid or gaseous transpor-
5 tation fuels produced from the project, as speci-
6 fied in the loan agreement.
7 "(F) PRIMARY TERM.—The term 'primary
8 term' means the initial term of a standby loan
9 agreement, as specified in the agreement, which
10 shall not exceed the lesser of 20 years or 75
11 percent of the projected useful life of the
12 project (as determined by the Secretary).
13 "(G) QUALIFYING CTL PROJECT.—The
14 term 'qualifying CTL project' means—
15 "(i) a commercial-scale project that
16 converts coal to one or more liquid or gas-
17 eous transportation fuels; or
18 "(ii) not more than one project at a
19 facility that converts petroleum refinery
20 waste products, including petroleum coke,
21 into one or more liquids or gaseous trans-
22 portation fuels,
23 that demonstrates the capture, and sequestra-
24 tion or disposal or use of, the carbon dioxide
25 produced in the conversion process, and that,

on the basis of a carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, as producing fuel with life cycle carbon dioxide emissions at or below the average life cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities.

"(H) STANDBY LOAN AGREEMENT.—The term 'standby loan agreement' means a loan agreement entered into under paragraph (2).

"(2) STANDBY LOANS.—

"(A) LOAN AUTHORITY.—The Secretary may enter into standby loan agreements with not more than six qualifying CTL projects, at least one of which shall be a project jointly or in part owned by two or more small coal producers. Such an agreement—

"(i) shall provide that the Secretary will make a direct loan (within the meaning of section 502(1) of the Federal Credit Reform Act of 1990) to the qualifying CTL project; and

"(ii) shall set a cap price and a minimum price for the primary term of the agreement.

"(B) LOAN DISBURSEMENTS.—Such a loan shall be disbursed during the primary term of such agreement whenever the market price falls below the minimum price. The amount of such disbursements in any calendar quarter shall be equal to the excess of the minimum price over the market price, times the output of the project (but not more than a total level of disbursements specified in the agreement).

"(C) LOAN REPAYMENTS.—The Secretary shall establish terms and conditions, including interest rates and amortization schedules, for the repayment of such loan within the full term of the agreement, subject to the following limitations:

"(i) If in any calendar quarter during the primary term of the agreement the market price is less than the cap price, the project may elect to defer some or all of its repayment obligations due in that quarter. Any unpaid obligations will continue to accrue interest.

"(ii) If in any calendar quarter during the primary term of the agreement the market price is greater than the cap price, the project shall meet its scheduled repayment obligation plus deferred repayment obligations, but shall not be required to pay in that quarter an amount that is more than the excess of the market price over the cap price, times the output of the project.

"(iii) At the end of the primary term of the agreement, the cumulative amount of any deferred repayment obligations, together with accrued interest, shall be amortized (with interest) over the remainder of the full term of the agreement.

"(3) PROFIT-SHARING.—The Secretary is authorized to enter into a profit-sharing agreement with the project at the time the standby loan agreement is executed. Under such an agreement, if the market price exceeds the cap price in a calendar quarter, a profit-sharing payment shall be made for that quarter, in an amount equal to—

"(A) the excess of the market price over the cap price, times the output of the project; less

"(B) any loan repayments made for the calendar quarter.

"(4) COMPLIANCE WITH FEDERAL CREDIT REFORM ACT.—

"(A) UPFRONT PAYMENT OF COST OF LOAN.—No standby loan agreement may be entered into under this subsection unless the project makes a payment to the United States that the Office of Management and Budget determines is equal to the cost of such loan (determined under 502(5)(B) of the Federal Credit Reform Act of 1990). Such payment shall be made at the time the standby loan agreement is executed.

"(B) MINIMIZATION OF RISK TO THE GOVERNMENT.—In making the determination of the cost of the loan for purposes of setting the payment for a standby loan under subparagraph (A), the Secretary and the Office of Management and Budget shall take into consideration the extent to which the minimum price and the cap price reflect historical patterns of volatility

in actual oil prices relative to projections of future oil prices, based upon publicly available data from the Energy Information Administration, and employing statistical methods and analyses that are appropriate for the analysis of volatility in energy prices.

"(C) TREATMENT OF PAYMENTS.—The value to the United States of a payment under subparagraph (A) and any profit-sharing payments under paragraph (3) shall be taken into account for purposes of section 502(5)(B)(iii) of the Federal Credit Reform Act of 1990 in determining the cost to the Federal Government of a standby loan made under this subsection. If a standby loan has no cost to the Federal Government, the requirements of section 504(b) of such Act shall be deemed to be satisfied.

"(5) OTHER PROVISIONS.—

"(A) NO DOUBLE BENEFIT.—A project receiving a loan under this subsection may not, during the primary term of the loan agreement, receive a Federal loan guarantee under subsection (a) of this section, or under other laws.

"(B) SUBROGATION, ETC.—Subsections (g)(2) (relating to subrogation), (h) (relating to

fees), and (j) (relating to full faith and credit) shall apply to standby loans under this subsection to the same extent they apply to loan guarantees.".

CHAPTER 2—NUCLEAR

SEC. 271 ASME NUCLEAR CERTIFICATION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45O. ASME NUCLEAR CERTIFICATION CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the ASME Nuclear Certification credit determined under this section for any taxable year is an amount equal to 15 percent of the qualified nuclear expenditures paid or incurred by the taxpayer.

"(b) QUALIFIED NUCLEAR EXPENDITURES.—For purposes of this section, the term 'qualified nuclear expenditures' means any expenditure related to—

"(1) obtaining a certification under the American Society of Mechanical Engineers Nuclear Component Certification program, or

"(2) increasing the taxpayer's capacity to construct, fabricate, assemble, or install components—

"(A) for any facility which uses nuclear energy to produce electricity, and

"(B) with respect to the construction, fabrication, assembly, or installation of which the taxpayer is certified under such program.

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

"(1) in the case of a qualified nuclear expenditure described in subsection (b)(1), for the taxable year of such certification, and

"(2) in the case of any other qualified nuclear expenditure, for the taxable year in which such expenditure is paid or incurred.

"(d) SPECIAL RULES.—

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

"(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

"(e) TERMINATION.—This section shall not apply to any expenditures paid or incurred in taxable years beginning after December 31, 2019.".

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

"(32) the ASME Nuclear Certification credit determined under section 45O(a).".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 45O(e)(1).".

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

CHAPTER 3—AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND

SEC. 281. AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "American Renewable and Alternative Energy Trust Fund", consisting of such amounts as may be transferred to the American Renewable and Alternative Energy Trust Fund as provided in this Act.

(b) EXPENDITURES FROM AMERICAN RENEWABLE AND ALTERNATIVE ENERGY TRUST FUND.—

(1) IN GENERAL.—Amounts in the American Renewable and Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109–58; in this section referred to as "EPAct2005") and the Energy Independence and Security Act of 2007 (Public Law 110–140; in this section referred to as "EISAct2007"), as follows:

(A) Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes, section 210 of EPAct2005, 3 percent

(B) Hydroelectric production incentives, section 242 of EPAct2005, 2 percent.

(C) Oil shale, tar sands, and other strategic unconventional fuels, section 369 of EPAct2005, 3 percent.

(D) Clean Coal Power Initiative, section 401 of EPAct2005, 7 percent.

(E) Solar and wind technologies, section 812 of EPAct2005, 7 percent.

(F) Renewable Energy, section 931of EPAct2005, 20 percent.

(G) Production incentives for cellulosic biofuels, section 942 of EPAct2005, 2.5 percent.

(H) Coal and related technologies program, section 962 of EPAct2005, 4 percent.

(I) Methane hydrate research, section 968 of EPAct2005, 2.5 percent.

(J) Incentives for Innovative Technologies, section 1704 of EPAct2005, 7 percent.

(K) Grants for production of advanced biofuels, section 207 of EISAct2007, 16 percent.

(L) Photovoltaic demonstration program, section 607 EISAct2007, 2.5 percent.

(M) Geothermal Energy, title VI, subtitle B of EISAct2007, 4 percent.

(N) Marine and Hydrokinetic Renewable Energy Technologies, title VI, subtitle C of EISAct2007, 2.5 percent.

(O) Energy storage competitiveness, section 641 of EISAct2007, 10 percent.

(P) Smart grid technology research, development, and demonstration, section 1304 of EISAct2007, 7 percent.

(2) APPORTIONMENT OF EXCESS AMOUNT.—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out such sections and subtitles, in proportion to the amounts authorized by law to be appropriated for such other sections and subtitles.

TITLE III—NUCLEAR DEVELOPMENT

SEC. 301. USE OF FUNDS FOR RECYCLING.

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

(1) in subsection (d), by striking "The Secretary may" and inserting "Except as provided in subsection (f), the Secretary may"; and

(2) by adding at the end the following new subsection:

"(f) RECYCLING.—

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

"(2) COMPETITIVE SELECTION.—Grants and contracts authorized under paragraph (1) shall be awarded on the basis a competitive bidding process that—

"(A) maximizes the competitive efficiency of the projects funded;

"(B) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

"(C) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.".

SEC. 302. RULEMAKING FOR LICENSING OF SPENT NUCLEAR FUEL RECYCLING FACILITIES.

(a) REQUIREMENT.—The Nuclear Regulatory Commission shall, as expeditiously as possible, but in no event later than 2 years after the date of enactment of this Act, complete a rulemaking establishing a process for the licensing by the Nuclear Regulatory Commission, under the Atomic Energy Act of 1954, of facilities for the recycling of spent nuclear fuel.

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

SEC. 304. YUCCA MOUNTAIN.

(a) IN GENERAL.—Section 114 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134) is amended by inserting the following new subsection after subsection (d):

"(e) YUCCA MOUNTAIN REPOSITORY.—The Yucca Mountain site has been approved by the Congress, following over 2 decades of scientific and technical review,

as the site for the Nation's first permanent repository for spent nuclear fuel and high-level radioactive waste stored at 121 sites in 39 States. To provide for disposal of such waste and to promote the use of nuclear power necessary to meet United States greenhouse gas reduction goals, the Secretary shall seek to license, construct, and operate a repository at the Yucca Mountain site as expeditiously as practicable, including by undertaking the following activities:

"(1) Seeking all necessary regulatory approvals and permits to construct and operate the repository.

"(2) Conducting all necessary design and engineering work to support construction of the repository.

"(3) Undertaking all infrastructure activities necessary to support the construction or operation of the repository or transportation to the site of spent nuclear fuel and high-level radioactive waste. Infrastructure activities include, but are not limited to, safety upgrades; site preparation; the construction of a rail line to connect the Yucca Mountain site with the national rail network, including any facilities to facilitate rail operations; and construction, upgrade, acquisition, or operation of electrical grids or facili-

ties, other utilities, communication facilities, access roads, rail lines, and nonnuclear support facilities.".

(b) CONFORMING AMENDMENT.—Section 114 of such Act is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively.

TITLE IV—CARBON CAPTURE AND STORAGE

Subtitle A—Funding for Carbon Capture and Storage

SEC. 401. SUBROGATION.

Section 1702(g)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is amended by adding the following new subparagraph at the end thereof:

"(D) SECURITY, LINE, AND INTER-CREDITOR PROVISIONS.—Notwithstanding the other provisions of this subsection, as a condition to making a guarantee, the Secretary shall require that the guarantee and the associated obligation have such security, if any, pledged to the repayment of the guarantee or the obligation, and with such terms and conditions, as the Secretary determines appropriate to protect the interests of the United States in the case of default. The terms and conditions of any such security may include provisions for—

"(i) the sharing with other creditors of the borrower of all or any portion of the security, if any, to be pledged to secure the repayment of the guarantee or the obligation;

"(ii) the priority of any liens (and the sharing thereof with other creditors) securing any such collateral (which lien or liens shall have such priority as the Secretary determines appropriate); and

"(iii) the sharing of control with other creditors of the borrower of remedies for recovery of the unpaid principal and interest on the obligation and the sharing of the proceeds of any such recovery.".

Subtitle B—Early Deployment of Carbon Capture and Storage

SEC. 411. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) DISTRIBUTION UTILITY.—The term "distribution utility" means an entity that distributes electricity directly to retail consumers under a legal, regulatory, or contractual obligation to do so.

(3) ELECTRIC UTILITY.—The term "electric utility" has the meaning provided by section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).

(4) FOSSIL FUEL-BASED ELECTRICITY.—The term "fossil fuel-based electricity" means electricity that is produced from the combustion of fossil fuels.

(5) FOSSIL FUEL.—The term "fossil fuel" means coal, petroleum, natural gas or any derivative of coal, petroleum, or natural gas.

(6) CORPORATION.—The term "Corporation" means the Carbon Storage Research Corporation established in accordance with this Act.

(7) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the Edison Electric Institute, the American Public Power Association, the National Rural Electric Cooperative Association, a successor organization of such organizations or a group of owners or operators of distribution utilities delivering fossil fuel-based electricity who collectively represent at least 20 percent of the volume of fossil fuel-based electricity delivered by distribution utilities to consumers in the United States.

(8) RETAIL CONSUMER.—The term "retail consumer" means an end-user of electricity.

SEC. 412. CARBON STORAGE RESEARCH CORPORATION.

(a) ESTABLISHMENT.—

(1) REFERENDUM.—Qualified industry organizations may conduct, at their own expense, a referendum among the owners or operators of distribution utilities delivering fossil fuel-based electricity for the creation of a Carbon Storage Research Corporation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the quantity of fossil fuel-based electricity delivered to consumers in the previous calendar year or other representative period as determined by the Secretary pursuant to this subtitle. Upon approval of those persons representing two-thirds of the total quantity of fossil fuel-based electricity delivered to retail consumers, the Corporation shall be established unless opposed by the State regulatory authorities pursuant to paragraph (2). All distribution utilities voting in the referendum shall certify to the independent auditing firm the quantity of fossil fuel-based electricity represented by their vote.

(2) STATE REGULATORY AUTHORITIES.—Upon its own motion or the petition of a qualified industry organization, each State regulatory authority shall

1 consider its support or opposition to the creation of
2 the Corporation under paragraph (1). State regu-
3 latory authorities may notify the independent audit-
4 ing firm referred to in paragraph (1) of their views
5 on the creation of the Corporation within 180 days
6 after the enactment of this Act. If 40 percent or
7 more of the State regulatory authorities submit to
8 the independent auditing firm written notices of op-
9 position, the Corporation shall not be established
10 notwithstanding the approval of the qualified indus-
11 try organizations as provided in paragraph (1).
12 (b) TERMINATION.—The Corporation shall be au-
13 thorized to collect assessments and conduct operations
14 pursuant to this title for a 10-year period from the date
15 6 months after the date of enactment of this title. After
16 such 10-year period, the Corporation is no longer author-
17 ized to collect assessments and shall be dissolved on the
18 date 15 years after such date of enactment, unless the
19 period is extended by an Act of Congress.
20 (c) GOVERNANCE.—The Corporation shall operate as
21 a division or affiliate of the Electric Power Research Insti-
22 tute (EPRI) and be managed by a Board of not more than
23 15 voting members responsible for its operations, includ-
24 ing compliance with this Act. EPRI, in consultation with
25 the Edison Electric Institute, the American Public Power

1 Association and the National Rural Electric Cooperative
2 Association shall appoint the Board members under sub-
3 paragraphs (A), (B), and (C) of paragraph (1) from
4 among candidates recommended by those organizations.
5 At least a majority of the Board members appointed by
6 EPRI shall be representatives of distribution utilities sub-
7 ject to assessments under section 314.
8 (1) MEMBERS.—The Board shall include at
9 least one representative of each of the following:
10 (A) Investor-owned utilities.
11 (B) Utilities owned by a State agency or a
12 municipality.
13 (C) Rural electric cooperatives.
14 (D) Fossil fuel producers.
15 (E) Non-profit environmental organiza-
16 tions.
17 (F) Independent generators or wholesale
18 power providers.
19 (G) Consumer groups.
20 (2) NONVOTING MEMBERS.—The Board shall
21 also include as additional nonvoting Members the
22 Secretary of Energy or his designee and 2 represent-
23 atives of State regulatory authorities as defined in
24 section 3(17) of the Public Utility Regulatory Poli-
25 cies Act of 1978 (16 U.S.C. 2602, 3(17)), each des-

1 ignated by the National Association of State Regu-
2 latory Utility Commissioners from States that are
3 not within the same transmission interconnection.
4 (d) COMPENSATION.—Corporation Board members
5 shall receive no compensation for their services, nor shall
6 Corporation Board members be reimbursed for expenses
7 relating to their service.
8 (e) TERMS.—Corporation Board members shall serve
9 terms of 4 years and may serve not more than 2 full con-
10 secutive terms. Members filling unexpired terms may serve
11 not more than a total of 8 consecutive years. Former
12 members of the Corporation Board may be reappointed
13 to the Corporation Board if they have not been members
14 for a period of 2 years. Initial appointments to the Cor-
15 poration Board shall be for terms of 1, 2, 3, and 4 years,
16 staggered to provide for the selection of 3 members each
17 year.
18 (f) STATUS OF CORPORATION.—The Corporation
19 shall not be considered to be an agency, department, or
20 instrumentality of the United States, and no officer or di-
21 rector or employee of the Corporation shall be considered
22 to be an officer or employee of the United States Govern-
23 ment, for purposes of title 5 or title 31 of the United
24 States Code, or for any other purpose, and no funds of
25 the Corporation shall be treated as public money for pur-

1 poses of chapter 33 of title 31, United States Code, or
2 for any other purpose.
3 **SEC. 413. FUNCTIONS AND ADMINISTRATION OF THE COR-**
4 **PORATION.**
5 (a) IN GENERAL.—The Corporation shall establish
6 and administer a program to accelerate the commercial
7 availability of carbon dioxide capture and storage tech-
8 nologies and methods, including technologies which cap-
9 ture and store, or capture and convert, carbon dioxide.
10 Under such program competitively awarded grants, con-
11 tracts, and financial assistance shall be provided and en-
12 tered into with eligible entities. Except as provided in sub-
13 section (g), the Corporation shall use all funds derived
14 from assessments under section 5 to issue grants and con-
15 tracts to eligible entities.
16 (b) PURPOSE.—The purposes of the grants, con-
17 tracts, and assistance under this section shall be to sup-
18 port commercial-scale demonstrations of carbon capture or
19 storage technology projects capable of advancing the tech-
20 nologies to commercial readiness. Such projects should en-
21 compass a range of different coal and other fossil fuel vari-
22 eties, be geographically diverse, involve diverse storage
23 media, and employ capture or storage, or capture and con-
24 version, technologies potentially suitable either for new or
25 for retrofit applications.

1 (c) ELIGIBLE ENTITIES.— Entities eligible for
2 grants, contracts or assistance under this section may in-
3 clude distribution utilities, electric utilities and other pri-
4 vate entities, academic institutions, national laboratories,
5 Federal research agencies, State research agencies, non-
6 profit organizations, or consortiums of 2 or more entities.
7 Pilot-scale and similar small-scale projects are not eligible
8 for support by the Corporation.

9 (d) ADMINISTRATION.—The members of the Board
10 of Directors of the Corporation shall elect a Chairman and
11 other officers as necessary, may establish committees and
12 subcommittees of the Corporation, and shall adopt rules
13 and bylaws for the conduct of business and the implemen-
14 tation of this Act. The Board shall appoint an Executive
15 Director and professional support staff who may be em-
16 ployees of the Electric Power Research Institute. After
17 consultation with the Technical Advisory Committee es-
18 tablished under section 10, the Secretary, and the Director
19 of the National Energy Technology Laboratory to obtain
20 advice and recommendations on plans, programs, and
21 project selection criteria, the Board shall establish prior-
22 ities for grants, contracts, and assistance; publish requests
23 for proposals for grants, contracts and assistance; award
24 grants, contracts and assistance competitively, on the
25 basis of merit, after the establishment of procedures that

1 provide for scientific peer review by the Technical Advisory
2 Committee. The Board shall give preference to applica-
3 tions that reflect the best overall value and prospect for
4 achieving the purposes of the Act, such as those which
5 demonstrate an integrated approach for capture and stor-
6 age or capture and conversion technologies. The Board
7 members shall not participate in making grants or awards
8 to entities with whom they are affiliated.

9 (e) USES OF GRANTS, CONTRACTS, AND ASSIST-
10 ANCE.—A grant, contract, or other assistance provided
11 under this section may be used to purchase carbon dioxide
12 when needed to conduct tests of carbon dioxide storage
13 sites, in the case of established projects that are storing
14 carbon dioxide emissions, or for other purposes consistent
15 with the purposes of this Act. The Corporation shall make
16 publicly available at no cost information learned as a re-
17 sult of projects which it supports financially.

18 (f) INTELLECTUAL PROPERTY.—The Board shall es-
19 tablish policies regarding the ownership of intellectual
20 property developed as a result of Corporation grants and
21 other forms of technology support. Such policies shall en-
22 courage individual ingenuity and invention.

23 (g) ADMINISTRATIVE EXPENSES.—Up to 5 percent
24 of the funds collected in any fiscal year under this subtitle
25 may be used for the administrative expenses of operating

1 the Corporation (not including costs incurred in the deter-
2 mination and collection of the assessments)
3 (h) PROGRAMS AND BUDGET.—Before August 1 each
4 year, the Corporation, after consulting with the Technical
5 Advisory Committee and the Secretary and the Director
6 of the Department's National Energy Technology Labora-
7 tory and other interested parties to obtain advice and rec-
8 ommendations, shall publish for public review and com-
9 ment its proposed plans, programs, project selection cri-
10 teria, and projects to be funded by the Corporation for
11 the next calendar year. The Corporation shall also publish
12 for public review and comment a budget plan for the next
13 calendar year, including the probable costs of all pro-
14 grams, projects, and contracts and a recommended rate
15 of assessment sufficient to cover such costs. The Secretary
16 may recommend program and activities the Secretary con-
17 siders appropriate.
18 (i) RECORDS; AUDITS.—The Corporation shall keep
19 minutes, books, and records that clearly reflect all of the
20 acts and transactions of the Corporation and make public
21 such information. The books of the Corporation shall be
22 audited by a certified public accountant at least once each
23 fiscal year and at such other times as the Corporation may
24 designate. Copies of each audit shall be provided to the
25 Congress, all Corporation board members, all qualified in-

1 dustry organizations, each State regulatory authority and,
2 upon request, to other members of the industry. If the
3 audit determines that the Corporation's practices fail to
4 meet generally accepted accounting principles the assess-
5 ment collection authority of the Corporation under this
6 subtitle shall be suspended until a certified public account-
7 ant renders a subsequent opinion that the failure has been
8 corrected.
9 (j) PUBLIC ACCESS.—(1) The Corporation Board's
10 meetings shall be open to the public and shall occur after
11 at least 30 days advance public notice. Meetings of the
12 Board of Directors may be closed to the public where the
13 agenda of such meetings includes only confidential matters
14 pertaining to project selection, the award of grants or con-
15 tracts, personnel matter, or the receipt of legal advice.
16 (2) The minutes of all meetings of the Corporation
17 shall be made available to and readily accessible by the
18 public.
19 (k) ANNUAL REPORT.—Each year the Corporation
20 shall prepare and make publicly available a report which
21 includes an identification and description of all programs
22 and projects undertaken by the Corporation during the
23 previous year. The report shall also detail the allocation
24 or planned allocation of Corporation resources for each
25 such program and project. The Corporation shall provide

1 its annual report to the Congress, the Secretary, each
2 State regulatory authority, and upon request to the public.
3 **SEC. 414. ASSESSMENTS.**
4 (a) AMOUNT.—(1) In all calendar years following its
5 establishment, the Corporation shall collect an assessment
6 on distribution utilities for all fossil fuel-based electricity
7 delivered directly to retail consumers (as determined under
8 section 416). The assessments shall reflect the relative
9 carbon dioxide emission rates of different fossil fuel-based
10 electricity, and initially shall be not less than the following
11 amounts for coal, natural gas, and oil:

Fuel type	Rate of assessment per kilowatt hour
Coal	$0.00043
Natural Gas	$0.00022
Oil	$0.00032

12 (2) The Corporation is authorized to adjust the as-
13 sessments on fossil fuel-based electricity to reflect changes
14 in the expected quantities of such electricity from different
15 fuel types, such that the assessments generate not less
16 than $1.0 billion and not more than $1.1 billion annually.
17 The Corporation is authorized to supplement assessments
18 through additional financial commitments.
19 (b) INVESTMENT OF FUNDS.—Pending disbursement
20 pursuant to a program, plan, or project, the Corporation
21 may invest funds collected through assessments under this

1 section, and any other funds received by the Corporation,
2 only in obligations of the United States or any agency
3 thereof, in general obligations of any State or any political
4 subdivision thereof, in any interest-bearing account or cer-
5 tificate of deposit of a bank that is a member of the Fed-
6 eral Reserve System, or in obligations fully guaranteed as
7 to principal and interest by the United States.
8 (c) REVERSION OF UNUSED FUNDS.—If the Cor-
9 poration does not disburse, dedicate or assign 75 percent
10 or more of the available proceeds of the assessed fees in
11 any calendar year 7 or more years following its establish-
12 ment, due to an absence of qualified projects or similar
13 circumstances, it shall reimburse the remaining
14 undedicated or unassigned balance of such fees, less ad-
15 ministrative and other expenses authorized by this Act, to
16 the distribution utilities upon which such fees were as-
17 sessed, in proportion to their collected assessments.
18 **SEC. 415. ERCOT.**
19 (a) ASSESSMENT, COLLECTION, AND RESISTANCE.—
20 (1) Notwithstanding any other provision of this Act, with-
21 in ERCOT, the assessment provided for in section 314
22 shall be—
23 (A) levied directly on qualified scheduling
24 entities, or their successor entities;

(B) charged consistent with other charges imposed on qualified scheduling entities as a fee on energy used by the load serving entities; and

(C) collected and remitted by ERCOT to the Corporation in the amounts and in the same manner as set forth in section 314.

(2) The assessment amounts referred to in paragraph (1) shall be—

(A) determined by the amount and types of fossil fuel-based electricity delivered directly to all retail customers in the prior calendar year beginning with the year ending immediately prior to the period described in section 312(b); and

(B) take into account the number of renewable energy credits retired by the load serving entities represented by a qualified scheduling entity within the prior calendar year.

(b) ADMINISTRATION EXPENSES.—Up to 1 percent of the funds collected in any fiscal year by ERCOT under the provisions of this section may be used for the administrative expenses incurred in the determination, collection and remittance of the assessments to the Corporation.

(c) AUDIT.—ERCOT shall provide a copy of its annual audit pertaining to the administration of the provisions of this section to the Corporation.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "ERCOT" means the Electric Reliability Council of Texas.

(2) The term "load serving entities" has the meaning adopted by ERCOT Protocols and in effect on the date of enactment of this Act.

(3) The term "qualified scheduling entities" has the meaning adopted by ERCOT Protocols and in effect on the date of enactment of this Act.

(4) The term "renewable energy credit" has the meaning as promulgated and adopted by the Public Utility Commission of Texas pursuant to section 39.904(b) of the Public Utility Regulatory Act of 1999, and in effect on the date of enactment of this Act.

SEC. 416. DETERMINATION OF FOSSIL FUEL-BASED ELECTRICITY DELIVERIES.

(a) FINDINGS.—The Congress finds that:

(1) The assessments under section 414 are to be collected based on the amount of fossil fuel generated electricity delivered by each distribution utility.

(2) Since many distribution utilities purchase all or part of their retail consumer's electricity needs from other entities, it may not be practical to deter-

1 mine the precise fuel mix for the power sold by each
2 individual distribution utility.
3 (3) It may be necessary to use average data,
4 often on a regional basis with reference to Regional
5 Transmission organization or NERC regions, to
6 make the determinations necessary for making as-
7 sessments.
8 (b) DOE PROPOSED RULE.—The Secretary, acting
9 in close consultation with the Energy Information Admin-
10 istration, shall issue for notice and comment a proposed
11 rule to determine the level of fossil fuel electricity delivered
12 to retail customers by each distribution utility in the
13 United States during the most recent calendar year or
14 other period determined to be most appropriate. Such pro-
15 posed rule shall balance the need to be efficient, reason-
16 ably precise and timely, taking into account the nature
17 and cost of data currently available and the nature of mar-
18 kets and regulation in effect in various regions of the
19 country. Different methodologies may be applied in dif-
20 ferent regions if appropriate to obtain the best balance of
21 such factors.
22 (c) FINAL RULE.—Within 6 months after the enact-
23 ment of this Act, and after opportunity for comment, the
24 Secretary shall issue a final rule under this section for
25 determining the level and type of fossil fuel electricity de-

1 livered to retail customers by each distribution utility in
2 the United States during the appropriate period. In
3 issuing such rule, the Secretary may consider opportuni-
4 ties and costs to develop new data sources in the future
5 and issue recommendations for the Energy Information
6 Administration or other entities to collect such data. After
7 notice and opportunity for comment the Secretary may,
8 by rule, subsequently update and modify the methodology
9 for making such determinations.
10 (d) ANNUAL DETERMINATIONS.— Pursuant to the
11 final rule issued under subsection (c), the Secretary shall
12 make annual determinations of the amounts and types for
13 each such utility and publish such determinations in the
14 Federal Register. Such determinations shall be used to
15 conduct the referendum under section 312 and by the Cor-
16 poration in applying any assessment under this title.
17 (e) REHEARING AND JUDICIAL REVIEW.—The owner
18 or operator of any distribution utility that believes that
19 the Secretary has misapplied the methodology in the final
20 rule in determining the amount and types of fossil fuel
21 electricity delivered by such distribution utility may seek
22 rehearing of such determination within 30 days of publica-
23 tion of the determination in the Federal Register. The
24 Secretary shall decide such rehearing petitions within 30
25 days. The Secretary's determinations following rehearing

1 shall be final and subject to judicial review in the United
2 States court of appeals for the District of Columbia.

3 **SEC. 417. COMPLIANCE WITH CORPORATION ASSESS-**
4 **MENTS.**

5 The Corporation may bring an action in the appro-
6 priate court of the United States to compel compliance
7 with an assessment levied by the Corporation under this
8 title. A successful action for compliance under this section
9 may also require payment by the defendant of the costs
10 incurred by the Corporation in bringing such action.

11 **SEC. 418. MIDCOURSE REVIEW.**

12 Not later than 5 years following establishment of the
13 Corporation, the Comptroller General of the United States
14 shall prepare an analysis, and report to Congress, assess-
15 ing the Corporation's activities, including project selection
16 and methods of disbursement of assessed fees, impacts on
17 the prospects for commercialization of carbon capture and
18 storage technologies, and adequacy of funding. The report
19 shall also make such recommendations as may be appro-
20 priate in each of these areas. The Corporation shall reim-
21 burse the Government Accountability Office for the costs
22 associated with performing this midcourse review.

23 **SEC. 419. RECOVERY OF COSTS.**

24 (a) IN GENERAL.—A distribution utility whose trans-
25 mission, delivery, or sales of electric energy are subject

1 to any form of rate regulation shall not be denied the op-
2 portunity to recover the full amount of the prudently in-
3 curred costs associated with complying with this Act, con-
4 sistent with applicable State or Federal law.

5 (b) RATEPAYER REBATES.—Regulatory authorities
6 that approve cost recovery pursuant to subsection (a) may
7 order rebates to ratepayers to the extent that distribution
8 utilities are reimbursed undedicated or unassigned bal-
9 ances pursuant to section 414(c).

10 **SEC. 420. TECHNICAL ADVISORY COMMITTEE.**

11 (a) ESTABLISHMENT.—There is established an advi-
12 sory committee, to be known as the "Technical Advisory
13 Committee".

14 (b) MEMBERSHIP.—The Technical Advisory Com-
15 mittee shall be comprised of not less than 7 members ap-
16 pointed by the Board from among academic institutions,
17 national laboratories, independent research institutions,
18 and other qualified institutions. No member of the Com-
19 mittee shall be affiliated with EPRI or with any organiza-
20 tion having members serving on the Board. At least one
21 member of the Committee shall be appointed from among
22 officers or employees of the Department of Energy rec-
23 ommended to the Board by the Secretary of Energy.

24 (c) CHAIRPERSON AND VICE CHAIRPERSON.—The
25 Board shall designate one member of the Technical Advi-

1 sory Committee to serve as Chairperson of the Committee
2 and one to serve as Vice-Chairperson of the Committee.
3 (d) COMPENSATION.—The Board shall provide com-
4 pensation to members of the Technical Advisory Com-
5 mittee for travel and other incidental expenses and such
6 other compensation as the Board determines to be nec-
7 essary.
8 (e) PURPOSE.—The Technical Advisory shall provide
9 independent assessments and technical evaluations, as well
10 as make nonbinding recommendations to the Board, con-
11 cerning Corporation activities, including but not limited
12 to the following:
13 (1) Reviewing and evaluating the Corporation's
14 plans and budgets, as well as any other appropriate
15 areas, which could include approaches to prioritizing
16 technologies, appropriateness of engineering tech-
17 niques, monitoring and verification technologies for
18 storage, geological site selection, cost control meas-
19 ures.
20 (2) Making annual non-binding recommenda-
21 tions to the Board concerning any of the matters re-
22 ferred to in paragraph (1), as well as what types of
23 investments, scientific research, or engineering prac-
24 tices would best further to the goals of the Corpora-
25 tion.

1 (f) PUBLIC AVAILABILITY.—All reports, evaluations,
2 and other materials of the Technical Advisory Committee
3 shall be made available to the public by the Board, without
4 charge, at time of receipt by the Board.

5 **SEC. 421. LOBBYING RESTRICTIONS.**

6 No funds collected by the Corporation shall be used
7 in any manner for influencing legislation or elections, ex-
8 cept that the Corporation may recommend to the Sec-
9 retary and the Congress changes in this Act or other stat-
10 utes that would further the purposes of this title.

11 **Subtitle C—Reforestation**
12 **Assistance**

13 **SEC. 431. REFORESTATION ACTIVITIES.**

14 (a) OPPORTUNITY CORPS.—Section 122(a)(5)(B) of
15 the National and Community Service Act of 1990 (42
16 U.S.C. 12572) is amended by striking "and" at the end
17 of clause (x), by redesignating clause (xi) as clause (xiii)
18 and inserting after clause (x) the following:
19 "(xi) carrying out activities, including
20 educational efforts, relating to the reforest-
21 ation of both rural areas and urban
22 brownfield areas, with an emphasis on the
23 restoration and reuse of contaminated
24 lands; and".

(b) NATIONAL SERVICE CORPS.—Section 122(a)(3)(B)(vii) of the National and Community Service Act of 1990 (42 U.S.C. 12501 and following) is amended by adding the following before the semicolon: "encouraging and organizing reforestation efforts in urban brownfields and rural districts, planting trees and educating the targeted communities on dendrology and the importance of reforestation efforts".

TITLE V—ENERGY EFFICIENCY

SEC. 501. DECOUPLING.

(a) REPEAL OF PURPA PROVISION.—Section 111(d)(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(17)) is amended to read as follows:

"(17) REPEALED.—This paragraph was repealed.".

(b) REPEAL.—Subsection (a) of section 410 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking all after the first sentence thereof.

SEC. 502. GRANTS TO MONITOR AND ENFORCE STATE BUILDING CODES.

(a) AUTHORITY.—The Secretary of Energy is authorized to make grants to State and local governments to enhance the ability of building code authorities to monitor and enforce State and local building codes.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—EXPANSION OF ELECTRIC ENERGY TRANSMISSION SYSTEM

SEC. 601. AMENDMENT OF FEDERAL POWER ACT.

Section 216 of the Federal Power Act is amended to read as follows:

"SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

"The Commission shall have the same authority under this Act with respect to the expansion of interstate electric power transmission facilities by electric utilities as the Commission has under section 7 of the Natural Gas Act (15 U.S.C. 717) with respect to the extension of improvement of natural gas transportation facilities.".

SEC. 602. FEDERAL INTERCONNECTION STANDARDS FOR CERTAIN FACILITIES.

Part II of the Federal Power Act is amended by adding the following new section after section 210:

1 **"SEC. 210A. EXPEDITED FEDERAL INTERCONNECTION**
2 **STANDARDS FOR CERTAIN ENERGY FACILI-**
3 **TIES.**
4 "(a) FEDERAL STANDARDS.—Within 180 days after
5 the enactment of this section, the Commission shall pro-
6 mulgate rules establishing standards and expedited proce-
7 dures for the physical connection between—
8 "(1) renewable energy facilities, distributed
9 generation, and zero-emissions electric generation fa-
10 cilities under 10 megawatts, and
11 "(2) transmission facilities of transmitting utili-
12 ties subject to the jurisdiction of the Commission
13 under this part.
14 "(b) SAFETY, RELIABILITY, PERFORMANCE, AND
15 COST.—The standards under this section shall establish
16 those measures for the safety and reliability of the affected
17 equipment and transmission systems as may be appro-
18 priate. Such standards shall be consistent with the reli-
19 ability standards under section 215 and all applicable safe-
20 ty and performance standards established by the national
21 electrical code, the Institute of Electrical and Electronics
22 Engineers, Underwriters Laboratories, or the American
23 National Standards Institute, and the North American
24 Electric Reliability Council, yet constitute the minimum
25 cost and technical burdens to the interconnecting renew-

1 able energy facility as the Commission shall, by rule, pre-
2 scribe.
3 "(c) ADDITIONAL CHARGES.—The standards under
4 this section shall prohibit the imposition of additional
5 charges by the owners or operators of transmission sys-
6 tems for equipment or services for interconnection that are
7 additional to those necessary to achieve the objectives of
8 subsection (b).".

9 **TITLE VII—PERFORMANCE**
10 **STANDARD FOR ELECTRIC**
11 **GENERATION**

12 **SEC. 701. PERFORMANCE STANDARDS FOR ELECTRIC GEN-**
13 **ERATION.**
14 (a) STANDARD.—Section 111(a)(1) of the Clean Air
15 Act (42 U.S.C. 7411(a)(1)) is amended by inserting "(A)"
16 after "(1)" and by adding the following new subparagraph
17 at the end thereof: .
18 "(B)(i) Each standard under subsection
19 (b) of this section applicable to the emissions of
20 air pollutants from an electric generation facil-
21 ity using coal or petcoke as fuel shall include a
22 requirement that the facility meet the applicable
23 efficiency standard, expressed in pounds of car-
24 bon dioxide per kilowatt hour, set forth the
25 table in clause (iii). Each standard under sub-

1 section (b) of this section applicable to the
2 emissions of air pollutants from an electric gen-
3 eration facility using ntural gas as fuel shall in-
4 clude a requirement that the facility meet the
5 applicable efficiency standard, expressed in
6 pounds of carbon dioxide per kilowatt hour, set
7 forth the table in clause (iv). This subpara-
8 graph shall not apply with respect to any facil-
9 ity subject only to a standard under subsection
10 (d).

11 "(ii) This subparagraph shall take effect
12 with respect to generation units for which an
13 initial permit is issued after the date of the en-
14 actment of this subparagraph. For purposes of
15 this subparagraph, the term 'final permit'means
16 that the owner or operator of the unit has re-
17 ceived all necessary preconstruction approvals
18 or permits under this Act. A subsequent modi-
19 fication of any such approval or permits shall
20 not affect the date on which a unit is consid-
21 ered to have received a final permit under this
22 subparagraph.

23 "(iii) If the Secretary of Energy does not
24 issue a finding by January 1, 2013 that sci-
25 entific proof exists that anthropogenic carbon

1 dioxide has increased global temperatures by
2 1.5 degrees Celsius over 2008 levels, this sub-
3 paragraph shall not apply.

4 "(iv) The Secretary of Energy shall con-
5 duct an annual assessment of commercially-
6 available generation technology to determine
7 whether the standards in clause (v) are eco-
8 nomically and technically achievable. Unless the
9 Secretary determines that theyare feasible, this
10 subparagraph shall not apply.

11 "(v) The applicable efficiency standard of
12 performance in the case of facilities using coal
13 and petcoke is as follows:

"Calendar Year	Efficiency standard in Pounds of CO2 per Megawatt hour
2010 through 2014	2000
2015 through 2020	1800
2021 through 2029	1400
2030 and after 2030	1100

14 "(vi) The applicable efficiency standard of
15 performance in the case of facilities using nat-
16 ural gas is as follows:

"Calendar Year	Efficiency standard in Pounds of CO2 per Megawatt hour
2010 through 2014	1100
2015 and after 2015	800".

17 (b) ENFORCEMENT.—Section 113(b) of the Clean Air
18 Act is amended by adding the following after paragraph
19 (3): "In the case of a violation of section

111(a)(1)(B)(relating to efficiency standard for electric generation facilities), the civil penalty under this subsection shall be imposed for failure to meet such standard on an average annual basis and subsection (c) of this section shall not apply.".

TITLE VIII—REGULATION OF CARBON DIOXIDE UNDER OTHER LAW

SEC. 801. GREENHOUSE GAS REGULATION UNDER CLEAN AIR ACT.

(a) DEFINITION OF AIR POLLUTANT.—Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended by adding the following at the end thereof: "The term 'air pollutant' shall not include carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.".

(b) CLIMATE CHANGE NOT REGULATED BY CLEAN AIR ACT.—Nothing in the Clean Air Act shall be treated as authorizing or requiring the regulation of climate change or global warming.

SEC. 802. PREEMPTION OF STATE AUTHORITY TO REGULATE CERTAIN FUELS.

(a) STATIONARY AND MOBILE SOURCES .—No State or local government may adopt or enforce any standard or requirement respecting the emissions from any stationary or mobile source of carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

(b) FUELS.—Section 211(c)(4) of the Clean Air Act is amended by adding the following new subparagraph at the end thereof:

"(D) Notwithstanding subparagraph (B) or (C) of this paragraph, no State (or political subdivision thereof) may prescribe or attempt to enforce any control or prohibition of any characteristic or component of a fuel or fuel additive for the purpose of reducing emissions of carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.".

TITLE IX—RENEWABLE FUEL STANDARD

SEC. 901. NATIONAL ACADEMY OF SCIENCES STUDY AND REVIEW OF FUEL BLENDS CONTAINING GREATER THAN 10 PERCENT ETHANOL BY VOLUME.

(a) STUDY.—(1) Within 90 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Energy and the Chairman of the Consumer

1 Products Safety Commission, shall enter into contracts
2 with the National Academy of Sciences for a thorough
3 study and review of the extent to which the use of ethanol-
4 gasoline blends containing greater than 10 percent ethanol
5 by volume, and the emission products thereof, may cause
6 or contribute to a failure of any emission control device
7 or system (over the useful life of the motor vehicle, motor
8 vehicle engine, marine, and other nonroad engines or
9 nonroad vehicle in which such device or system is used)
10 to meet applicable certification emissions standards. The
11 study and review shall also include an analysis of engine
12 performance for large and small engines utilized for
13 onroad or nonroad purposes, increased emissions from the
14 use of these ethanol blends, and materials compatibility
15 and consumer safety issues associated with the use of
16 these ethanol blends, and testing protocols relevant there-
17 to. In addition, the study shall examine the ability of
18 wholesale and retail gasoline distribution infrastructure,
19 including bulk storage, retail storage configurations, and
20 retail equipment, to offer multiple gasolines with different
21 levels of ethanol content intended for use in different gaso-
22 line-powered engines without consumer confusion, con-
23 sumer misfueling, or forcing retailers to offer gasoline only
24 to certain classes of consumers with particular types of
25 gasoline-powered engines.

1 (2) The purpose of the study and review is to provide
2 the Administrator, in coordination with the Secretary, the
3 Chairman, and the Congress, with objective information
4 regarding the impact of the use of ethanol-gasoline blends
5 containing greater than 10 percent ethanol by volume on
6 emissions control, engine performance, and safety on
7 nonflex fuel onroad and nonroad vehicles.
8 (3) The study and review is to provide an analysis
9 of current studies relevant to the areas listed herein, and
10 based on such study and review shall provide the Acad-
11 emies' recommendations on fuel specifications ensuring
12 that such recommendation does not cause or contribute
13 to a failure of any emission control device or system over
14 the useful life of the motor vehicle, motor vehicle engine,
15 marine and other nonroad engines, or nonroad vehicle in
16 which such device or system is used.
17 (4) The members of the study and review panel estab-
18 lished by the Academy to conduct the study and review
19 shall be drawn from among independent scientific and
20 technical experts who have not, within the previous 5
21 years, undertaken fuels research work for the engine man-
22 ufacturing (onroad and offroad), refining, and renewable
23 fuels industries.
24 (5) A report based on the findings and recommenda-
25 tions of the study and review panel shall be submitted to

1 the Administrator, Secretary, Chairman, the President,
2 and Congress within 24 months after the Administrator,
3 in coordination with the Secretary and Chairman, signs
4 the contracts with the National Academy of Sciences.
5 (b) RESTRICTION DURING STUDY.—Not with-
6 standing any other provision of law, the Administrator
7 may not issue or enforce any regulation, nor grant any
8 full or partial waiver pursuant to authority in section 211
9 of the Clean Air Act (42 U.S.C. 7545(f)), nor issue an
10 administrative interpretation, letter, or expansion derived
11 from a prior waiver pursuant to authority in section 211
12 of such Act (42 U.S.C. 7545(f), allowing or requiring the
13 use of ethanol-gasoline blends containing greater than 10
14 percent ethanol by volume until such time as the report
15 required under subsection (a) is received and reviewed by
16 the Administrator and the results and recommendations
17 are reported in the Federal Register with notice and op-
18 portunity for public comment.
19 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Administrator
21 $1,000,000 for the purposes of contracting with the Na-
22 tional Academy of Sciences to perform the study required
23 under subsection (a).

1 **SEC. 902. MODIFICATION OF RENEWABLE FUEL STANDARD.**
2 (a) DEFINITION OF RENEWABLE BIOMASS.—Section
3 211(o)(1)(I) of the Clean Air Act (42 U.S.C.
4 7545(o)(1)(I)) is amended to read as follows:
5 "(A) RENEWABLE BIOMASS.—The term
6 'renewable biomass' means—
7 "(i) materials, precommercial
8 thinnings, or removed exotic species that—
9 "(I) are products of forest man-
10 agement treatments (such as trees,
11 wood, brush, thinnings, chips, and
12 slash) that are removed—
13 "(aa) to reduce hazardous
14 fuels;
15 "(bb) to reduce, prevent, or
16 contain disease or insect infesta-
17 tion;
18 "(cc) to restore ecosystem
19 health;
20 "(dd) as debris from other
21 forest management activities; or
22 "(ee) to create and retain
23 American jobs and business.
24 "(II) would not otherwise be used
25 for higher-value products; and

1 "(III) are harvested from Na-
2 tional Forest System land or public
3 lands (as defined in section 103 of the
4 Federal Land Policy and Management
5 Act of 1976) in accordance with—
6 "(aa) Federal and State law;
7 "(bb) applicable land man-
8 agement plans; and
9 "(cc) the requirements for
10 old-growth maintenance, restora-
11 tion, and management direction
12 of paragraphs (2), (3), and (4) of
13 subsection (e) of section 102 of
14 the Healthy Forests Restoration
15 Act of 2003 and the require-
16 ments for large-tree retention of
17 subsection (f) of that section; or
18 "(ii) any organic matter that is avail-
19 able on a renewable or recurring basis
20 from non-Federal land or land belonging to
21 an Indian or Indian tribe that is held in
22 trust by the United States or subject to a
23 restriction against alienation imposed by
24 the United States, including—

1 "(I) renewable plant material, in-
2 cluding—
3 "(aa) feed grains;
4 "(bb) other agricultural
5 commodities;
6 "(cc) other plants and trees;
7 and
8 "(dd) algae; and
9 "(II) waste material, including—
10 "(aa) crop residue;
11 "(bb) other vegetative waste
12 material (including wood waste
13 and wood residues);
14 "(cc) animal waste and by-
15 products (including fats, oils,
16 greases, and manure);
17 "(dd) construction waste;
18 "(ee) food waste and yard
19 waste;
20 "(ff) non-hazardous pressure
21 treated wood; and
22 "(gg) municipal solid waste.
23 "(III) Cellulosic (plant fiber) or-
24 ganic materials from a plant that is

planted for the purpose of being used to produce energy.

"(IV) Nonhazardous, plant or algal matter that is derived from any of the following:

"(aa) An agricultural crop, crop byproduct or residue resource.

"(bb) Waste such as landscape or right-of-way trimmings (but not including, recyclable postconsumer waste paper, or wood contaminated with plastic or metals). Such term also does not include painted, treated, or pressurized wood unless it is combusted at a facility permitted by a Federal or State agency.

"(V) Animal waste or animal byproducts.

"(VI) Landfill methane.

"(VII) Municipal solid waste.".

(b) ROLL BACK.—The table in section 211(o)(2)(B)(i)(I) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)(i)(I)) is amended as follows:

(1) Strike the items in the right hand column relating to the years 2008 through 2011 and insert "5.4".

(2) Strike the items in the right hand column relating to the years 2012 through 2015 and insert "6.1".

(3) Strike the items in the right hand column relating to the years 2016 through 2019 and insert "6.8".

(4) Strike the items in the right hand column relating to the years 2020 through 2021 and insert "7.4".

(5) Strike the items in the right hand column relating to the year 2022 and insert "7.5".

TITLE X—TRANSPORTATION

SEC. 1001. VEHICLE TRADE-IN PROGRAM.

(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a program to be known as the "Retiring Inefficient Vehicles Incentive Rebate Program", through which the Secretary, shall—

(1) authorize the issuance of a voucher, subject to the specifications set forth in subsection (c), to any individual who is a registered owner of an eligible trade-in vehicle, which voucher may be used sole-

1 ly by such individual for the purchase of a qualifying
2 automobile upon the transfer of such eligible trade-
3 in vehicle to a dealer for dismantling;
4 (2) certify dealers for participation in the Pro-
5 gram and require that all certified dealers—
6 (A) accept vouchers as provided in this
7 section as partial payment for the purchase of
8 any qualifying automobile offered for sale by
9 that dealer; and
10 (B) in accordance with subsection (c)(2),
11 dispose of each eligible trade-in vehicle trans-
12 ferred to the dealer under the Program; and
13 (3) make payments to dealers for vouchers ac-
14 cepted by such dealers under paragraph (2) in ac-
15 cordance with the provisions of this section.
16 (b) AMOUNT OF VOUCHER.—A voucher issued under
17 the Program shall have a value that may be applied to
18 offset the purchase price of a qualifying automobile by
19 $5,000.
20 (c) PROGRAM SPECIFICATIONS.—
21 (1) LIMITATION.—
22 (A) GENERAL PERIOD OF ELIGIBILITY.—A
23 voucher issued under the Program may be used
24 only for the purchase of qualifying automobile
25 that occur before December 31, 2012.

1 (B) NUMBER OF VOUCHERS PER INDI-
2 VIDUAL AND PER TRADE-IN VEHICLE.—Not
3 more than 1 voucher may be issued for a single
4 individual and not more than 1 voucher may be
5 issued for the joint registered owners of a single
6 eligible trade-in vehicle.
7 (D) NO COMBINATION OF VOUCHERS.—An
8 individual may not apply more than 1 voucher
9 issued under the Program toward the purchase
10 of a single qualifying automobile.
11 (E) COMBINATION WITH OTHER INCEN-
12 TIVES PERMITTED.—Notwithstanding any other
13 provision of law, the availability or use of a
14 Federal or State tax incentive or a State-issued
15 voucher for the purchase of an automobile shall
16 not limit the value or issuance of a voucher
17 under the Program to any individual otherwise
18 eligible to receive such a voucher.
19 (2) DISPOSITION OF ELIGIBLE TRADE-IN VEHI-
20 CLES.—
21 (A) IN GENERAL.—Any automobile dealer,
22 dismantler, or scrap recycling facility who re-
23 ceives an eligible trade-in vehicle under the Pro-
24 gram shall certify to the Secretary, in such

1 manner as the Secretary shall prescribe by rule,
2 that such vehicle, including the engine—
3 (i) have been crushed or shredded
4 within such period as the Secretary pre-
5 scribes;
6 (ii) have been processed prior to
7 crushing or shredding to ensure the re-
8 moval and appropriate disposition of re-
9 frigerants, antifreeze, lead products, mer-
10 cury switches, and such other toxic or haz-
11 ardous vehicle components as the Secretary
12 may specify by rule; and
13 (iii) have not been, and will not be,
14 sold, leased, exchanged, or otherwise dis-
15 posed of for use as an automobile in the
16 United States or in any other country.
17 (B) SAVINGS PROVISION.—Nothing in sub-
18 paragraph (A) may be construed to preclude a
19 dismantler from—
20 (i) selling any parts of such scrapped
21 vehicle other than the engine block and
22 drive train for use as replacement parts; or
23 (ii) retaining the proceeds from such
24 sale.

1 (C) COORDINATION.—The Secretary shall
2 coordinate with the Attorney General to ensure
3 that the National Motor Vehicle Title Informa-
4 tion System is appropriately updated to reflect
5 the crushing or shredding of vehicles under this
6 section.
7 (d) REGULATIONS.—Not later than 30 days after the
8 date of the enactment of this section and notwithstanding
9 the requirements of section 553 of title 5, United States
10 Code, the Secretary shall promulgate regulations to imple-
11 ment the Program. Such regulations shall—
12 (1) provide for a means of certifying dealers for
13 participation in the Program;
14 (2) establish procedures for the reimbursement
15 of dealers participating in the Program to be made
16 through electronic transfer as promptly as possible
17 after the submission of a voucher for the qualifying
18 automobile to the Secretary; and
19 (3) consistent with subsection (c)(2), establish
20 requirements and procedures for the disposal of eli-
21 gible trade-in vehicles including—
22 (A) requirements for the removal and ap-
23 propriate disposition of refrigerants, antifreeze,
24 lead products, mercury switches, and such other
25 toxic or hazardous vehicle components prior to

1 the crushing or shredding of an eligible trade-
2 in vehicle, in accordance with rules established
3 by the Secretary; and
4 (B) a mechanism for dealers to certify to
5 the Secretary that eligible trade-in vehicles are
6 disposed of, or transferred to a dismantler or
7 scrap recycling facility that will ensure that
8 such vehicles are disposed of, in accordance
9 with such requirements and procedures.
10 (c) DEFINITIONS.—As used in this section—
11 (1) the term "dealer" means a person who en-
12 gages in the sale of new automobiles to ultimate
13 purchasers;
14 (2) the term "dismantler" means a person re-
15 siding in a State who is licensed to operate a busi-
16 ness employing 3 or more individuals to take auto-
17 mobiles apart for the purpose of reclaiming usable
18 parts and recyclable materials.
19 (3) the term "eligible trade-in vehicle" means
20 an automobile or a work truck (as such terms are
21 defined in section 32901(a) of title 49, United
22 States Code) manufactured in model year 2001 or
23 earlier that, at the time it is presented for trade-in
24 under this section—
25 (A) is in drivable condition; and

1 (B) has been continuously insured con-
2 sistent with the applicable State law and reg-
3 istered to the same owner for a period of not
4 less than 2 years immediately prior to such
5 trade-in;
6 (4) the term "Program" means the vehicle
7 trade-in program established by this section;
8 (5) the term "qualifying automobile" means a
9 passenger automobile, as defined in section
10 32901(a)(18) of title 49, United States Code—
11 (A) that carries a manufacturer's sug-
12 gested retail price of $45,000 or less; and
13 (B) for which a manufacturer, distributor,
14 or dealer has never transferred the equitable or
15 legal title to such automobile to an ultimate
16 purchaser;
17 (6) the term "scrap recycling facility" means a
18 business—
19 (A) employing 3 or more individuals at a
20 fixed location in a State, where machinery and
21 equipment are utilized for processing and man-
22 ufacturing scrap metal into prepared grades;
23 and

1 (B) whose principal product is scrap iron,
2 scrap steel, or nonferrous metallic scrap for sale
3 for remelting purposes.
4 (7) the term "Secretary" means the Secretary
5 of Transportation acting through the National High-
6 way Traffic Safety Administration; and
7 (8) the term "ultimate purchaser" means, with
8 respect to any new automobile, the first person who
9 in good faith purchases such automobile for pur-
10 poses other than resale.

11 TITLE XI—MISCELLANEOUS

12 SEC. 1101. STUDY OF CARBON EMISSIONS ASSOCIATED 13 WITH ELECTRIC VEHICLES.

14 The Secretary of Energy shall undertake a study and
15 submit a report to the Congress concerning the life cycle
16 emissions of carbon dioxide from plug-in electric vehicles,
17 including plug-in hybrid electric vehicles.