

114TH CONGRESS
1ST SESSION

H. R. 3682

To increase the competitiveness of American manufacturing by reducing regulatory and other burdens, encouraging greater innovation and investment, and developing a stronger workforce for the twenty-first century, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2015

Mr. GUTHRIE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources, Ways and Means, Education and the Workforce, the Judiciary, House Administration, Rules, Appropriations, Foreign Affairs, Science, Space, and Technology, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase the competitiveness of American manufacturing by reducing regulatory and other burdens, encouraging greater innovation and investment, and developing a stronger workforce for the twenty-first century, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 (a) **THIS ACT.**—This Act may be cited as the “Re-
3 ducing Employer Burdens, Unleashing Innovation, and
4 Labor Development Act of 2015”.

5 (b) **TITLES VIII AND IX.**—Titles VIII and IX may
6 be cited as the “Lowering Gasoline Prices to Fuel an
7 America That Works Act of 2015”.

8 **SEC. 2. TABLE OF CONTENTS.**

9 The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings; sense of the Congress.

TITLE I—INVESTING IN AMERICA’S WORKFORCE

- Sec. 101. Short title.
- Sec. 102. Industry-recognized and nationally portable credentials for job training programs.
- Sec. 103. Definitions.
- Sec. 104. Rule of construction.
- Sec. 105. Effective date.

TITLE II—EXTENDING RESEARCH AND DEVELOPMENT TAX CREDITS AND CONSIDERING COMPREHENSIVE TAX REFORM

- Sec. 201. Extension of research credit; alternative simplified research credit increased and made permanent.
- Sec. 202. Comprehensive reform of United States tax laws; expedited consideration.

TITLE III—PREVENTING EVASION OF DUTY ORDERS AND REFORMING EXPORT CONTROLS

- Sec. 301. Definitions.
- Sec. 302. Application to Canada and Mexico.

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

- Sec. 311. Trade remedy law enforcement division.
- Sec. 312. Collection of information on evasion of trade remedy laws.
- Sec. 313. Access to information.
- Sec. 314. Cooperation with foreign countries on preventing evasion of trade remedy laws.
- Sec. 315. Trade negotiating objectives.

Subtitle B—Investigation of Evasion of Trade Remedy Laws

- Sec. 321. Procedures for investigation of evasion of antidumping and countervailing duty orders.
- Sec. 322. Government Accountability Office report.

Subtitle C—Other Matters

- Sec. 331. Allocation and training of personnel.
- Sec. 332. Annual report on prevention of evasion of antidumping and countervailing duty orders.
- Sec. 333. Addressing circumvention by new shippers.
- Sec. 334. Sense of Congress on reform of export control policies.

TITLE IV—CREATING FEDERAL SPECTRUM INCENTIVES

- Sec. 401. Short title.
- Sec. 402. Federal spectrum incentives.
- Sec. 403. Costs of incumbent Federal entities related to spectrum sharing.

TITLE V—PROVIDING REGULATORY RELIEF, CERTAINTY, AND TRANSPARENCY

Subtitle A—Energy Consumers Relief

CHAPTER 1—FINALIZING ENERGY-RELATED RULES

- Sec. 501. Prohibition against finalizing certain energy-related rules that will cause significant adverse effects to the economy.
- Sec. 502. Reports and determinations prior to promulgating as final certain energy-related rules.
- Sec. 503. Definitions.
- Sec. 504. Prohibition on use of social cost of carbon in analysis.

CHAPTER 2—ELECTRICITY SECURITY AND AFFORDABILITY

- Sec. 511. Short title.
- Sec. 512. Standards of performance for new fossil fuel-fired electric utility generating units.
- Sec. 513. Congress to set effective date for standards of performance for existing, modified, and reconstructed fossil fuel-fired electric utility generating units.
- Sec. 514. Repeal of earlier rules and guidelines.
- Sec. 515. Definitions.

Subtitle B—LNG Permitting Certainty and Transparency

- Sec. 521. Short title.
- Sec. 522. Action on applications.
- Sec. 523. Public disclosure of export destinations.

Subtitle C—Preventing Government Waste and Protecting Coal Mining Jobs in America

- Sec. 531. Short title.
- Sec. 532. Incorporation of surface mining stream buffer zone rule into State programs.

TITLE VI—REDUCING HEALTH CARE BURDENS AND IMPROVING PATIENT COVERAGE

- Sec. 601. Repeal of the health care law and health care-related provisions in the Health Care and Education Reconciliation Act of 2010.
- Sec. 602. No lifetime limits.
- Sec. 603. Establish universal access programs to improve high risk pools and reinsurance markets.
- Sec. 604. Elimination of certain requirements for guaranteed availability in individual market.
- Sec. 605. Preventing unjust cancellation of insurance coverage.

TITLE VII—LOWERING HEALTH CARE COSTS

Subtitle A—Cooperative Governing of Individual Health Insurance Coverage

- Sec. 701. Cooperative governing of individual health insurance coverage.
- Sec. 702. Severability.

Subtitle B—Medical Malpractice Reform

- Sec. 711. Purpose.
- Sec. 712. Encouraging speedy resolution of claims.
- Sec. 713. Compensating patient injury.
- Sec. 714. Maximizing patient recovery.
- Sec. 715. Punitive damages.
- Sec. 716. Authorization of payment of future damages to claimants in health care lawsuits.
- Sec. 717. Definitions.
- Sec. 718. Effect on other laws.
- Sec. 719. State flexibility and protection of States' rights.
- Sec. 720. Applicability; effective date.
- Sec. 721. Protection for emergency and related services furnished pursuant to EMTALA.
- Sec. 722. Constitutional authority.
- Sec. 723. Application of the antitrust laws to the business of health insurance.
- Sec. 724. Limitation on liability for volunteer health care professionals.

TITLE VIII—PROMOTING OFFSHORE ENERGY AND JOBS

Subtitle A—Outer Continental Shelf Leasing Program Reforms

- Sec. 801. Outer Continental Shelf leasing program reforms.
- Sec. 802. Domestic oil and natural gas production goal.
- Sec. 803. Development and submittal of new 5-year oil and gas leasing program.
- Sec. 804. Rule of construction.
- Sec. 805. Addition of lease sales after finalization of 5-year plan.

Subtitle B—Directing the President To Conduct New OCS Sales

- Sec. 811. Requirement to conduct proposed oil and gas Lease Sale 220 on the Outer Continental Shelf offshore Virginia.
- Sec. 812. South Carolina lease sale.
- Sec. 813. Southern California existing infrastructure lease sale.
- Sec. 814. Environmental impact statement requirement.
- Sec. 815. National defense.
- Sec. 816. Eastern Gulf of Mexico not included.

Subtitle C—Equitable Sharing of Outer Continental Shelf Revenues

Sec. 821. Disposition of Outer Continental Shelf revenues to coastal States.

Subtitle D—Reorganization of Minerals Management Agencies of the
Department of the Interior

Sec. 831. Establishment of Under Secretary for Energy, Lands, and Minerals
and Assistant Secretary of Ocean Energy and Safety.

Sec. 832. Bureau of Ocean Energy.

Sec. 833. Ocean Energy Safety Service.

Sec. 834. Office of Natural Resources revenue.

Sec. 835. Ethics and drug testing.

Sec. 836. Abolishment of Minerals Management Service.

Sec. 837. Conforming amendments to Executive Schedule pay rates.

Sec. 838. Outer Continental Shelf Energy Safety Advisory Board.

Sec. 839. Outer Continental Shelf inspection fees.

Sec. 840. Prohibition on action based on National Ocean Policy developed
under Executive Order No. 13547.

Subtitle E—United States Territories

Sec. 851. Application of Outer Continental Shelf Lands Act with respect to ter-
ritories of the United States.

Subtitle F—Miscellaneous Provisions

Sec. 861. Rules regarding distribution of revenues under Gulf of Mexico Energy
Security Act of 2006.

Sec. 862. Amount of distributed qualified outer Continental Shelf revenues.

Sec. 863. South Atlantic Outer Continental Shelf Planning Area defined.

Sec. 864. Enhancing geological and geophysical information for America's en-
ergy future.

Subtitle G—Judicial Review

Sec. 871. Time for filing complaint.

Sec. 872. District court deadline.

Sec. 873. Ability to seek appellate review.

Sec. 874. Limitation on scope of review and relief.

Sec. 875. Legal fees.

Sec. 876. Exclusion.

Sec. 877. Definitions.

TITLE IX—INCREASING ONSHORE OIL AND GAS DEVELOPMENT
AND ENERGY SECURITY

Subtitle A—Federal Lands Jobs and Energy Security

Sec. 901. Short title.

Sec. 902. Policies regarding buying, building, and working for America.

CHAPTER 1—ONSHORE OIL AND GAS PERMIT STREAMLINING

SUBCHAPTER A—MISCELLANEOUS PROVISIONS

Sec. 911. Short title.

Sec. 912. Permit to drill application timeline.

Sec. 913. Administrative protest documentation reform.

- Sec. 914. Making pilot offices permanent to improve energy permitting on Federal lands.
- Sec. 915. Administration of current law.
- Sec. 916. Funding oil and gas resource assessments.
- Sec. 917. Rule of construction.

SUBCHAPTER B—JUDICIAL REVIEW

- Sec. 921. Definitions.
- Sec. 922. Exclusive venue for certain civil actions relating to covered energy projects.
- Sec. 923. Timely filing.
- Sec. 924. Expedition in hearing and determining the action.
- Sec. 925. Standard of review.
- Sec. 926. Limitation on injunction and prospective relief.
- Sec. 927. Limitation on attorneys' fees.
- Sec. 928. Legal standing.

CHAPTER 2—OIL AND GAS LEASING CERTAINTY

- Sec. 931. Short title.
- Sec. 932. Minimum acreage requirement for onshore lease sales.
- Sec. 933. Leasing certainty.
- Sec. 934. Leasing consistency.
- Sec. 935. Reduce redundant policies.
- Sec. 936. Streamlined congressional notification.

CHAPTER 3—OIL SHALE

- Sec. 941. Short title.
- Sec. 942. Effectiveness of oil shale regulations, amendments to resource management plans, and record of decision.
- Sec. 943. Oil shale leasing.

Subtitle B—Planning for American Energy

- Sec. 951. Short title.
- Sec. 952. Onshore domestic energy production strategic plan.

Subtitle C—National Petroleum Reserve in Alaska Access

- Sec. 961. Short title.
- Sec. 962. Sense of Congress and reaffirming national policy for the National Petroleum Reserve in Alaska.
- Sec. 963. National Petroleum Reserve in Alaska: lease sales.
- Sec. 964. National Petroleum Reserve in Alaska: planning and permitting pipeline and road construction.
- Sec. 965. Issuance of a new integrated activity plan and environmental impact statement.
- Sec. 966. Departmental accountability for development.
- Sec. 967. Deadlines under new proposed integrated activity plan.
- Sec. 968. Updated resource assessment.

Subtitle D—BLM Live Internet Auctions

- Sec. 971. Short title.
- Sec. 972. Internet-based onshore oil and gas lease sales.

Subtitle E—Native American Energy

- Sec. 981. Short title.
- Sec. 982. Appraisals.
- Sec. 983. Standardization.
- Sec. 984. Environmental reviews of major Federal actions on Indian lands.
- Sec. 985. Judicial review.
- Sec. 986. Tribal biomass demonstration project.
- Sec. 987. Tribal resource management plans.
- Sec. 988. Leases of restricted lands for the Navajo Nation.
- Sec. 989. Nonapplicability of certain rules.

Subtitle F—State Authority for Hydraulic Fracturing Regulation

- Sec. 991. Short title.
- Sec. 992. State authority for hydraulic fracturing regulation.
- Sec. 993. Government Accountability Office study.
- Sec. 994. Tribal authority on trust land.

TITLE X—PROMOTING STEM EDUCATION IN THE WORKFORCE

- Sec. 1001. Findings; sense of Congress.
- Sec. 1002. STEM Education Advisory Panel.
- Sec. 1003. Committee on STEM Education.
- Sec. 1004. STEM Education Coordinating Office.
- Sec. 1005. Definitions.

1 SEC. 3. FINDINGS; SENSE OF THE CONGRESS.

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

3 (1) Data indicate that manufacturing employees
 4 earn a higher average salary and receive greater
 5 benefits than workers in other industries.

6 (2) Recent data also show that United States
 7 manufacturing companies cannot fill as many as
 8 600,000 skilled positions, even as unemployment
 9 numbers hover at historically high levels.

10 (3) Postsecondary success and workforce readi-
 11 ness can be achieved through attainment of recog-
 12 nized postsecondary credentials.

1 (4) Data indicate that United States manufac-
2 turers invest a far greater percentage of revenue in
3 research and development than other industries.

4 (5) The United States has the highest corporate
5 tax rate in the developed world.

6 (6) A recent report indicates that United States
7 manufacturers face a 20 percent structural cost bur-
8 den compared to companies from the Nation's 9
9 largest trading partners.

10 (7) Excessive Federal regulations are placing a
11 heavy burden on United States manufacturers.

12 (8) According to a recent report, it is estimated
13 that pending and recently finalized Environmental
14 Protection Agency regulations alone could cost man-
15 ufacturers over \$100,000,000,000 per year in com-
16 pliance, plus additional one-time costs of over
17 \$500,000,000.

18 (9) Data indicate that regulatory costs could
19 cut annual United States economic output by as
20 much as \$630,000,000,000, or 4.2 percent of Gross
21 Domestic Product, resulting in a net loss of
22 9,000,000 jobs.

23 (10) Expanded domestic resource development
24 would further reduce energy costs, increasing United
25 States manufacturers' competitive advantage.

1 (11) Data show that United States manufactur-
2 ers have reduced energy usage and emissions to
3 below the 1990 levels.

4 (12) Reports indicate United States health care
5 costs have increased over 80 percent in the past dec-
6 ade, creating greater personnel costs for manufac-
7 turers.

8 (13) Data show that United States manufactur-
9 ers are responsible for 47 percent of total United
10 States exports.

11 (14) A widening trade gap with major trade
12 partners means that manufacturers are at risk of
13 losing export market share.

14 (b) SENSE OF THE CONGRESS.—It is the sense of
15 the Congress that increasing the competitiveness of United
16 States manufacturers will strengthen the national econ-
17 omy.

18 **TITLE I—INVESTING IN** 19 **AMERICA’S WORKFORCE**

20 **SEC. 101. SHORT TITLE.**

21 This title may be cited as the “Investing in America’s
22 Workforce Act”.

1 **SEC. 102. INDUSTRY-RECOGNIZED AND NATIONALLY PORT-**
2 **ABLE CREDENTIALS FOR JOB TRAINING PRO-**
3 **GRAMS.**

4 (a) WORKFORCE INVESTMENT ACT OF 1998.—

5 (1) YOUTH ACTIVITIES.—Section 129(c)(1)(C)
6 of the Workforce Investment Act of 1998 (29 U.S.C.
7 2854(c)(1)(C)) is amended—

8 (A) by redesignating clauses (ii) through
9 (iv) as clauses (iii) through (v), respectively;
10 and

11 (B) by inserting after clause (i) the fol-
12 lowing:

13 “(ii) training (which may include pri-
14 ority consideration for training programs
15 that lead to recognized postsecondary cre-
16 dentials (as defined in section 104 of the
17 Investing in America’s Workforce Act) that
18 are aligned with in-demand occupations or
19 industries in the local area involved, if the
20 local board determines that the programs
21 meet the quality criteria described in sec-
22 tion 123);”.

23 (2) GENERAL EMPLOYMENT AND TRAINING AC-
24 TIVITIES.—Section 134(d)(4)(F) of the Workforce
25 Investment Act of 1998 (29 U.S.C. 2864(d)(4)(F))
26 is amended by adding at the end the following:

1 “(iv) PROGRAMS THAT LEAD TO AN
2 INDUSTRY-RECOGNIZED AND NATIONALLY
3 PORTABLE CREDENTIAL.—In assisting in-
4 dividuals in selecting programs of training
5 services under this section, a one-stop op-
6 erator and employees of a one-stop center
7 referred to in subsection (c) may give pri-
8 ority consideration to programs (approved
9 in conjunction with eligibility decisions
10 made under section 122) that lead to rec-
11 ognized postsecondary credentials (as de-
12 fined in section 103 of the Investing in
13 America’s Workforce Act) that are aligned
14 with in-demand occupations or industries
15 in the local area involved.”.

16 (3) CRITERIA.—

17 (A) GENERAL EMPLOYMENT AND TRAIN-
18 ING ACTIVITIES.—Section 122(b)(2)(D) of the
19 Workforce Investment Act of 1998 (29 U.S.C.
20 2842(b)(2)(D)) is amended—

21 (i) in clause (ii), by striking “and” at
22 the end;

23 (ii) in clause (iii), by striking the pe-
24 riod and inserting “; and”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(iv) in the case of a provider of a
4 program of training services that leads to
5 a recognized postsecondary credential (as
6 defined in section 103 of the Investing in
7 America’s Workforce Act), that the pro-
8 gram leading to the credential meets such
9 quality criteria as the Governor shall es-
10 tablish.”.

11 (B) YOUTH ACTIVITIES.—Section 123 of
12 the Workforce Investment Act of 1998 (29
13 U.S.C. 2843) is amended by inserting “(includ-
14 ing such quality criteria as the Governor shall
15 establish for a training program that leads to a
16 recognized postsecondary credential (as defined
17 in section 103 of the Investing in America’s
18 Workforce Act))” after “plan”.

19 (b) CAREER AND TECHNICAL EDUCATION.—

20 (1) STATE PLAN.—Section 122(c)(1)(B) of the
21 Carl D. Perkins Career and Technical Education
22 Act of 2006 (20 U.S.C. 2342(c)(1)(B)) is amend-
23 ed—

24 (A) by striking “(B) how” and inserting
25 “(B)(i) how”;

1 (B) by inserting “and” after the semicolon;
2 and

3 (C) by adding at the end the following

4 “(ii) in the case of an eligible entity that,
5 in developing and implementing programs of
6 study leading to recognized postsecondary cre-
7 dentials, desires to give a priority to such pro-
8 grams that are aligned with in-demand occupa-
9 tions or industries in the area served (as deter-
10 mined by the eligible agency) and that may pro-
11 vide a basis for additional credentials, certifi-
12 cates, or degree, how the entity will do so;”.

13 (2) USE OF LOCAL FUNDS.—Section 134(b) of
14 the Carl D. Perkins Career and Technical Education
15 Act of 2006 (20 U.S.C. 2354(b)) is amended—

16 (A) in paragraph (11), by striking “; and”
17 and inserting a semicolon;

18 (B) in paragraph (12)(B), by striking the
19 period and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(13) describe the career and technical edu-
22 cation activities supporting the attainment of recog-
23 nized postsecondary credentials (as defined in sec-
24 tion 103 of the Investing in America’s Workforce
25 Act), and, in the case of an eligible recipient that de-

1 sires to provide priority consideration to certain pro-
2 grams of study in accordance with the State plan
3 under section 122(c)(1)(B), how the eligible recipi-
4 ent will give priority consideration to such activi-
5 ties.”.

6 (3) TECH-PREP PROGRAMS.—Section
7 203(c)(2)(E) of the Carl D. Perkins Career and
8 Technical Education Act of 2006 (20 U.S.C.
9 2373(c)(2)(E)) is amended by striking “industry-
10 recognized credential, a certificate,” and inserting
11 “recognized postsecondary credential (as defined in
12 section 103 of the Investing in America’s Workforce
13 Act and approved by the eligible agency),”.

14 (c) TRAINING PROGRAMS UNDER TAA.—Section
15 236(a) of the Trade Act of 1974 (19 U.S.C. 2296(a)) is
16 amended by adding at the end the following:

17 “(12) In approving training programs for adversely
18 affected workers and adversely affected incumbent work-
19 ers under paragraph (1), the Secretary may give priority
20 consideration to workers seeking training through pro-
21 grams that are approved in conjunction with eligibility de-
22 cisions made under section 122 of the Workforce Invest-
23 ment Act of 1998 (29 U.S.C. 2842), and that lead to rec-
24 ognized postsecondary credentials (as defined in section
25 103 of the Investing in America’s Workforce Act) that are

1 aligned with in-demand occupations or industries in the
2 local area (defined for purposes of title I of the Workforce
3 Investment Act of 1998 (29 U.S.C. 2801 et seq.)) in-
4 volved.”.

5 **SEC. 103. DEFINITIONS.**

6 In this title:

7 (1) **INDUSTRY-RECOGNIZED.**—The term “indus-
8 try-recognized”, used with respect to a credential,
9 means a credential that—

10 (A) is sought or accepted by employers
11 within the industry sector involved as recog-
12 nized, preferred, or required for recruitment,
13 screening, hiring, or advancement; and

14 (B) is a nationally portable credential,
15 meaning a credential that is sought or accepted
16 across multiple States, as described in subpara-
17 graph (A).

18 (2) **RECOGNIZED POSTSECONDARY CREDEN-**
19 **TIAL.**—The term “recognized postsecondary creden-
20 tial” means a credential consisting of an industry-
21 recognized credential for postsecondary training, a
22 certificate that meets the requirements of subpara-
23 graphs (A) and (C) of paragraph (1) for postsec-
24 ondary training, a certificate of completion of a post-
25 secondary apprenticeship through a program de-

1 scribed in section 122(a)(2)(B) of the Workforce In-
2 vestment Act of 1998 (29 U.S.C. 2842(a)(2)(B)), or
3 an associate degree or baccalaureate degree awarded
4 by an institution of higher education (as defined in
5 section 102 of the Higher Education Act of 1965
6 (20 U.S.C. 1002)).

7 **SEC. 104. RULE OF CONSTRUCTION.**

8 Nothing in this title shall be construed to require an
9 entity with responsibility for selecting or approving an
10 education, training, or workforce investment activities pro-
11 gram with regard to a covered provision, to select a pro-
12 gram with a recognized postsecondary credential or certifi-
13 cate as defined by this title.

14 **SEC. 105. EFFECTIVE DATE.**

15 This title, and the amendments made by this title,
16 take effect 120 days after the date of enactment of this
17 Act.

1 **TITLE II—EXTENDING RE-**
2 **SEARCH AND DEVELOPMENT**
3 **TAX CREDITS AND CONSID-**
4 **ERING COMPREHENSIVE TAX**
5 **REFORM**

6 **SEC. 201. EXTENSION OF RESEARCH CREDIT; ALTERNATIVE**
7 **SIMPLIFIED RESEARCH CREDIT INCREASED**
8 **AND MADE PERMANENT.**

9 (a) EXTENSION OF CREDIT.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 41(h) of the Internal Revenue Code of 1986 is
12 amended by striking “December 31, 2014” and in-
13 serting “December 31, 2016”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall apply to amounts paid or in-
16 curred after December 31, 2014.

17 (b) ALTERNATIVE SIMPLIFIED RESEARCH CREDIT
18 INCREASED AND MADE PERMANENT.—

19 (1) INCREASED CREDIT.—Subparagraph (A) of
20 section 41(e)(5) of such Code (relating to election of
21 alternative simplified credit) is amended by striking
22 “14 percent (12 percent in the case of taxable years
23 ending before January 1, 2009)” and inserting “20
24 percent”.

25 (2) CREDIT MADE PERMANENT.—

1 (A) IN GENERAL.—Subsection (h) of sec-
2 tion 41 of such Code is amended by redesignig-
3 nating the paragraph (2) relating to computa-
4 tion of taxable year in which credit terminates
5 as paragraph (4) and by inserting before such
6 paragraph the following new paragraph:

7 “(3) TERMINATION NOT TO APPLY TO ALTER-
8 NATIVE SIMPLIFIED CREDIT.—Paragraph (1) shall
9 not apply to the credit determined under subsection
10 (c)(5).”.

11 (B) CONFORMING AMENDMENT.—Para-
12 graph (4) of section 41(h) of such Code, as re-
13 designated by subparagraph (A), is amended to
14 read as follows:

15 “(4) COMPUTATION FOR TAXABLE YEAR IN
16 WHICH CREDIT TERMINATES.—In the case of any
17 taxable year with respect to which this section ap-
18 plies to a number of days which is less than the total
19 number of days in such taxable year, the amount de-
20 termined under subsection (c)(1)(B) with respect to
21 such taxable year shall be the amount which bears
22 the same ratio to such amount (determined without
23 regard to this paragraph) as the number of days in
24 such taxable year to which this section applies bears
25 to the total number of days in such taxable year.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years end-
3 ing after December 31, 2014.

4 **SEC. 202. COMPREHENSIVE REFORM OF UNITED STATES**
5 **TAX LAWS; EXPEDITED CONSIDERATION.**

6 (a) DEFINITION.—For purposes of this section, the
7 term “tax reform bill” means a bill of the 114th Con-
8 gress—

9 (1) introduced in the House of Representatives
10 by the chair of the Committee on Ways and Means
11 not later than the end of the 114th Congress the
12 title of which is as follows: “A bill to provide for
13 comprehensive tax reform.”; and

14 (2) which is the subject of a certification under
15 subsection (b).

16 (b) CERTIFICATION.—The chair of the Joint Com-
17 mittee on Taxation shall notify the House and Senate in
18 writing whenever the chair of the Joint Committee deter-
19 mines that an introduced bill described in subsection
20 (a)(1) contains at least each of the following proposals:

21 (1) A transition to a more globally competitive
22 corporate tax code for United States businesses.

23 (2) A reduction in the complexity of the tax
24 code.

25 (3) The elimination of special interest loopholes.

1 (c) EXPEDITED CONSIDERATION IN THE HOUSE OF
2 REPRESENTATIVES.—

3 (1) Any committee of the House of Representa-
4 tives to which the tax reform bill is referred shall re-
5 port it to the House not later than 20 calendar days
6 after the date of its introduction. If a committee
7 fails to report the tax reform bill within that period,
8 such committee shall be automatically discharged
9 from further consideration of the bill.

10 (2) If the House has not otherwise proceeded to
11 the consideration of the tax reform bill upon the ex-
12 piration of 15 legislative days after the bill has been
13 placed on the Union Calendar, it shall be in order
14 for the Majority Leader or a designee (or, after the
15 expiration of an additional 2 legislative days, any
16 Member), to offer one motion that the House resolve
17 into the Committee of the Whole House on the state
18 of the Union for the consideration of the tax reform
19 bill. The previous question shall be considered as or-
20 dered on the motion to its adoption without inter-
21 vening motion except 20 minutes of debate equally
22 divided and controlled by the proponent and an op-
23 ponent. If such a motion is adopted, consideration
24 shall proceed in accordance with paragraph (3). A

1 motion to reconsider the vote by which the motion
2 is disposed of shall not be in order.

3 (3) The first reading of the bill shall be dis-
4 pensed with. General debate shall be confined to the
5 bill and shall not exceed 4 hours, equally divided and
6 controlled by the chair and ranking minority mem-
7 ber of the Committee on Ways and Means. At the
8 conclusion of general debate, the bill shall be read
9 for amendment under the five-minute rule. Any com-
10 mittee amendment shall be considered as read. At
11 the conclusion of consideration of the bill for amend-
12 ment the Committee shall rise and report the bill to
13 the House with such amendments as may have been
14 adopted. The previous question shall be considered
15 as ordered on the bill and amendments thereto to
16 final passage without intervening motion except one
17 motion to recommit with or without instructions. A
18 motion to reconsider the vote on passage of the bill
19 shall not be in order.

20 (d) EXPEDITED CONSIDERATION IN THE SENATE.—

21 (1) COMMITTEE CONSIDERATION.—A tax re-
22 form bill, as defined in subsection (a), received in
23 the Senate shall be referred to the Committee on Fi-
24 nance. The Committee shall report the bill not later
25 than 15 calendar days after receipt of the bill in the

1 Senate. If the Committee fails to report the bill
2 within that period, that committee shall be dis-
3 charged from consideration of the bill, and the bill
4 shall be placed on the calendar.

5 (2) MOTION TO PROCEED.—Notwithstanding
6 rule XXII of the Standing Rules of the Senate, it is
7 in order, not later than 2 days of session after the
8 date on which the tax reform bill is reported or dis-
9 charged from committee, for the majority leader of
10 the Senate or the majority leader’s designee to move
11 to proceed to the consideration of the tax reform
12 bill. It shall also be in order for any Member of the
13 Senate to move to proceed to the consideration of
14 the tax reform bill at any time after the conclusion
15 of such 2-day period. A motion to proceed is in order
16 even though a previous motion to the same effect
17 has been disagreed to. All points of order against
18 the motion to proceed to the tax reform bill are
19 waived. The motion to proceed is not debatable. The
20 motion is not subject to a motion to postpone.

21 (3) CONSIDERATION.—No motion to recommit
22 shall be in order and debate on any motion or appeal
23 shall be limited to one hour, to be divided in the
24 usual form.

1 (4) AMENDMENTS.—All amendments must be
2 relevant to the bill and debate on any amendment
3 shall be limited to 2 hours to be equally divided in
4 the usual form between the opponents and pro-
5 ponents of the amendment. Debate on any amend-
6 ment to an amendment, debatable motion, or appeal
7 shall be limited to 1 hour to be equally divided in
8 the usual form between the opponents and pro-
9 ponents of the amendment.

10 (5) VOTE ON PASSAGE.—If the Senate has pro-
11 ceeded to the bill, and following the conclusion of all
12 debate, the Senate shall proceed to a vote on pas-
13 sage of the bill as amended, if amended.

14 (e) CONFERENCE IN THE HOUSE.—If the House re-
15 ceives a message that the Senate has passed the tax re-
16 form bill with an amendment or amendments, it shall be
17 in order for the chair of the Committee on Ways and
18 Means or a designee, without intervention of any point of
19 order, to offer any motion specified in clause 1 of rule
20 XXII.

21 (f) CONFERENCE IN THE SENATE.—If the Senate re-
22 ceives from the House a message to accompany the tax
23 reform bill, as defined in subsection (a), then no later than
24 two session days after its receipt—

1 (1) the Chair shall lay the message before the
2 Senate;

3 (2) the motion to insist on the Senate amend-
4 ment or disagree to the House amendment or
5 amendments to the Senate amendment, the request
6 for a conference with the House or the motion to
7 agree to the request of the House for a conference,
8 and the motion to authorize the Chair to appoint
9 conferees on the part of the Senate shall be agreed
10 to; and

11 (3) the Chair shall then be authorized to ap-
12 point conferees on the part of the Senate without in-
13 tervening motion, with a ratio agreed to with the
14 concurrence of both leaders.

15 (g) RULEMAKING.—This section is enacted by the
16 Congress as an exercise of the rulemaking power of the
17 House of Representatives and Senate, respectively, and as
18 such is deemed a part of the rules of each House, respec-
19 tively, or of that House to which they specifically apply,
20 and such procedures supersede other rules only to the ex-
21 tent that they are inconsistent with such rules; and with
22 full recognition of the constitutional right of either House
23 to change the rules (so far as relating to the procedures
24 of that House) at any time, in the same manner, and to
25 the same extent as any other rule of that House.

1 **TITLE III—PREVENTING EVA-**
2 **SION OF DUTY ORDERS AND**
3 **REFORMING EXPORT CON-**
4 **TROLS**

5 **SEC. 301. DEFINITIONS.**

6 In this title:

7 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
8 **TEES.**—The term “appropriate congressional com-
9 mittees” means—

10 (A) the Committee on Finance and the
11 Committee on Appropriations of the Senate;
12 and

13 (B) the Committee on Ways and Means
14 and the Committee on Appropriations of the
15 House of Representatives.

16 (2) **COMMISSIONER.**—The term “Commis-
17 sioner” means the Commissioner responsible for
18 U.S. Customs and Border Protection.

19 (3) **COVERED MERCHANDISE.**—The term “cov-
20 ered merchandise” means merchandise that is sub-
21 ject to—

22 (A) a countervailing duty order issued
23 under section 706 of the Tariff Act of 1930; or

24 (B) an antidumping duty order issued
25 under section 736 of the Tariff Act of 1930.

1 (4) ELIGIBLE SMALL BUSINESS.—

2 (A) IN GENERAL.—The term “eligible
3 small business” means any business concern
4 which, in the Commissioner’s judgment, due to
5 its small size, has neither adequate internal re-
6 sources nor financial ability to obtain qualified
7 outside assistance in preparing and submitting
8 for consideration allegations of evasion.

9 (B) NONREVIEWABILITY.—Any agency de-
10 cision regarding whether a business concern is
11 an eligible small business for purposes of sec-
12 tion 311(b)(4)(E) is not reviewable by any
13 other agency or by any court.

14 (5) ENTER; ENTRY.—The terms “enter” and
15 “entry” refer to the entry, or withdrawal from ware-
16 house for consumption, in the customs territory of
17 the United States.

18 (6) EVADE; EVASION.—The terms “evade” and
19 “evasion” refer to entering covered merchandise into
20 the customs territory of the United States by means
21 of any document or electronically transmitted data
22 or information, written or oral statement, or act that
23 is material and false, or any omission that is mate-
24 rial, and that results in any cash deposit or other se-
25 curity or any amount of applicable antidumping or

1 countervailing duties being reduced or not being ap-
2 plied with respect to the merchandise.

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

5 (8) TRADE REMEDY LAWS.—The term “trade
6 remedy laws” means title VII of the Tariff Act of
7 1930.

8 **SEC. 302. APPLICATION TO CANADA AND MEXICO.**

9 Pursuant to article 1902 of the North American Free
10 Trade Agreement and section 408 of the North American
11 Free Trade Agreement Implementation Act (19 U.S.C.
12 3438), this title and the amendments made by this title
13 shall apply with respect to goods from Canada and Mexico.

14 **Subtitle A—Actions Relating to En-**
15 **forcement of Trade Remedy**
16 **Laws**

17 **SEC. 311. TRADE REMEDY LAW ENFORCEMENT DIVISION.**

18 (a) ESTABLISHMENT.—

19 (1) IN GENERAL.—The Secretary of Homeland
20 Security shall establish and maintain within the Of-
21 fice of International Trade of U.S. Customs and
22 Border Protection, established under section 2(d) of
23 the Act of March 3, 1927 (44 Stat. 1381, chapter
24 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-
25 forcement Division.

1 (2) COMPOSITION.—The Trade Law Remedy
2 Enforcement Division shall be composed of—

3 (A) headquarters personnel led by a Direc-
4 tor, who shall report to the Assistant Commis-
5 sioner of the Office of International Trade; and

6 (B) a National Targeting and Analysis
7 Group dedicated to preventing and countering
8 evasion.

9 (3) DUTIES.—The Trade Remedy Law Enforce-
10 ment Division shall be dedicated—

11 (A) to the development and administration
12 of policies to prevent and counter evasion;

13 (B) to direct enforcement and compliance
14 assessment activities concerning evasion;

15 (C) to the development and conduct of
16 commercial risk assessment targeting with re-
17 spect to cargo destined for the United States in
18 accordance with subsection (c);

19 (D) to issuing Trade Alerts described in
20 subsection (d); and

21 (E) to the development of policies for the
22 application of single entry and continuous
23 bonds for entries of covered merchandise to suf-
24 ficiently protect the collection of antidumping

1 and countervailing duties commensurate with
2 the level of risk of noncollection.

3 (b) DUTIES OF DIRECTOR.—The duties of the Direc-
4 tor of the Trade Remedy Law Enforcement Division shall
5 include—

6 (1) directing the trade enforcement and compli-
7 ance assessment activities of U.S. Customs and Bor-
8 der Protection that concern evasion;

9 (2) facilitating, promoting, and coordinating co-
10 operation and the exchange of information between
11 U.S. Customs and Border Protection, U.S. Immigra-
12 tion and Customs Enforcement, and other relevant
13 agencies regarding evasion;

14 (3) notifying on a timely basis the admin-
15 istering authority (as defined in section 771(1) of
16 the Tariff Act of 1930 (19 U.S.C. 1677(1))) and the
17 Commission (as defined in section 771(2) of the
18 Tariff Act of 1930 (19 U.S.C. 1677(2))) of any
19 finding, determination, civil action, or criminal ac-
20 tion taken by U.S. Customs and Border Protection
21 or other Federal agency regarding evasion;

22 (4) serving as the primary liaison between U.S.
23 Customs and Border Protection and the public re-
24 garding United States Government activities con-
25 cerning evasion, including—

1 (A) receive and transmit to the appropriate
2 U.S. Customs and Border Protection office alle-
3 gations from parties of evasion;

4 (B) upon request by the party or parties
5 that submitted an allegation of evasion, provide
6 information to such party or parties on the sta-
7 tus of U.S. Customs and Border Protection's
8 consideration of the allegation and decision to
9 pursue or not pursue any administrative inquir-
10 ies or other actions, such as changes in policies,
11 procedures, or resource allocation as a result of
12 the allegation;

13 (C) as needed, request from the party or
14 parties that submitted an allegation of evasion
15 any additional information that may be relevant
16 for U.S. Customs and Border Protection deter-
17 mining whether to initiate an administrative in-
18 quiry or take any other action regarding the al-
19 legation;

20 (D) notify on a timely basis the party or
21 parties that submitted such an allegation of the
22 results of any administrative, civil or criminal
23 actions taken by U.S. Customs and Border Pro-
24 tection or other Federal agency regarding eva-

1 sion as a direct or indirect result of the allega-
2 tion;

3 (E) upon request, provide technical assist-
4 ance and advice to eligible small businesses to
5 enable such businesses to prepare and submit
6 allegations of evasion, except that the Director
7 may deny assistance if the Director concludes
8 that the allegation, if submitted, would not lead
9 to the initiation of an administrative inquiry or
10 any other action to address the allegation;

11 (F) in cooperation with the public, the
12 Commercial Customs Operations Advisory Com-
13 mittee, the Trade Support Network, and any
14 other relevant parties and organizations, de-
15 velop guidelines on the types and nature of in-
16 formation that may be provided in allegations
17 of evasion; and

18 (G) regularly consult with the public, the
19 Commercial Customs Operations Advisory Com-
20 mittee, the Trade Support Network, and any
21 other relevant parties and organizations regard-
22 ing the development and implementation of reg-
23 ulations, interpretations, and policies related to
24 countering evasion.

1 (c) PREVENTING AND COUNTERING EVASION OF THE
2 TRADE REMEDY LAWS.—In carrying out its duties with
3 respect to preventing and countering evasion, the National
4 Targeting and Analysis Group dedicated to preventing and
5 countering evasion shall—

6 (1) establish targeted risk assessment meth-
7 odologies and standards—

8 (A) for evaluating the risk that cargo des-
9 tined for the United States may constitute
10 evading covered merchandise; and

11 (B) for issuing, as appropriate, Trade
12 Alerts described in subsection (d); and

13 (2) to the extent practicable and otherwise au-
14 thORIZED by law, use information available from the
15 Automated Commercial System, the Automated
16 Commercial Environment computer system, the
17 Automated Targeting System, the Automated Ex-
18 port System, the International Trade Data System,
19 and the TECS, and any similar and successor sys-
20 tems, to administer the methodologies and standards
21 established under paragraph (1).

22 (d) TRADE ALERTS.—Based upon the application of
23 the targeted risk assessment methodologies and standards
24 established under subsection (c), the Director of the Trade
25 Remedy Law Enforcement Division shall issue Trade

1 Alerts or other such means of notification to directors of
2 United States ports of entry directing further inspection,
3 physical examination, or testing of merchandise to ensure
4 compliance with the trade remedy laws and to require ad-
5 ditional bonds, cash deposits, or other security to ensure
6 collection of any duties, taxes and fees owed.

7 **SEC. 312. COLLECTION OF INFORMATION ON EVASION OF**
8 **TRADE REMEDY LAWS.**

9 (a) **AUTHORITY TO COLLECT INFORMATION.**—To de-
10 termine whether covered merchandise is being entered into
11 the customs territory of the United States through eva-
12 sion, the Secretary, acting through the Commissioner—

13 (1) shall exercise all existing authorities to col-
14 lect information needed to make the determination;
15 and

16 (2) may collect such additional information as
17 is necessary to make the determination through such
18 methods as the Commissioner considers appropriate,
19 including by issuing questionnaires with respect to
20 the entry or entries at issue to—

21 (A) a person who filed an allegation with
22 respect to the covered merchandise;

23 (B) a person who is alleged to have en-
24 tered the covered merchandise into the customs

1 territory of the United States through evasion;
2 or

3 (C) any other person who is determined to
4 have information relevant to the allegation of
5 entry of covered merchandise into the customs
6 territory of the United States through evasion.

7 (b) ADVERSE INFERENCE.—

8 (1) IN GENERAL.—If the Secretary finds that a
9 person who filed an allegation, a person alleged to
10 have entered covered merchandise into the customs
11 territory of the United States through evasion, or a
12 foreign producer or exporter of covered merchandise
13 that is alleged to have entered into the customs ter-
14 ritory of the United States through evasion, has
15 failed to cooperate by not acting to the best of the
16 person’s ability to comply with a request for infor-
17 mation, the Secretary may, in making a determina-
18 tion whether an entry or entries of covered merchan-
19 dise may constitute merchandise that is entered into
20 the customs territory of the United States through
21 evasion, use an inference that is adverse to the inter-
22 ests of that person in selecting from among the facts
23 otherwise available to determine whether evasion has
24 occurred.

1 (2) ADVERSE INFERENCE DESCRIBED.—An ad-
2 verse inference used under paragraph (1) may in-
3 clude reliance on information derived from—

4 (A) the allegation of evasion of the trade
5 remedy laws, if any, submitted to U.S. Customs
6 and Border Protection;

7 (B) a determination by the Commissioner
8 in another investigation, proceeding, or other
9 action regarding evasion of the unfair trade
10 laws; or

11 (C) any other available information.

12 **SEC. 313. ACCESS TO INFORMATION.**

13 (a) IN GENERAL.—Section 777(b)(1)(A)(ii) of the
14 Tariff Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is
15 amended by inserting “negligence, gross negligence, or”
16 after “regarding”.

17 (b) ADDITIONAL INFORMATION.—Notwithstanding
18 any other provision of law, the Secretary is authorized to
19 provide to the Secretary of Commerce or the United States
20 International Trade Commission any information that is
21 necessary to enable the Secretary of Commerce or the
22 United States International Trade Commission to assist
23 the Secretary to identify, through risk assessment tar-
24 geting or otherwise, covered merchandise that is entered

1 into the customs territory of the United States through
2 evasion.

3 **SEC. 314. COOPERATION WITH FOREIGN COUNTRIES ON**
4 **PREVENTING EVASION OF TRADE REMEDY**
5 **LAWS.**

6 (a) BILATERAL AGREEMENTS.—

7 (1) IN GENERAL.—The Secretary shall seek to
8 negotiate and enter into bilateral agreements with
9 the customs authorities or other appropriate authori-
10 ties of foreign countries for purposes of cooperation
11 on preventing evasion of the trade remedy laws of
12 the United States and the trade remedy laws of the
13 other country.

14 (2) PROVISIONS AND AUTHORITIES.—The Sec-
15 retary shall seek to include in each such bilateral
16 agreement the following provisions and authorities:

17 (A) On the request of the importing coun-
18 try, the exporting country shall provide, con-
19 sistent with its laws, regulations, and proce-
20 dures, production, trade, and transit documents
21 and other information necessary to determine
22 whether an entry or entries exported from the
23 exporting country are subject to the importing
24 country's trade remedy laws.

1 (B) On the written request of the import-
2 ing country, the exporting country shall conduct
3 a verification for purposes of enabling the im-
4 porting country to make a determination de-
5 scribed in subparagraph (A).

6 (C) The exporting country may allow the
7 importing country to participate in a
8 verification described in subparagraph (B), in-
9 cluding through a site visit.

10 (D) If the exporting country does not allow
11 participation of the importing country in a
12 verification described in subparagraph (B), the
13 importing country may take this fact into con-
14 sideration in its trade enforcement and compli-
15 ance assessment activities regarding the compli-
16 ance of the exporting country's exports with the
17 importing country's trade remedy laws.

18 (b) CONSIDERATION.—The Commissioner is author-
19 ized to take into consideration whether a country is a sig-
20 natory to a bilateral agreement described in subsection (a)
21 and the extent to which the country is cooperating under
22 the bilateral agreement for purposes of trade enforcement
23 and compliance assessment activities of U.S. Customs and
24 Border Protection that concern evasion by such country's
25 exports.

1 (c) REPORT.—Not later than December 31 of each
2 year beginning after the date of the enactment of this Act,
3 the Secretary shall submit to the appropriate congress-
4 sional committees a report summarizing—

5 (1) the status of any ongoing negotiations of bi-
6 lateral agreements described in subsection (a), in-
7 cluding the identities of the countries involved in
8 such negotiations;

9 (2) the terms of any completed bilateral agree-
10 ments described in subsection (a); and

11 (3) bilateral cooperation and other activities
12 conducted pursuant to or enabled by any completed
13 bilateral agreements described in subsection (a).

14 **SEC. 315. TRADE NEGOTIATING OBJECTIVES.**

15 The principal negotiating objectives of the United
16 States shall include obtaining the objectives of the bilat-
17 eral agreements described under section 314(a) for any
18 trade agreements under negotiation as of the date of the
19 enactment of this Act or future trade agreement negotia-
20 tions.

1 **Subtitle B—Investigation of**
2 **Evasion of Trade Remedy Laws**

3 **SEC. 321. PROCEDURES FOR INVESTIGATION OF EVASION**
4 **OF ANTIDUMPING AND COUNTERVAILING**
5 **DUTY ORDERS.**

6 (a) IN GENERAL.—Title VII of the Tariff Act of
7 1930 (19 U.S.C. 1671 et seq.) is amended by inserting
8 after section 781 the following:

9 **“SEC. 781A. PROCEDURES FOR PREVENTION OF EVASION**
10 **OF ANTIDUMPING AND COUNTERVAILING**
11 **DUTY ORDERS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) ADMINISTERING AUTHORITY.—The term
14 ‘administering authority’ has the meaning given that
15 term in section 771.

16 “(2) COMMISSIONER.—The term ‘Commis-
17 sioner’ means the Commissioner of U.S. Customs
18 and Border Protection.

19 “(3) COVERED MERCHANDISE.—The term ‘cov-
20 ered merchandise’ means merchandise that is subject
21 to—

22 “(A) a countervailing duty order issued
23 under section 706; or

24 “(B) an antidumping duty order issued
25 under section 736.

1 “(4) EVASION.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the term ‘evasion’ refers to
4 entering covered merchandise into the customs
5 territory of the United States by means of any
6 document or electronically transmitted data or
7 information, written or oral statement, or act
8 that is material and false, or any omission that
9 is material, and that results in any cash deposit
10 or other security or any amount of applicable
11 antidumping or countervailing duties being re-
12 duced or not being applied with respect to the
13 merchandise.

14 “(B) EXCEPTION FOR CLERICAL ERROR.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), the term ‘evasion’ does
17 not include entering covered merchandise
18 into the customs territory of the United
19 States by means of—

20 “(I) a document or electronically
21 transmitted data or information, writ-
22 ten or oral statement, or act that is
23 false as a result of a clerical error; or

24 “(II) an omission that results
25 from a clerical error.

1 “(ii) PATTERNS OF NEGLIGENT CON-
2 DUCT.—If the administering authority de-
3 termines that a person has entered covered
4 merchandise into the customs territory of
5 the United States by means of a clerical
6 error referred to in subclause (I) or (II) of
7 clause (i) and that the clerical error is part
8 of a pattern of negligent conduct on the
9 part of that person, the administering au-
10 thority may determine, notwithstanding
11 clause (i), that the person has entered such
12 covered merchandise into the customs ter-
13 ritory of the United States by means of
14 evasion.

15 “(iii) ELECTRONIC REPETITION OF
16 ERRORS.—For purposes of clause (ii), the
17 mere unintentional repetition by an elec-
18 tronic system of an initial clerical error
19 does not constitute a pattern of negligent
20 conduct.

21 “(iv) RULE OF CONSTRUCTION.—A
22 determination by the administering author-
23 ity that a person has entered covered mer-
24 chandise into the customs territory of the
25 United States by means of a clerical error

1 referred to in subclause (I) or (II) of
2 clause (i) rather than by means of evasion
3 shall not be construed to excuse that per-
4 son from the payment of any duties appli-
5 cable to the merchandise.

6 “(b) INVESTIGATION BY ADMINISTERING AUTHOR-
7 ITY.—

8 “(1) PROCEDURES FOR INITIATING INVESTIGA-
9 TIONS.—

10 “(A) INITIATION BY ADMINISTERING AU-
11 THORITY.—An investigation under this sub-
12 section shall be initiated with respect to mer-
13 chandise imported into the United States when-
14 ever the administering authority determines,
15 from information available to the administering
16 authority, that an investigation is warranted
17 with respect to whether the merchandise is cov-
18 ered merchandise that has entered into the cus-
19 toms territory of the United States by means of
20 evasion.

21 “(B) INITIATION BY PETITION OR REFER-
22 RAL.—

23 “(i) IN GENERAL.—The administering
24 authority shall determine whether to ini-
25 tiate an investigation under this subpara-

1 graph not later than 30 days after the date
2 on which the administering authority re-
3 ceives a petition described in clause (ii) or
4 a referral described in clause (iii).

5 “(ii) PETITION DESCRIBED.—A peti-
6 tion described in this clause is a petition
7 that—

8 “(I) is filed with the admin-
9 istering authority by an interested
10 party specified in subparagraph (A),
11 (C), (D), (E), (F), or (G) of section
12 771(9);

13 “(II) alleges that merchandise
14 imported into the United States is
15 covered merchandise that has entered
16 into the customs territory of the
17 United States by means of evasion;
18 and

19 “(III) is accompanied by infor-
20 mation reasonably available to the pe-
21 titioner supporting those allegations.

22 “(iii) REFERRAL DESCRIBED.—A re-
23 ferral described in this clause is a referral
24 made by the Commissioner pursuant to
25 subsection (c)(1).

1 “(2) TIME LIMITS FOR DETERMINATIONS.—

2 “(A) PRELIMINARY DETERMINATION.—

3 “(i) IN GENERAL.—Not later than 90
4 days after the administering authority ini-
5 tiates an investigation under paragraph (1)
6 with respect to merchandise, the admin-
7 istering authority shall issue a preliminary
8 determination, based on information avail-
9 able to the administering authority at the
10 time of the determination, with respect to
11 whether there is a reasonable basis to be-
12 lieve or suspect that the merchandise is
13 covered merchandise that has entered into
14 the customs territory of the United States
15 by means of evasion.

16 “(ii) EXPEDITED PROCEDURES.—If
17 the administering authority determines
18 that expedited action is warranted with re-
19 spect to an investigation initiated under
20 paragraph (1), the administering authority
21 may publish the notice of initiation of the
22 investigation and the notice of the prelimi-
23 nary determination in the Federal Register
24 at the same time.

1 “(B) FINAL DETERMINATION BY THE AD-
2 MINISTERING AUTHORITY.—Not later than 300
3 days after the date on which the administering
4 authority initiates an investigation under para-
5 graph (1) with respect to merchandise, the ad-
6 ministering authority shall issue a final deter-
7 mination with respect to whether the merchan-
8 dise is covered merchandise that has entered
9 into the customs territory of the United States
10 by means of evasion.

11 “(3) ACCESS TO INFORMATION.—

12 “(A) ENTRY DOCUMENTS, RECORDS, AND
13 OTHER INFORMATION.—Not later than 10 days
14 after receiving a request from the administering
15 authority with respect to merchandise that is
16 the subject of an investigation under paragraph
17 (1), the Commissioner shall transmit to the ad-
18 ministering authority copies of the documenta-
19 tion and information required by section
20 484(a)(1) with respect to the entry of the mer-
21 chandise, as well as any other documentation or
22 information requested by the administering au-
23 thority.

24 “(B) ACCESS OF INTERESTED PARTIES.—
25 Not later than 10 business days after the date

1 on which the administering authority initiates
2 an investigation under paragraph (1) with re-
3 spect to merchandise, the administering author-
4 ity shall provide to the authorized representa-
5 tive of each interested party that filed a petition
6 under paragraph (1) or otherwise participates
7 in a proceeding, pursuant to a protective order,
8 the copies of the entry documentation and any
9 other information received by the administering
10 authority under subparagraph (A).

11 “(C) BUSINESS PROPRIETARY INFORMA-
12 TION FROM PRIOR SEGMENTS.—If an author-
13 ized representative of an interested party par-
14 ticipating in an investigation under paragraph
15 (1) has access to business proprietary informa-
16 tion released pursuant to an administrative pro-
17 tective order in a proceeding under subtitle A,
18 B, or C of title VII of the Tariff Act of 1930
19 that is relevant to the investigation conducted
20 under paragraph (1), that authorized represent-
21 ative may submit such information to the ad-
22 ministering authority for its consideration in
23 the context of the investigation conducted under
24 paragraph (1).

1 “(4) AUTHORITY TO COLLECT AND VERIFY AD-
2 DITIONAL INFORMATION.—In making a determina-
3 tion under paragraph (2) with respect to covered
4 merchandise, the administering authority may collect
5 such additional information as is necessary to make
6 the determination through such methods as the ad-
7 ministering authority considers appropriate, includ-
8 ing by—

9 “(A) issuing a questionnaire with respect
10 to such covered merchandise to—

11 “(i) a person that filed an allegation
12 under paragraph (1)(B)(ii) that resulted in
13 the initiation of an investigation under
14 paragraph (1)(A) with respect to such cov-
15 ered merchandise;

16 “(ii) a person alleged to have entered
17 such covered merchandise into the customs
18 territory of the United States by means of
19 evasion;

20 “(iii) a person that is a foreign pro-
21 ducer or exporter of such covered merchan-
22 dise; or

23 “(iv) the government of a country
24 from which such covered merchandise was
25 exported;

1 “(B) conducting verifications, including on-
2 site verifications, of any relevant information;
3 and

4 “(C) requesting—

5 “(i) that the Commissioner provide
6 any information and data available to U.S.
7 Customs and Border Protection; and

8 “(ii) that the Commissioner gather
9 additional necessary information from the
10 importer of covered merchandise and other
11 relevant parties.

12 “(5) ADVERSE INFERENCE.—If the admin-
13 istering authority finds that a person described in
14 clause (i), (ii), or (iii) of paragraph (4)(A) has failed
15 to cooperate by not acting to the best of the person’s
16 ability to comply with a request for information, the
17 administering authority may, in making a deter-
18 mination under paragraph (2), use an inference that
19 is adverse to the interests of that person in selecting
20 from among the facts otherwise available to make
21 the determination.

22 “(6) EFFECT OF AFFIRMATIVE PRELIMINARY
23 DETERMINATION.—If the administering authority
24 makes a preliminary determination under paragraph
25 (2)(A) that merchandise is covered merchandise that

1 has entered into the customs territory of the United
2 States by means of evasion, the administering au-
3 thority shall instruct U.S. Customs and Border Pro-
4 tection—

5 “(A) to suspend liquidation of each entry
6 of the merchandise that—

7 “(i) enters on or after the date of the
8 preliminary determination; or

9 “(ii) enters before that date, if the liq-
10 uidation of the entry is not final on that
11 date; and

12 “(B) to require the posting of a cash de-
13 posit for each entry of the merchandise in an
14 amount determined pursuant to the order, or
15 administrative review conducted under section
16 751, that applies to the merchandise.

17 “(7) EFFECT OF AFFIRMATIVE FINAL DETER-
18 MINATION.—

19 “(A) IN GENERAL.—If the administering
20 authority makes a final determination under
21 paragraph (2)(B) that merchandise is covered
22 merchandise that has entered into the customs
23 territory of the United States by means of eva-
24 sion, the administering authority shall instruct
25 U.S. Customs and Border Protection—

1 “(i) to assess duties on the merchan-
2 dise in an amount determined pursuant to
3 the order, or administrative review con-
4 ducted under section 751, that applies to
5 the merchandise;

6 “(ii) notwithstanding section 501, to
7 reliquidate, in accordance with such order
8 or administrative review, each entry of the
9 merchandise that was liquidated and is de-
10 termined to include covered merchandise;
11 and

12 “(iii) to review and reassess the
13 amount of bond or other security the im-
14 porter is required to post for such mer-
15 chandise entered on or after the date of
16 the final determination to ensure the pro-
17 tection of revenue and compliance with the
18 law.

19 “(B) ADDITIONAL AUTHORITY.—If the ad-
20 ministering authority makes a final determina-
21 tion under paragraph (2)(B) that merchandise
22 is covered merchandise that has entered into
23 the customs territory of the United States by
24 means of evasion, the administering authority
25 may instruct U.S. Customs and Border Protec-

1 tion to require the importer of the merchandise
2 to post a cash deposit or bond on such mer-
3 chandise entered on or after the date of the
4 final determination in an amount the admin-
5 istering authority determines in the final deter-
6 mination to be owed with respect to the mer-
7 chandise.

8 “(8) EFFECT OF NEGATIVE FINAL DETERMINA-
9 TION.—If the administering authority makes a final
10 determination under paragraph (2)(B) that mer-
11 chandise is not covered merchandise that has en-
12 tered into the customs territory of the United States
13 by means of evasion, the administering authority
14 shall terminate the suspension of liquidation and re-
15 fund any cash deposit imposed pursuant to para-
16 graph (6) with respect to the merchandise.

17 “(9) NOTIFICATION.—Not later than 5 business
18 days after making a determination under paragraph
19 (2) with respect to covered merchandise, the admin-
20 istering authority may provide to importers, in such
21 manner as the administering authority determines
22 appropriate, information discovered in the investiga-
23 tion that the administering authority determines will
24 help educate importers with respect to importing
25 merchandise into the customs territory of the United

1 States in accordance with all applicable laws and
2 regulations.

3 “(10) SPECIAL RULE FOR CASES IN WHICH THE
4 PRODUCER OR EXPORTER IS UNKNOWN.—If the ad-
5 ministering authority is unable to determine the ac-
6 tual producer or exporter of the merchandise with
7 respect to which the administering authority initi-
8 ated an investigation under paragraph (1), the ad-
9 ministering authority shall, in requiring the posting
10 of a cash deposit under paragraph (6) or assessing
11 duties pursuant to paragraph (7)(A), impose the
12 cash deposit or duties (as the case may be) in the
13 highest amount applicable to any producer or ex-
14 porter of the merchandise pursuant to any order, or
15 any administrative review conducted under section
16 751.

17 “(11) PUBLICATION OF DETERMINATIONS.—
18 The administering authority shall publish in the
19 Federal Register each notice of initiation of an in-
20 vestigation made under paragraph (1)(A), each pre-
21 liminary determination made under paragraph
22 (2)(A), and each final determination made under
23 paragraph (2)(B).

24 “(12) REFERRALS TO OTHER AGENCIES.—

1 “(A) AFTER PRELIMINARY DETERMINA-
2 TION.—Notwithstanding section 777 and sub-
3 ject to subparagraph (C), when the admin-
4 istering authority makes an affirmative prelimi-
5 nary determination under paragraph (2)(A), the
6 administering authority shall—

7 “(i) transmit the administrative
8 record to the Commissioner for such addi-
9 tional action as the Commissioner deter-
10 mines appropriate, including proceedings
11 under section 592; and

12 “(ii) at the request of the head of an-
13 other agency, transmit the administrative
14 record to the head of that agency.

15 “(B) AFTER FINAL DETERMINATION.—
16 Notwithstanding section 777 and subject to
17 subparagraph (C), when the administering au-
18 thority makes an affirmative final determina-
19 tion under paragraph (2)(B), the administering
20 authority shall—

21 “(i) transmit the complete administra-
22 tive record to the Commissioner; and

23 “(ii) at the request of the head of an-
24 other agency, transmit the complete ad-

1 ministrative record to the head of that
2 agency.

3 “(c) REFERRAL BY U.S. CUSTOMS AND BORDER
4 PROTECTION.—In the event the Commissioner receives in-
5 formation that a person has entered covered merchandise
6 into the customs territory of the United States through
7 evasion, but is not able to determine whether the merchan-
8 dise is in fact covered merchandise, the Commissioner
9 shall—

10 “(1) refer the matter to the administering au-
11 thority for additional proceedings under subsection
12 (b); and

13 “(2) transmit to the administering authority—

14 “(A) copies of the entry documents and in-
15 formation required by section 484(a)(1) relating
16 to the merchandise; and

17 “(B) any additional records or information
18 that the Commissioner considers appropriate.

19 “(d) COOPERATION BETWEEN U.S. CUSTOMS AND
20 BORDER PROTECTION AND THE DEPARTMENT OF COM-
21 MERCE.—

22 “(1) NOTIFICATION OF INVESTIGATIONS.—
23 Upon receiving a petition and upon initiating an in-
24 vestigation under subsection (b), the administering
25 authority shall notify the Commissioner.

1 “(2) PROCEDURES FOR COOPERATION.—Not
2 later than 180 days after the date of the enactment
3 of this section, the Commissioner and the admin-
4 istering authority shall establish procedures to en-
5 sure maximum cooperation and communication be-
6 tween U.S. Customs and Border Protection and the
7 administering authority in order to quickly, effi-
8 ciently, and accurately investigate allegations of eva-
9 sion of antidumping and countervailing duty orders.

10 “(e) ANNUAL REPORT ON PREVENTING EVASION OF
11 ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.—

12 “(1) IN GENERAL.—Not later than February
13 28 of each year beginning in 2016, the Under Sec-
14 retary for International Trade of the Department of
15 Commerce shall submit to the Committee on Fi-
16 nance and the Committee on Appropriations of the
17 Senate and the Committee on Ways and Means and
18 the Committee on Appropriations of the House of
19 Representatives a report on the efforts being taken
20 under subsection (b) to prevent evasion of anti-
21 dumping and countervailing duty orders.

22 “(2) CONTENTS.—Each report required by
23 paragraph (1) shall include, for the calendar year
24 preceding the submission of the report—

1 “(A)(i) the number of investigations initi-
2 ated pursuant to subsection (b); and

3 “(ii) a description of such investigations,
4 including—

5 “(I) the results of such investigations;
6 and

7 “(II) the amount of antidumping and
8 countervailing duties collected as a result
9 of such investigations; and

10 “(B) the number of referrals made by the
11 Commissioner pursuant to subsection (c).”.

12 (b) TECHNICAL AMENDMENT.—The table of contents
13 for title VII of the Tariff Act of 1930 is amended by in-
14 serting after the item relating to section 781 the following:

“Sec. 781A. Procedures for prevention of evasion of antidumping and counter-
vailing duty orders.”.

15 (c) JUDICIAL REVIEW.—Section 516A(a)(2) of the
16 Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

17 (1) in subparagraph (A)(i)(I), by striking “or
18 (viii)” and inserting “(viii), or (ix)”; and

19 (2) in subparagraph (B), by inserting at the
20 end the following:

21 “(ix) A determination by the admin-
22 istering authority under section 781A.”.

23 (d) REGULATIONS.—Not later than 180 days after
24 the date of the enactment of this Act—

1 (1) the Secretary of Commerce shall prescribe
2 such regulations as may be necessary to carry out
3 subsection (b) of section 781A of the Tariff Act of
4 1930 (as added by subsection (a) of this section);
5 and

6 (2) the Commissioner shall prescribe such regu-
7 lations as may be necessary to carry out subsection
8 (c) of such section 781A.

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall—

11 (1) take effect on the date that is 180 days
12 after the date of the enactment of this Act; and

13 (2) apply with respect to merchandise entered
14 on or after such date of enactment.

15 **SEC. 322. GOVERNMENT ACCOUNTABILITY OFFICE RE-**
16 **PORT.**

17 Not later than 4 years after the date of the enact-
18 ment of this Act, the Comptroller General of the United
19 States shall submit to the Committee on Finance and the
20 Committee on Appropriations of the Senate and the Com-
21 mittee on Ways and Means and the Committee on Appro-
22 priations of the House of Representatives a report assess-
23 ing the effectiveness of—

24 (1) the provisions of, and amendments made
25 by, this subtitle; and

1 (2) the actions taken and procedures developed
2 by the Secretary of Commerce and the Commis-
3 sioner pursuant to such provisions and amendments
4 to prevent evasion of antidumping and counter-
5 vailing duty orders under title VII of the Tariff Act
6 of 1930 (19 U.S.C. 1671 et seq.).

7 **Subtitle C—Other Matters**

8 **SEC. 331. ALLOCATION AND TRAINING OF PERSONNEL.**

9 The Commissioner shall, to the maximum extent pos-
10 sible, ensure that U.S. Customs and Border Protection—

11 (1) employs sufficient personnel who have ex-
12 pertise in, and responsibility for, preventing and in-
13 vestigating the entry of covered merchandise into the
14 customs territory of the United States through eva-
15 sion;

16 (2) on the basis of risk assessment metrics, as-
17 signs sufficient personnel with primary responsibility
18 for preventing the entry of covered merchandise into
19 the customs territory of the United States through
20 evasion to the ports of entry in the United States at
21 which the Commissioner determines potential eva-
22 sion presents the most substantial threats to the rev-
23 enue of the United States; and

24 (3) provides adequate training to relevant per-
25 sonnel to increase expertise and effectiveness in the

1 prevention and identification of entries of covered
2 merchandise into the customs territory of the United
3 States through evasion.

4 **SEC. 332. ANNUAL REPORT ON PREVENTION OF EVASION**
5 **OF ANTIDUMPING AND COUNTERVAILING**
6 **DUTY ORDERS.**

7 (a) IN GENERAL.—Not later than February 28 of
8 each year, beginning in 2017, the Commissioner, in con-
9 sultation with the Secretary of Commerce and the Director
10 of U.S. Immigration and Customs Enforcement, shall sub-
11 mit to the appropriate congressional committees a report
12 on the efforts being taken to prevent and investigate eva-
13 sion.

14 (b) CONTENTS.—Each report required under sub-
15 section (a) shall include—

16 (1) for the calendar year preceding the submis-
17 sion of the report—

18 (A) a summary of the efforts of U.S. Cus-
19 toms and Border Protection to prevent and
20 identify evasion;

21 (B) the number of allegations of evasion
22 received and the number of allegations of eva-
23 sion resulting in any administrative, civil, or
24 criminal actions by U.S. Customs and Border
25 Protection or any other agency;

1 (C) a summary of the completed adminis-
2 trative inquiries of evasion, including the num-
3 ber and nature of the inquiries initiated, con-
4 ducted, or completed, as well as their resolu-
5 tion;

6 (D) with respect to inquiries that lead to
7 issuance of a penalty notice, the penalty
8 amounts;

9 (E) the amounts of antidumping and coun-
10 tervailing duties collected as a result of any ac-
11 tions by U.S. Customs and Border Protection
12 or any other agency;

13 (F) a description of the allocation of per-
14 sonnel and other resources of U.S. Customs and
15 Border Protection and U.S. Immigration and
16 Customs Enforcement to prevent, identify, and
17 investigate evasion, including any assessments
18 conducted regarding the allocation of such per-
19 sonnel and resources; and

20 (G) a description of training conducted to
21 increase expertise and effectiveness in the pre-
22 vention, identification, and investigation of eva-
23 sion; and

1 (2) a description of U.S. Customs and Border
2 Protection processes and procedures to prevent and
3 identify evasion, including—

4 (A) the specific guidelines, policies, and
5 practices used by U.S. Customs and Border
6 Protection to ensure that allegations of evasion
7 are promptly evaluated and acted upon in a
8 timely manner;

9 (B) an evaluation of the efficacy of such
10 existing guidelines, policies, and practices;

11 (C) identification of any changes since the
12 last report that have materially improved or re-
13 duced the effectiveness of U.S. Customs and
14 Border Protection to prevent and identify eva-
15 sion;

16 (D) a description of the development and
17 implementation of policies for the application of
18 single entry and continuous bonds for entries of
19 covered merchandise to sufficiently protect the
20 collection of antidumping and countervailing
21 duties commensurate with the level of risk on
22 noncollection;

23 (E) the processes and procedures for in-
24 creased cooperation and information sharing
25 with the Department of Commerce, U.S. Immi-

1 gration and Customs Enforcement, and any
2 other relevant Federal agencies to prevent and
3 identify evasion; and

4 (F) identification of any recommended pol-
5 icy changes of other Federal agencies or legisla-
6 tive changes to improve the effectiveness of
7 U.S. Customs and Border Protection to prevent
8 and identify evasion.

9 **SEC. 333. ADDRESSING CIRCUMVENTION BY NEW SHIP-**
10 **PERS.**

11 Section 751(a)(2)(B) of the Tariff Act of 1930 (19
12 U.S.C. 1675(a)(2)(B)) is amended—

13 (1) by striking clause (iii);

14 (2) by redesignating clause (iv) as clause (iii);

15 and

16 (3) by inserting after clause (iii), as redesign-
17 nated by paragraph (2) of this section, the following:

18 “(iv) DETERMINATIONS BASED ON
19 BONAFIDE SALES.—Any weighted average
20 dumping margin or individual counter-
21 vailing duty rate determined for an ex-
22 porter or producer in a review conducted
23 under clause (i) shall be based solely on
24 the bona fide United States sales of an ex-
25 porter or producer, as the case may be,

1 made during the period covered by the re-
2 view. In determining whether the United
3 States sales of an exporter or producer
4 made during the period covered by the re-
5 view were bona fide, the administering au-
6 thority shall consider, depending on the
7 circumstances surrounding such sales—

8 “(I) the prices of such sales;

9 “(II) whether such sales were
10 made in commercial quantities;

11 “(III) the timing of such sales;

12 “(IV) the expenses arising from
13 such sales;

14 “(V) whether the subject mer-
15 chandise involved in such sales was
16 resold in the United States at a prof-
17 it;

18 “(VI) whether such sales were
19 made on an arms-length basis; and

20 “(VII) any other factor the ad-
21 ministering authority determines to be
22 relevant as to whether such sales are,
23 or are not, likely to be typical of those
24 the exporter or producer will make
25 after completion of the review.”.

1 **SEC. 334. SENSE OF CONGRESS ON REFORM OF EXPORT**
2 **CONTROL POLICIES.**

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

4 (1) The United States would benefit from pre-
5 dictable, efficient, and transparent export control
6 policies.

7 (2) Such export control policies should focus on
8 the mutually reinforcing goals of—

9 (A) adequate national security; and

10 (B) increased global competitiveness and
11 job growth.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the Export Administration Act of 1979 (50
14 U.S.C. App. 2401 et seq.), as continued in effect pursuant
15 to the International Emergency Economic Powers Act (50
16 U.S.C. 1701 et seq.), has become obsolete and should be
17 reformed and reauthorized.

18 **TITLE IV—CREATING FEDERAL**
19 **SPECTRUM INCENTIVES**

20 **SEC. 401. SHORT TITLE.**

21 This title may be cited as the “Federal Spectrum In-
22 centive Act of 2015”.

23 **SEC. 402. FEDERAL SPECTRUM INCENTIVES.**

24 (a) NOTICE TO COMMISSION.—

25 (1) IN GENERAL.—Section 113(g)(4) of the Na-
26 tional Telecommunications and Information Admin-

1 Administration Organization Act (47 U.S.C. 923(g)(4)) is
2 amended—

3 (A) by striking the heading and inserting
4 “NOTICE TO COMMISSION.—”;

5 (B) in the second sentence of subpara-
6 graph (A), by striking “shall notify the Com-
7 mission” and all that follows and inserting the
8 following: “shall notify the Commission—

9 “(i) of estimated relocation or sharing
10 costs and timelines for such relocation or
11 sharing; or

12 “(ii) that, instead of relocation or
13 sharing costs under this subsection and
14 section 118, a Federal entity will receive
15 payment under section 120 because such
16 entity is—

17 “(I) discontinuing the operations
18 that the Federal entity conducts on
19 such eligible frequencies without relo-
20 cating such operations to other fre-
21 quencies; or

22 “(II) relocating such operations
23 to frequencies assigned to another
24 Federal entity in order for such enti-
25 ties to share such frequencies.”; and

1 (C) by adding at the end the following:

2 “(D) This subsection and section 118 shall
3 not apply with respect to the discontinuance of
4 operations on eligible frequencies or the reloca-
5 tion of such operations by a Federal entity after
6 the Commission receives notice under subpara-
7 graph (A)(ii) with respect to such discontinu-
8 ance or relocation.”.

9 (2) CONFORMING AMENDMENTS.—Section
10 113(g) of the National Telecommunications and In-
11 formation Administration Organization Act (47
12 U.S.C. 923(g)) is amended—

13 (A) in paragraph (3)(A)(iii)(I), by striking
14 “paragraph (4)(A)” and inserting “paragraph
15 (4)(A)(i)”;

16 (B) in paragraph (4)—

17 (i) in subparagraph (B), by striking
18 “subparagraph (A)” and inserting “sub-
19 paragraph (A)(i)”;

20 (ii) in subparagraph (C), by striking
21 “subparagraphs (A) and (B)” and insert-
22 ing “subparagraphs (A)(i) and (B)”;

23 (C) in paragraph (5), by striking “para-
24 graph (4)(A)” and inserting “paragraph
25 (4)(A)(i)”.

1 (b) TRANSITION PLANS.—Section 113(h) of the Na-
2 tional Telecommunications and Information Administra-
3 tion Organization Act (47 U.S.C. 923(h)) is amended—

4 (1) in the heading, by striking “RELOCATION
5 OR SHARING”;

6 (2) by amending paragraph (1) to read as fol-
7 lows:

8 “(1) DEVELOPMENT OF TRANSITION PLAN BY
9 FEDERAL ENTITY.—

10 “(A) IN GENERAL.—Not later than 240
11 days before the commencement of any auction
12 of eligible frequencies described in subsection
13 (g)(2), a Federal entity authorized to use any
14 such frequency shall submit to the NTIA and
15 to the Technical Panel established by paragraph
16 (3) a transition plan in which the Federal enti-
17 ty—

18 “(i) declares the intention of such en-
19 tity—

20 “(I) to share such eligible fre-
21 quencies with a non-Federal user or
22 to relocate to other frequencies, and
23 to receive relocation or sharing costs
24 from the Spectrum Relocation Fund
25 established by section 118; or

1 “(II) to discontinue the oper-
2 ations that the Federal entity con-
3 ducts on such eligible frequencies
4 without relocating such operations to
5 other frequencies or to relocate such
6 operations to frequencies assigned to
7 another Federal entity in order for
8 such entities to share such fre-
9 quencies, and to receive payment from
10 the Federal Spectrum Incentive Fund
11 established by section 120; and

12 “(ii) describes how the entity will im-
13 plement the relocation, sharing, or dis-
14 continuance arrangement.

15 “(B) COMMON FORMAT.—The NTIA shall
16 specify, after public input, a common format for
17 all Federal entities to follow in preparing tran-
18 sition plans under this paragraph.”;

19 (3) in paragraph (2)—

20 (A) in subparagraph (D), by inserting “, to
21 discontinue such use,” after “from such fre-
22 quencies”;

23 (B) in subparagraph (F), by inserting “,
24 discontinuance,” after “relocation”; and

1 (C) in subparagraph (G), by striking “The
2 plans” and inserting “To the extent applicable
3 given the intention declared by the entity under
4 paragraph (1)(A)(i), the plans”;

5 (4) in paragraph (4)(A), by inserting “(if appli-
6 cable)” after “timelines and”;

7 (5) in paragraph (6)—

8 (A) by inserting “(if applicable)” after
9 “costs”; and

10 (B) by inserting “, discontinuance,” after
11 “relocation” the second place it appears; and

12 (6) in paragraph (7)(A)(ii), by inserting “, dis-
13 continuance,” after “relocation”.

14 (c) RELOCATION OR DISCONTINUANCE PRIORITIZED
15 OVER SHARING.—Section 113(j) of the National Tele-
16 communications and Information Administration Organi-
17 zation Act (47 U.S.C. 923(j)) is amended—

18 (1) in the heading, by inserting “OR DIS-
19 CONTINUANCE” after “RELOCATION”; and

20 (2) by inserting “or discontinuance of the oper-
21 ations that the Federal entity conducts on the band”
22 after “from the band” each place it appears.

23 (d) DEPOSIT OF AUCTION PROCEEDS.—Section
24 309(j)(8) of the Communications Act of 1934 (47 U.S.C.
25 309(j)(8)) is amended—

1 (1) in subparagraph (C)(i), by striking
2 “(D)(ii)” and inserting “(D)(ii), (D)(iii)”; and

3 (2) in subparagraph (D)—

4 (A) in clause (i), by striking “clause (ii)”
5 and inserting “clauses (ii) and (iii)”; and

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

7 “(iii) FEDERAL SPECTRUM INCEN-
8 TIVES.—Notwithstanding subparagraph
9 (A) and except as provided in subpara-
10 graph (B) and clause (ii) of this subpara-
11 graph, in the case of proceeds (including
12 deposits and upfront payments from suc-
13 cessful bidders) attributable to the auction
14 of eligible frequencies described in section
15 113(g)(2) of the National Telecommuni-
16 cations and Information Administration
17 Organization Act with respect to which the
18 Commission has received notice under sec-
19 tion 113(g)(4)(A)(ii) of such Act, 1 per-
20 cent of such proceeds shall be deposited in
21 the Federal Spectrum Incentive Fund es-
22 tablished by section 120 of such Act and
23 shall be available in accordance with such
24 section. The remainder of such proceeds
25 shall be deposited in the general fund of

1 the Treasury, where such proceeds shall be
2 dedicated for the sole purpose of deficit re-
3 duction.”.

4 (e) **FEDERAL SPECTRUM INCENTIVE FUND.**—Part B
5 of the National Telecommunications and Information Ad-
6 ministration Organization Act (47 U.S.C. 921 et seq.) is
7 amended by adding at the end the following:

8 **“SEC. 120. FEDERAL SPECTRUM INCENTIVE FUND.**

9 “(a) **ESTABLISHMENT.**—There is established in the
10 Treasury of the United States a fund to be known as the
11 Federal Spectrum Incentive Fund (in this section referred
12 to as the ‘Fund’), which shall be administered by the Of-
13 fice of Management and Budget (in this section referred
14 to as ‘OMB’), in consultation with the NTIA.

15 “(b) **TRANSFER OF FUNDS.**—The Director of OMB
16 shall transfer from the Fund to a Federal entity an
17 amount equal to the amount deposited in accordance with
18 section 309(j)(8)(D)(iii) of the Communications Act of
19 1934 that is attributable to the auction of eligible fre-
20 quencies described in section 113(g)(2) of this Act being
21 vacated by such entity. Such amount shall be available to
22 the Federal entity in accordance with subsection (c) and
23 shall remain available until expended.

1 “(c) USE OF FUNDS.—A Federal entity may use an
2 amount transferred under subsection (b) for the following
3 purposes:

4 “(1) OFFSET OF SEQUESTRATION.—Any pur-
5 poses permitted under the terms and conditions of
6 an appropriations account of the Federal entity that
7 was subject to sequestration for any fiscal year
8 under the Balanced Budget and Emergency Deficit
9 Control Act of 1985. The amount used for such pur-
10 poses under this paragraph may not exceed the
11 amount by which the amount available to such entity
12 under such account was reduced by sequestration for
13 such fiscal year.

14 “(2) TRANSFER TO INCUMBENT FEDERAL EN-
15 TITY.—In the case of a Federal entity that is relo-
16 cating operations to frequencies assigned to an in-
17 cumbent Federal entity in order for such entities to
18 share such frequencies, to transfer an amount to the
19 incumbent Federal entity for any purposes permitted
20 under this subsection (except this paragraph). The
21 transferred amount shall remain available to the in-
22 cumbent Federal entity until expended.

23 “(d) PROHIBITION ON DUPLICATIVE PAYMENTS.—If
24 the Commission receives notice under section
25 113(g)(4)(A)(ii) of a discontinuance of operations on or

1 relocation from eligible frequencies by a Federal entity
2 that has received, from the Spectrum Relocation Fund in
3 accordance with section 118(d)(3), relocation or sharing
4 costs related to pre-auction estimates or research with re-
5 spect to such frequencies, the Director of OMB shall de-
6 duct from the amount to be transferred to such entity
7 under subsection (b) an amount equal to such costs and
8 shall transfer such amount to the Spectrum Relocation
9 Fund.”.

10 (f) DEPARTMENT OF DEFENSE SPECTRUM.—Section
11 1062(b) of the National Defense Authorization Act for
12 Fiscal Year 2000 (Public Law 106–65) does not apply to
13 frequencies with respect to which the Federal Communica-
14 tions Commission has received notice under section
15 113(g)(4)(A)(ii) of the National Telecommunications and
16 Information Administration Organization Act (47 U.S.C.
17 923(g)(4)(A)(ii)).

18 **SEC. 403. COSTS OF INCUMBENT FEDERAL ENTITIES RE-**
19 **LATED TO SPECTRUM SHARING.**

20 (a) DESCRIPTION OF ELIGIBLE FEDERAL ENTI-
21 TIES.—Section 113(g)(1) of the National Telecommuni-
22 cations and Information Administration Organization Act
23 (47 U.S.C. 923(g)(1)) is amended—

24 (1) by striking “authorized to use a band of eli-
25 gible frequencies described in paragraph (2)”;

1 (2) by striking “spectrum frequencies” the first
2 place it appears and inserting “eligible frequencies
3 described in paragraph (2)”; and

4 (3) by striking “spectrum frequencies” the sec-
5 ond place it appears and inserting “eligible fre-
6 quencies described in such paragraph”.

7 (b) DEFINITION OF RELOCATION OR SHARING
8 COSTS.—Section 113(g)(3)(A) of the National Tele-
9 communications and Information Administration Organi-
10 zation Act (47 U.S.C. 923(g)(3)(A)) is amended—

11 (1) in clause (iv)(II), by striking “and” at the
12 end;

13 (2) in clause (v), by striking the period and in-
14 serting “; and”; and

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

16 “(vi) the costs incurred by an incum-
17 bent Federal entity to accommodate shar-
18 ing the spectrum frequencies assigned to
19 such entity with a Federal entity the oper-
20 ations of which are being relocated from el-
21 igible frequencies described in paragraph
22 (2), unless the Commission receives notice
23 under paragraph (4)(A)(ii)(II) with respect
24 to the relocation of such operations.”.

1 (c) SPECTRUM RELOCATION FUND.—Section 118 of
2 the National Telecommunications and Information Ad-
3 ministration Organization Act (47 U.S.C. 928) is amend-
4 ed—

5 (1) in subsection (c), by striking “with respect
6 to” and all that follows and inserting the following:
7 “with respect to—

8 “(1) relocation from or sharing of such eligible
9 frequencies; or

10 “(2) in the case of an incumbent Federal entity
11 described in section 113(g)(3)(A)(vi), accommo-
12 dating sharing the spectrum frequencies assigned to
13 such entity with a Federal entity the operations of
14 which are being relocated from such eligible fre-
15 quencies.”; and

16 (2) in subsection (d)—

17 (A) in paragraph (2)(A), by inserting “(or,
18 in the case of an incumbent Federal entity de-
19 scribed in section 113(g)(3)(A)(vi), the eligible
20 Federal entity the operations of which are being
21 relocated has submitted such a plan)” after
22 “transition plan”; and

23 (B) in paragraph (3)(B)(ii), by inserting
24 “except in the case of an incumbent Federal en-

1 tity described in section 113(g)(3)(A)(vi),” be-
2 fore “the transition plan”.

3 **TITLE V—PROVIDING REGULATORY RELIEF, CERTAINTY,**
4 **AND TRANSPARENCY**

5 **Subtitle A—Energy Consumers**
6 **Relief**

7 **CHAPTER 1—FINALIZING ENERGY-**
8 **RELATED RULES**

9 **SEC. 501. PROHIBITION AGAINST FINALIZING CERTAIN EN-**
10 **ERGY-RELATED RULES THAT WILL CAUSE**
11 **SIGNIFICANT ADVERSE EFFECTS TO THE**
12 **ECONOMY.**

13 Notwithstanding any other provision of law, the Ad-
14 ministrator of the Environmental Protection Agency may
15 not promulgate as final an energy-related rule that is esti-
16 mated to cost more than \$1 billion if the Secretary of En-
17 ergy determines under section 502(3) that the rule will
18 cause significant adverse effects to the economy.

19 **SEC. 502. REPORTS AND DETERMINATIONS PRIOR TO PRO-**
20 **MULGATING AS FINAL CERTAIN ENERGY-RE-**
21 **LATED RULES.**

22 Before promulgating as final any energy-related rule
23 that is estimated to cost more than \$1 billion:
24

1 (1) REPORT TO CONGRESS.—The Administrator
2 of the Environmental Protection Agency shall sub-
3 mit to Congress a report (and transmit a copy to the
4 Secretary of Energy) containing—

5 (A) a copy of the rule;

6 (B) a concise general statement relating to
7 the rule;

8 (C) an estimate of the total costs of the
9 rule, including the direct costs and indirect
10 costs of the rule;

11 (D)(i) an estimate of the total benefits of
12 the rule and when such benefits are expected to
13 be realized;

14 (ii) a description of the modeling, the cal-
15 culations, the assumptions, and the limitations
16 due to uncertainty, speculation, or lack of infor-
17 mation associated with the estimates under this
18 subparagraph; and

19 (iii) a certification that all data and docu-
20 ments relied upon by the Agency in developing
21 such estimates—

22 (I) have been preserved; and

23 (II) are available for review by the
24 public on the Agency's Web site, except to
25 the extent to which publication of such

1 data and documents would constitute dis-
2 closure of confidential information in viola-
3 tion of applicable Federal law;

4 (E) an estimate of the increases in energy
5 prices, including potential increases in gasoline
6 or electricity prices for consumers, that may re-
7 sult from implementation or enforcement of the
8 rule; and

9 (F) a detailed description of the employ-
10 ment effects, including potential job losses and
11 shifts in employment, that may result from im-
12 plementation or enforcement of the rule.

13 (2) INITIAL DETERMINATION ON INCREASES
14 AND IMPACTS.—The Secretary of Energy, in con-
15 sultation with the Federal Energy Regulatory Com-
16 mission and the Administrator of the Energy Infor-
17 mation Administration, shall prepare an independent
18 analysis to determine whether the rule will cause—

19 (A) any increase in energy prices for con-
20 sumers, including low-income households, small
21 businesses, and manufacturers;

22 (B) any impact on fuel diversity of the Na-
23 tion's electricity generation portfolio or on na-
24 tional, regional, or local electric reliability;

1 (C) any adverse effect on energy supply,
2 distribution, or use due to the economic or tech-
3 nical infeasibility of implementing the rule; or

4 (D) any other adverse effect on energy
5 supply, distribution, or use (including a short-
6 fall in supply and increased use of foreign sup-
7 plies).

8 (3) SUBSEQUENT DETERMINATION ON ADVERSE
9 EFFECTS TO THE ECONOMY.—If the Secretary of
10 Energy determines, under paragraph (2), that the
11 rule will cause an increase, impact, or effect de-
12 scribed in such paragraph, then the Secretary, in
13 consultation with the Administrator of the Environ-
14 mental Protection Agency, the Secretary of Com-
15 merce, the Secretary of Labor, and the Adminis-
16 trator of the Small Business Administration, shall—

17 (A) determine whether the rule will cause
18 significant adverse effects to the economy, tak-
19 ing into consideration—

20 (i) the costs and benefits of the rule
21 and limitations in calculating such costs
22 and benefits due to uncertainty, specula-
23 tion, or lack of information; and

24 (ii) the positive and negative impacts
25 of the rule on economic indicators, includ-

1 ing those related to gross domestic prod-
2 uct, unemployment, wages, consumer
3 prices, and business and manufacturing ac-
4 tivity; and

5 (B) publish the results of such determina-
6 tion in the Federal Register.

7 **SEC. 503. DEFINITIONS.**

8 In this chapter:

9 (1) The terms “direct costs” and “indirect
10 costs” have the meanings given such terms in chap-
11 ter 8 of the Environmental Protection Agency’s
12 “Guidelines for Preparing Economic Analyses”
13 dated December 17, 2010.

14 (2) The term “energy-related rule that is esti-
15 mated to cost more than \$1 billion” means a rule of
16 the Environmental Protection Agency that—

17 (A) regulates any aspect of the production,
18 supply, distribution, or use of energy or pro-
19 vides for such regulation by States or other gov-
20 ernmental entities; and

21 (B) is estimated by the Administrator of
22 the Environmental Protection Agency or the
23 Director of the Office of Management and
24 Budget to impose direct costs and indirect

1 costs, in the aggregate, of more than
2 \$1,000,000,000.

3 (3) The term “rule” has the meaning given to
4 such term in section 551 of title 5, United States
5 Code.

6 **SEC. 504. PROHIBITION ON USE OF SOCIAL COST OF CAR-**
7 **BON IN ANALYSIS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law or any Executive order, the Administrator of
10 the Environmental Protection Agency may not use the so-
11 cial cost of carbon in order to incorporate social benefits
12 of reducing carbon dioxide emissions, or for any other rea-
13 son, in any cost-benefit analysis relating to an energy-re-
14 lated rule that is estimated to cost more than \$1 billion
15 unless and until a Federal law is enacted authorizing such
16 use.

17 (b) DEFINITION.—In this section, the term “social
18 cost of carbon” means the social cost of carbon as de-
19 scribed in the technical support document entitled “Tech-
20 nical Support Document: Technical Update of the Social
21 Cost of Carbon for Regulatory Impact Analysis Under Ex-
22 ecutive Order 12866”, published by the Interagency
23 Working Group on Social Cost of Carbon, United States
24 Government, in May 2013, or any successor or substan-
25 tially related document, or any other estimate of the mone-

1 tized damages associated with an incremental increase in
2 carbon dioxide emissions in a given year.

3 **CHAPTER 2—ELECTRICITY SECURITY AND**
4 **AFFORDABILITY**

5 **SEC. 511. SHORT TITLE.**

6 This chapter may be cited as the “Electricity Security
7 and Affordability Act”.

8 **SEC. 512. STANDARDS OF PERFORMANCE FOR NEW FOSSIL**
9 **FUEL-FIRED ELECTRIC UTILITY GENERATING**
10 **UNITS.**

11 (a) **LIMITATION.**—The Administrator of the Environ-
12 mental Protection Agency may not issue, implement, or
13 enforce any proposed or final rule under section 111 of
14 the Clean Air Act (42 U.S.C. 7411) that establishes a
15 standard of performance for emissions of any greenhouse
16 gas from any new source that is a fossil fuel-fired electric
17 utility generating unit unless such rule meets the require-
18 ments under subsections (b) and (c).

19 (b) **REQUIREMENTS.**—In issuing any rule under sec-
20 tion 111 of the Clean Air Act (42 U.S.C. 7411) estab-
21 lishing standards of performance for emissions of any
22 greenhouse gas from new sources that are fossil fuel-fired
23 electric utility generating units, the Administrator of the
24 Environmental Protection Agency (for purposes of estab-
25 lishing such standards)—

1 (1) shall separate sources fueled with coal and
2 natural gas into separate categories; and

3 (2) shall not set a standard based on the best
4 system of emission reduction for new sources within
5 a fossil-fuel category unless—

6 (A) such standard has been achieved on
7 average for at least one continuous 12-month
8 period (excluding planned outages) by each of
9 at least 6 units within such category—

10 (i) each of which is located at a dif-
11 ferent electric generating station in the
12 United States;

13 (ii) which, collectively, are representa-
14 tive of the operating characteristics of elec-
15 tric generation at different locations in the
16 United States; and

17 (iii) each of which is operated for the
18 entire 12-month period on a full commer-
19 cial basis; and

20 (B) no results obtained from any dem-
21 onstration project are used in setting such
22 standard.

23 (c) COAL HAVING A HEAT CONTENT OF 8300 OR
24 LESS BRITISH THERMAL UNITS PER POUND.—

1 (1) SEPARATE SUBCATEGORY.—In carrying out
2 subsection (b)(1), the Administrator of the Environ-
3 mental Protection Agency shall establish a separate
4 subcategory for new sources that are fossil fuel-fired
5 electric utility generating units using coal with an
6 average heat content of 8300 or less British Ther-
7 mal Units per pound.

8 (2) STANDARD.—Notwithstanding subsection
9 (b)(2), in issuing any rule under section 111 of the
10 Clean Air Act (42 U.S.C. 7411) establishing stand-
11 ards of performance for emissions of any greenhouse
12 gas from new sources in such subcategory, the Ad-
13 ministrator of the Environmental Protection Agency
14 shall not set a standard based on the best system of
15 emission reduction unless—

16 (A) such standard has been achieved on
17 average for at least one continuous 12-month
18 period (excluding planned outages) by each of
19 at least 3 units within such subcategory—

20 (i) each of which is located at a dif-
21 ferent electric generating station in the
22 United States;

23 (ii) which, collectively, are representa-
24 tive of the operating characteristics of elec-

1 tric generation at different locations in the
2 United States; and

3 (iii) each of which is operated for the
4 entire 12-month period on a full commer-
5 cial basis; and

6 (B) no results obtained from any dem-
7 onstration project are used in setting such
8 standard.

9 (d) TECHNOLOGIES.—Nothing in this section shall be
10 construed to preclude the issuance, implementation, or en-
11 forcement of a standard of performance that—

12 (1) is based on the use of one or more tech-
13 nologies that are developed in a foreign country, but
14 has been demonstrated to be achievable at fossil
15 fuel-fired electric utility generating units in the
16 United States; and

17 (2) meets the requirements of subsections (b)
18 and (c), as applicable.

19 **SEC. 513. CONGRESS TO SET EFFECTIVE DATE FOR STAND-**
20 **ARDS OF PERFORMANCE FOR EXISTING,**
21 **MODIFIED, AND RECONSTRUCTED FOSSIL**
22 **FUEL-FIRED ELECTRIC UTILITY GENERATING**
23 **UNITS.**

24 (a) APPLICABILITY.—This section applies with re-
25 spect to any rule or guidelines issued by the Administrator

1 of the Environmental Protection Agency under section
2 111 of the Clean Air Act (42 U.S.C. 7411) that—

3 (1) establish any standard of performance for
4 emissions of any greenhouse gas from any modified
5 or reconstructed source that is a fossil fuel-fired
6 electric utility generating unit; or

7 (2) apply to the emissions of any greenhouse
8 gas from an existing source that is a fossil fuel-fired
9 electric utility generating unit.

10 (b) CONGRESS TO SET EFFECTIVE DATE.—A rule
11 or guidelines described in subsection (a) shall not take ef-
12 fect unless a Federal law is enacted specifying such rule’s
13 or guidelines’ effective date.

14 (c) REPORTING.—A rule or guidelines described in
15 subsection (a) shall not take effect unless the Adminis-
16 trator of the Environmental Protection Agency has sub-
17 mitted to Congress a report containing each of the fol-
18 lowing:

19 (1) The text of such rule or guidelines.

20 (2) The economic impacts of such rule or guide-
21 lines, including the potential effects on—

22 (A) economic growth, competitiveness, and
23 jobs in the United States;

24 (B) electricity ratepayers, including low-in-
25 come ratepayers in affected States;

1 (C) required capital investments and pro-
2 jected costs for operation and maintenance of
3 new equipment required to be installed; and

4 (D) the global economic competitiveness of
5 the United States.

6 (3) The amount of greenhouse gas emissions
7 that such rule or guidelines are projected to reduce
8 as compared to overall global greenhouse gas emis-
9 sions.

10 (d) CONSULTATION.—In carrying out subsection (c),
11 the Administrator of the Environmental Protection Agen-
12 cy shall consult with the Administrator of the Energy In-
13 formation Administration, the Comptroller General of the
14 United States, the Director of the National Energy Tech-
15 nology Laboratory, and the Under Secretary of Commerce
16 for Standards and Technology.

17 **SEC. 514. REPEAL OF EARLIER RULES AND GUIDELINES.**

18 The following rules and guidelines shall be of no force
19 or effect, and shall be treated as though such rules and
20 guidelines had never been issued:

21 (1) The proposed rule—

22 (A) entitled “Standards of Performance
23 for Greenhouse Gas Emissions for New Sta-
24 tionary Sources: Electric Utility Generating

1 Units”, published at 77 Fed. Reg. 22392 (April
2 13, 2012); and

3 (B) withdrawn pursuant to the notice enti-
4 tled “Withdrawal of Proposed Standards of
5 Performance for Greenhouse Gas Emissions
6 From New Stationary Sources: Electric Utility
7 Generating Units”, published at 79 Fed. Reg.
8 1352 (January 8, 2014).

9 (2) The proposed rule entitled “Standards of
10 Performance for Greenhouse Gas Emissions From
11 New Stationary Sources: Electric Utility Generating
12 Units”, published at 79 Fed. Reg. 1430 (January 8,
13 2014).

14 (3) With respect to the proposed rules described
15 in paragraphs (1) and (2), any successor or substan-
16 tially similar proposed or final rule that—

17 (A) is issued prior to the date of the enact-
18 ment of this Act;

19 (B) is applicable to any new source that is
20 a fossil fuel-fired electric utility generating unit;
21 and

22 (C) does not meet the requirements under
23 subsections (b) and (c) of section 512.

24 (4) The proposed rule entitled “Carbon Pollu-
25 tion Emission Guidelines for Existing Stationary

1 Sources: Electric Utility Generating Units”, pub-
2 lished at 79 Fed. Reg. 34830 (June 18, 2014).

3 (5) The proposed rule entitled “Carbon Pollu-
4 tion Standards for Modified and Reconstructed Sta-
5 tionary Sources: Electric Utility Generating Units”,
6 published at 79 Fed. Reg. 34960 (June 18, 2014).

7 (6) With respect to the proposed rules described
8 in paragraphs (4) and (5), any successor or substan-
9 tially similar proposed or final rule that—

10 (A) is issued prior to the date of the enact-
11 ment of this Act; and

12 (B) is applicable to any existing, modified,
13 or reconstructed source that is a fossil fuel-fired
14 electric utility generating unit.

15 **SEC. 515. DEFINITIONS.**

16 In this chapter:

17 (1) **DEMONSTRATION PROJECT.**—The term
18 “demonstration project” means a project to test or
19 demonstrate the feasibility of carbon capture and
20 storage technologies that has received Federal Gov-
21 ernment funding or financial assistance.

22 (2) **EXISTING SOURCE.**—The term “existing
23 source” has the meaning given such term in section
24 111(a) of the Clean Air Act (42 U.S.C. 7411(a)),

1 except such term shall not include any modified
2 source.

3 (3) GREENHOUSE GAS.—The term “greenhouse
4 gas” means any of the following:

5 (A) Carbon dioxide.

6 (B) Methane.

7 (C) Nitrous oxide.

8 (D) Sulfur hexafluoride.

9 (E) Hydrofluorocarbons.

10 (F) Perfluorocarbons.

11 (4) MODIFICATION.—The term “modification”
12 has the meaning given such term in section 111(a)
13 of the Clean Air Act (42 U.S.C. 7411(a)).

14 (5) MODIFIED SOURCE.—The term “modified
15 source” means any stationary source, the modifica-
16 tion of which is commenced after the date of the en-
17 actment of this Act.

18 (6) NEW SOURCE.—The term “new source” has
19 the meaning given such term in section 111(a) of
20 the Clean Air Act (42 U.S.C. 7411(a)), except that
21 such term shall not include any modified source.

1 **Subtitle B—LNG Permitting**
2 **Certainty and Transparency**

3 **SEC. 521. SHORT TITLE.**

4 This subtitle may be cited as the “LNG Permitting
5 Certainty and Transparency Act”.

6 **SEC. 522. ACTION ON APPLICATIONS.**

7 (a) **DECISION DEADLINE.**—For proposals that must
8 also obtain authorization from the Federal Energy Regu-
9 latory Commission or the United States Maritime Admin-
10 istration to site, construct, expand, or operate LNG export
11 facilities, the Department of Energy shall issue a final de-
12 cision on any application for the authorization to export
13 natural gas under section 3 of the Natural Gas Act (15
14 U.S.C. 717b) not later than 30 days after the later of—

15 (1) the conclusion of the review to site, con-
16 struct, expand, or operate the LNG facilities re-
17 quired by the National Environmental Policy Act of
18 1969 (42 U.S.C. 4321 et seq.); or

19 (2) the date of enactment of this Act.

20 (b) **CONCLUSION OF REVIEW.**—For purposes of sub-
21 section (a), review required by the National Environ-
22 mental Policy Act of 1969 shall be considered concluded—

23 (1) for a project requiring an Environmental
24 Impact Statement, 30 days after publication of a
25 Final Environmental Impact Statement;

1 (2) for a project for which an Environmental
2 Assessment has been prepared, 30 days after publi-
3 cation by the Department of Energy of a Finding of
4 No Significant Impact; and

5 (3) upon a determination by the lead agency
6 that an application is eligible for a categorical exclu-
7 sion pursuant to the National Environmental Policy
8 Act of 1969 implementing regulations.

9 (c) JUDICIAL ACTION.—(1) The United States Court
10 of Appeals for the circuit in which the export facility will
11 be located pursuant to an application described in sub-
12 section (a) shall have original and exclusive jurisdiction
13 over any civil action for the review of—

14 (A) an order issued by the Department of En-
15 ergy with respect to such application; or

16 (B) the Department of Energy's failure to issue
17 a final decision on such application.

18 (2) If the Court in a civil action described in para-
19 graph (1) finds that the Department of Energy has failed
20 to issue a final decision on the application as required
21 under subsection (a), the Court shall order the Depart-
22 ment of Energy to issue such final decision not later than
23 30 days after the Court's order.

24 (3) The Court shall set any civil action brought under
25 this subsection for expedited consideration and shall set

1 the matter on the docket as soon as practical after the
 2 filing date of the initial pleading.

3 **SEC. 523. PUBLIC DISCLOSURE OF EXPORT DESTINATIONS.**

4 Section 3 of the Natural Gas Act (15 U.S.C. 717b)
 5 is amended by adding at the end the following:

6 “(g) PUBLIC DISCLOSURE OF LNG EXPORT DES-
 7 TINATIONS.—As a condition for approval of any authoriza-
 8 tion to export LNG, the Secretary of Energy shall require
 9 the applicant to publicly disclose the specific destination
 10 or destinations of any such authorized LNG exports.”.

11 **Subtitle C—Preventing Govern-**
 12 **ment Waste and Protecting Coal**
 13 **Mining Jobs in America**

14 **SEC. 531. SHORT TITLE.**

15 This subtitle may be cited as the “Preventing Govern-
 16 ment Waste and Protecting Coal Mining Jobs in Amer-
 17 ica”.

18 **SEC. 532. INCORPORATION OF SURFACE MINING STREAM**

19 **BUFFER ZONE RULE INTO STATE PROGRAMS.**

20 (a) IN GENERAL.—Section 503 of the Surface Min-
 21 ing Control and Reclamation Act of 1977 (30 U.S.C.
 22 1253) is amended by adding at the end the following:

23 “(e) STREAM BUFFER ZONE MANAGEMENT.—

24 “(1) IN GENERAL.—In addition to the require-
 25 ments under subsection (a), each State program

1 shall incorporate the necessary rule regarding excess
2 spoil, coal mine waste, and buffers for perennial and
3 intermittent streams published by the Office of Sur-
4 face Mining Reclamation and Enforcement on De-
5 cember 12, 2008 (73 Fed. Reg. 75813 et seq.),
6 which complies with the Endangered Species Act of
7 1973 (16 U.S.C. 1531 et seq.) in view of the 2006
8 discussions between the Director of the Office of
9 Surface Mining and the Director of the United
10 States Fish and Wildlife Service, and the Office of
11 Surface Mining Reclamation and Enforcement’s con-
12 sideration and review of comments submitted by the
13 United States Fish and Wildlife Service during the
14 rulemaking process in 2007.

15 “(2) STUDY OF IMPLEMENTATION.—The Sec-
16 retary shall—

17 “(A) at such time as the Secretary deter-
18 mines all States referred to in subsection (a)
19 have fully incorporated the necessary rule re-
20 ferred to in paragraph (1) of this subsection
21 into their State programs, publish notice of
22 such determination;

23 “(B) during the 5-year period beginning on
24 the date of such publication, assess the effec-

1 tiveness of implementation of such rule by such
2 States;

3 “(C) carry out all required consultation on
4 the benefits and other impacts of the implemen-
5 tation of the rule to any threatened species or
6 endangered species, with the participation of
7 the United States Fish and Wildlife Service and
8 the United States Geological Survey; and

9 “(D) upon the conclusion of such period,
10 submit a comprehensive report on the impacts
11 of such rule to the Committee on Natural Re-
12 sources of the House of Representatives and the
13 Committee on Energy and Natural Resources of
14 the Senate, including—

15 “(i) an evaluation of the effectiveness
16 of such rule;

17 “(ii) an evaluation of any ways in
18 which the existing rule inhibits energy pro-
19 duction; and

20 “(iii) a description in detail of any
21 proposed changes that should be made to
22 the rule, the justification for such changes,
23 all comments on such changes received by
24 the Secretary from such States, and the

1 projected costs and benefits of such
2 changes.

3 “(3) LIMITATION ON NEW REGULATIONS.—The
4 Secretary may not issue any regulations under this
5 Act relating to stream buffer zones or stream protec-
6 tion before the date of the publication of the report
7 under paragraph (2), other than a rule necessary to
8 implement paragraph (1).”.

9 (b) DEADLINE FOR STATE IMPLEMENTATION.—Not
10 later than 2 years after the date of the enactment of this
11 Act, a State with a State program approved under section
12 503 of the Surface Mining Control and Reclamation Act
13 of 1977 (30 U.S.C. 1253) shall submit to the Secretary
14 of the Interior amendments to such program pursuant to
15 part 732 of title 30, Code of Federal Regulations, incor-
16 porating the necessary rule referred to in subsection (e)(1)
17 of such section, as amended by this section.

1 **TITLE VI—REDUCING HEALTH**
2 **CARE BURDENS AND IMPROV-**
3 **ING PATIENT COVERAGE**

4 **SEC. 601. REPEAL OF THE HEALTH CARE LAW AND HEALTH**
5 **CARE-RELATED PROVISIONS IN THE HEALTH**
6 **CARE AND EDUCATION RECONCILIATION ACT**
7 **OF 2010.**

8 (a) HEALTH CARE LAW.—Effective as of the enact-
9 ment of Public Law 111–148, such Act is repealed, and
10 the provisions of law amended or repealed by such Act
11 are restored or revived as if such Act had not been en-
12 acted.

13 (b) HEALTH CARE-RELATED PROVISIONS IN THE
14 HEALTH CARE AND EDUCATION RECONCILIATION ACT OF
15 2010.—Effective as of the enactment of the Health Care
16 and Education Reconciliation Act of 2010 (Public Law
17 111–152), title I and subtitle B of title II of such Act
18 are repealed, and the provisions of law amended or re-
19 pealed by such title or subtitle, respectively, are restored
20 or revived as if such title and subtitle had not been en-
21 acted.

22 **SEC. 602. NO LIFETIME LIMITS.**

23 Part A of title XXVII of the Public Health Service
24 Act, as restored under section 601(a), is amended by in-

1 setting after section 2702 (42 U.S.C. 300gg–1) the fol-
2 lowing:

3 **“SEC. 2703. NO LIFETIME LIMITS.**

4 “A group health plan and a health insurance issuer
5 offering group or individual health insurance coverage
6 may not establish lifetime limits on the dollar value of ben-
7 efits for any individual.”.

8 **SEC. 603. ESTABLISH UNIVERSAL ACCESS PROGRAMS TO**
9 **IMPROVE HIGH RISK POOLS AND REINSUR-**
10 **ANCE MARKETS.**

11 (a) STATE REQUIREMENT.—

12 (1) IN GENERAL.—Not later than January 1,
13 2017, each State shall, subject to paragraph (3)—

14 (A) operate—

15 (i) a qualified State reinsurance pro-
16 gram described in subsection (b); or

17 (ii) a qualifying State high risk pool
18 described in subsection (c)(1); and

19 (B) apply to the operation of such a pro-
20 gram from State funds an amount equivalent to
21 the portion of State funds derived from State
22 premium assessments (as defined by the Sec-
23 retary) that are not otherwise used on State
24 health care programs.

1 (2) RELATION TO CURRENT QUALIFIED HIGH
2 RISK POOL PROGRAM.—

3 (A) STATES NOT OPERATING A QUALIFIED
4 HIGH RISK POOL.—In the case of a State that
5 is not operating a current section 2745 quali-
6 fied high risk pool as of the date of the enact-
7 ment of this Act—

8 (i) the State may only meet the re-
9 quirement of paragraph (1) through the
10 operation of a qualified State reinsurance
11 program described in subsection (b); and

12 (ii) the State's operation of such a re-
13 insurance program shall be treated, for
14 purposes of section 2745 of the Public
15 Health Service Act, as the operation of a
16 qualified high risk pool described in such
17 section.

18 (B) STATE OPERATING A QUALIFIED HIGH
19 RISK POOL.—In the case of a State that is op-
20 erating a current section 2745 qualified high
21 risk pool as of the date of the enactment of this
22 Act—

23 (i) as of January 1, 2017, such a pool
24 shall not be treated as a qualified high risk
25 pool under section 2745 of the Public

1 Health Service Act unless the pool is a
2 qualifying State high risk pool described in
3 subsection (c)(1); and

4 (ii) the State may use premium as-
5 sessment funds described in paragraph
6 (1)(B) to transition from operation of such
7 a pool to operation of a qualified State re-
8 insurance program described in subsection
9 (b).

10 (3) APPLICATION OF FUNDS.—If the program
11 or pool operated under paragraph (1)(A) is in strong
12 fiscal health, as determined in accordance with
13 standards established by the National Association of
14 Insurance Commissioners and as approved by the
15 State Insurance Commissioner involved, the require-
16 ment of paragraph (1)(B) shall be deemed to be
17 met.

18 (b) QUALIFIED STATE REINSURANCE PROGRAM.—

19 (1) IN GENERAL.—For purposes of this section,
20 the term “qualified State reinsurance program”
21 means a program operated by a State program that
22 provides reinsurance for health insurance coverage
23 offered in the small group market in accordance
24 with the model for such a program established (as
25 of the date of the enactment of this Act).

1 (2) FORM OF PROGRAM.—A qualified State re-
2 insurance program may provide reinsurance—

3 (A) on a prospective or retrospective basis;

4 and

5 (B) on a basis that protects health insur-
6 ance issuers against the annual aggregate
7 spending of their enrollees as well as purchase
8 protection against individual catastrophic costs.

9 (3) SATISFACTION OF HIPAA REQUIREMENT.—

10 A qualified State reinsurance program shall be
11 deemed, for purposes of section 2745 of the Public
12 Health Service Act, to be a qualified high risk pool
13 under such section.

14 (c) QUALIFYING STATE HIGH RISK POOL.—

15 (1) IN GENERAL.—A qualifying State high risk
16 pool described in this subsection means a current
17 section 2745 qualified high risk pool that meets the
18 following requirements:

19 (A) The pool provides at least two coverage
20 options, one of which is a high deductible health
21 plan coupled with a health savings account.

22 (B) The pool is funded with a stable fund-
23 ing source.

24 (C) The pool eliminates any waiting lists
25 so that all eligible residents who are seeking

1 coverage through the pool should be allowed to
2 receive coverage through the pool.

3 (D) The pool allows for coverage of indi-
4 viduals who, but for the 24-month disability
5 waiting period under section 226(b) of the So-
6 cial Security Act, would be eligible for Medicare
7 during the period of such waiting period.

8 (E) The pool limits the pool premiums to
9 no more than 150 percent of the average pre-
10 mium for applicable standard risk rates in that
11 State.

12 (F) The pool conducts education and out-
13 reach initiatives so that residents and brokers
14 understand that the pool is available to eligible
15 residents.

16 (G) The pool provides coverage for preven-
17 tive services and disease management for chron-
18 ic diseases.

19 (2) VERIFICATION OF CITIZENSHIP OR ALIEN
20 QUALIFICATION.—

21 (A) IN GENERAL.—Notwithstanding any
22 other provision of law, only citizens and nation-
23 als of the United States shall be eligible to par-
24 ticipate in a qualifying State high risk pool that

1 receives funds under section 2745 of the Public
2 Health Service Act or this section.

3 (B) CONDITION OF PARTICIPATION.—As a
4 condition of a State receiving such funds, the
5 Secretary shall require the State to certify, to
6 the satisfaction of the Secretary, that such
7 State requires all applicants for coverage in the
8 qualifying State high risk pool to provide satis-
9 factory documentation of citizenship or nation-
10 ality in a manner consistent with section
11 1903(x) of the Social Security Act.

12 (C) RECORDS.—The Secretary shall keep
13 sufficient records such that a determination of
14 citizenship or nationality only has to be made
15 once for any individual under this paragraph.

16 (3) RELATION TO SECTION 2745.—As of Janu-
17 ary 1, 2017, a pool shall not qualify as qualified
18 high risk pool under section 2745 of the Public
19 Health Service Act unless the pool is a qualifying
20 State high risk pool described in paragraph (1).

21 (4) WAIVERS.—In order to accommodate new
22 and innovative programs, the Secretary may waive
23 such requirements of this section for qualified State
24 reinsurance programs and for qualifying State high
25 risk pools as the Secretary deems appropriate.

1 (5) FUNDING.—In addition to any other
2 amounts appropriated, there is appropriated to carry
3 out section 2745 of the Public Health Service Act
4 (including through a program or pool described in
5 subsection (a)(1))—

6 (A) \$15,000,000,000 for the period of fis-
7 cal years 2017 through 2026; and

8 (B) an additional \$10,000,000,000 for the
9 period of fiscal years 2022 through 2026.

10 (d) DEFINITIONS.—In this section:

11 (1) HEALTH INSURANCE COVERAGE; HEALTH
12 INSURANCE ISSUER.—The terms “health insurance
13 coverage” and “health insurance issuer” have the
14 meanings given such terms in section 2791 of the
15 Public Health Service Act.

16 (2) CURRENT SECTION 2745 QUALIFIED HIGH
17 RISK POOL.—The term “current section 2745 quali-
18 fied high risk pool” has the meaning given the term
19 “qualified high risk pool” under section 2745(g) of
20 the Public Health Service Act as in effect as of the
21 date of the enactment of this Act.

22 (3) SECRETARY.—The term “Secretary” means
23 the Secretary of Health and Human Services.

24 (4) STANDARD RISK RATE.—The term “stand-
25 ard risk rate” means a rate that—

1 (A) is determined under the State high
2 risk pool by considering the premium rates
3 charged by other health insurance issuers offer-
4 ing health insurance coverage to individuals in
5 the insurance market served;

6 (B) is established using reasonable actu-
7 arial techniques; and

8 (C) reflects anticipated claims experience
9 and expenses for the coverage involved.

10 (5) STATE.—The term “State” means any of
11 the 50 States or the District of Columbia.

12 **SEC. 604. ELIMINATION OF CERTAIN REQUIREMENTS FOR**
13 **GUARANTEED AVAILABILITY IN INDIVIDUAL**
14 **MARKET.**

15 Section 2741(b) of the Public Health Service Act (42
16 U.S.C. 300gg–41(b)) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “(1)(A)” and inserting
19 “(1)”; and

20 (B) by striking “and (B)” and all that fol-
21 lows up to the semicolon at the end;

22 (2) by adding “and” at the end of paragraph
23 (2);

24 (3) in paragraph (3)—

1 (A) by striking “(1)(A)” and inserting
2 “(1)”; and

3 (B) by striking the semicolon at the end
4 and inserting a period; and

5 (4) by striking paragraphs (4) and (5).

6 **SEC. 605. PREVENTING UNJUST CANCELLATION OF INSUR-**
7 **ANCE COVERAGE.**

8 (a) **CLARIFICATION REGARDING APPLICATION OF**
9 **GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH**
10 **INSURANCE COVERAGE.**—Section 2742 of the Public
11 Health Service Act (42 U.S.C. 300gg–42) is amended—

12 (1) in its heading, by inserting “, **CONTINU-**
13 **ATION IN FORCE, INCLUDING PROHIBITION OF**
14 **RESCISSION,”** after “**GUARANTEED RENEW-**
15 **ABILITY”**;

16 (2) in subsection (a), by inserting “, including
17 without rescission,” after “continue in force”; and

18 (3) in subsection (b)(2), by inserting before the
19 period at the end the following: “, including inten-
20 tional concealment of material facts regarding a
21 health condition related to the condition for which
22 coverage is being claimed”.

23 (b) **OPPORTUNITY FOR INDEPENDENT, EXTERNAL**
24 **THIRD PARTY REVIEW IN CERTAIN CASES.**—Subpart 1

1 of part B of title XXVII of the Public Health Service Act
2 is amended by adding at the end the following new section:

3 **“SEC. 2746. OPPORTUNITY FOR INDEPENDENT, EXTERNAL**
4 **THIRD PARTY REVIEW IN CERTAIN CASES.**

5 “(a) NOTICE AND REVIEW RIGHT.—If a health in-
6 surance issuer determines to nonrenew or not continue in
7 force, including by rescission, health insurance coverage
8 for an individual in the individual market on the basis de-
9 scribed in section 2742(b)(2) before such nonrenewal, dis-
10 continuation, or rescission, may take effect the issuer shall
11 provide the individual with notice of such proposed non-
12 renewal, discontinuation, or rescission and an opportunity
13 for a review of such determination by an independent, ex-
14 ternal third party under procedures specified by the Sec-
15 retary.

16 “(b) INDEPENDENT DETERMINATION.—If the indi-
17 vidual requests such review by an independent, external
18 third party of a nonrenewal, discontinuation, or rescission
19 of health insurance coverage, the coverage shall remain in
20 effect until such third party determines that the coverage
21 may be nonrenewed, discontinued, or rescinded under sec-
22 tion 2742(b)(2).”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply after the date of the enactment

1 of this section with respect to health insurance coverage
 2 issued before, on, or after such date.

3 **TITLE VII—LOWERING HEALTH**
 4 **CARE COSTS**
 5 **Subtitle A—Cooperative Governing**
 6 **of Individual Health Insurance**
 7 **Coverage**

8 **SEC. 701. COOPERATIVE GOVERNING OF INDIVIDUAL**
 9 **HEALTH INSURANCE COVERAGE.**

10 (a) IN GENERAL.—Title XXVII of the Public Health
 11 Service Act (42 U.S.C. 300gg et seq.) is amended by add-
 12 ing at the end the following new part:

13 **“PART D—COOPERATIVE GOVERNING OF**
 14 **INDIVIDUAL HEALTH INSURANCE COVERAGE**

15 **“SEC. 2795. DEFINITIONS.**

16 “In this part:

17 “(1) PRIMARY STATE.—The term ‘primary
 18 State’ means, with respect to individual health insur-
 19 ance coverage offered by a health insurance issuer,
 20 the State designated by the issuer as the State
 21 whose covered laws shall govern the health insurance
 22 issuer in the sale of such coverage under this part.
 23 An issuer, with respect to a particular policy, may
 24 only designate one such State as its primary State
 25 with respect to all such coverage it offers. Such an

1 issuer may not change the designated primary State
2 with respect to individual health insurance coverage
3 once the policy is issued, except that such a change
4 may be made upon renewal of the policy. With re-
5 spect to such designated State, the issuer is deemed
6 to be doing business in that State.

7 “(2) SECONDARY STATE.—The term ‘secondary
8 State’ means, with respect to individual health insur-
9 ance coverage offered by a health insurance issuer,
10 any State that is not the primary State. In the case
11 of a health insurance issuer that is selling a policy
12 in, or to a resident of, a secondary State, the issuer
13 is deemed to be doing business in that secondary
14 State.

15 “(3) HEALTH INSURANCE ISSUER.—The term
16 ‘health insurance issuer’ has the meaning given such
17 term in section 2791(b)(2), except that such an
18 issuer must be licensed in the primary State and be
19 qualified to sell individual health insurance coverage
20 in that State.

21 “(4) INDIVIDUAL HEALTH INSURANCE COV-
22 ERAGE.—The term ‘individual health insurance cov-
23 erage’ means health insurance coverage offered in
24 the individual market, as defined in section
25 2791(b)(5).

1 “(5) APPLICABLE STATE AUTHORITY.—The
2 term ‘applicable State authority’ means, with respect
3 to a health insurance issuer in a State, the State in-
4 surance commissioner or official or officials des-
5 ignated by the State to enforce the requirements of
6 this title for the State with respect to the issuer.

7 “(6) HAZARDOUS FINANCIAL CONDITION.—The
8 term ‘hazardous financial condition’ means that,
9 based on its present or reasonably anticipated finan-
10 cial condition, a health insurance issuer is unlikely
11 to be able—

12 “(A) to meet obligations to policyholders
13 with respect to known claims and reasonably
14 anticipated claims; or

15 “(B) to pay other obligations in the normal
16 course of business.

17 “(7) COVERED LAWS.—

18 “(A) IN GENERAL.—The term ‘covered
19 laws’ means the laws, rules, regulations, agree-
20 ments, and orders governing the insurance busi-
21 ness pertaining to—

22 “(i) individual health insurance cov-
23 erage issued by a health insurance issuer;

24 “(ii) the offer, sale, rating (including
25 medical underwriting), renewal, and

1 issuance of individual health insurance cov-
2 erage to an individual;

3 “(iii) the provision to an individual in
4 relation to individual health insurance cov-
5 erage of health care and insurance related
6 services;

7 “(iv) the provision to an individual in
8 relation to individual health insurance cov-
9 erage of management, operations, and in-
10 vestment activities of a health insurance
11 issuer; and

12 “(v) the provision to an individual in
13 relation to individual health insurance cov-
14 erage of loss control and claims adminis-
15 tration for a health insurance issuer with
16 respect to liability for which the issuer pro-
17 vides insurance.

18 “(B) EXCEPTION.—Such term does not in-
19 clude any law, rule, regulation, agreement, or
20 order governing the use of care or cost manage-
21 ment techniques, including any requirement re-
22 lated to provider contracting, network access or
23 adequacy, health care data collection, or quality
24 assurance.

1 “(8) STATE.—The term ‘State’ means the 50
2 States and includes the District of Columbia, Puerto
3 Rico, the Virgin Islands, Guam, American Samoa,
4 and the Northern Mariana Islands.

5 “(9) UNFAIR CLAIMS SETTLEMENT PRAC-
6 TICES.—The term ‘unfair claims settlement prac-
7 tices’ means only the following practices:

8 “(A) Knowingly misrepresenting to claim-
9 ants and insured individuals relevant facts or
10 policy provisions relating to coverage at issue.

11 “(B) Failing to acknowledge with reason-
12 able promptness pertinent communications with
13 respect to claims arising under policies.

14 “(C) Failing to adopt and implement rea-
15 sonable standards for the prompt investigation
16 and settlement of claims arising under policies.

17 “(D) Failing to effectuate prompt, fair,
18 and equitable settlement of claims submitted in
19 which liability has become reasonably clear.

20 “(E) Refusing to pay claims without con-
21 ducting a reasonable investigation.

22 “(F) Failing to affirm or deny coverage of
23 claims within a reasonable period of time after
24 having completed an investigation related to
25 those claims.

1 “(G) A pattern or practice of compelling
2 insured individuals or their beneficiaries to in-
3 stitute suits to recover amounts due under its
4 policies by offering substantially less than the
5 amounts ultimately recovered in suits brought
6 by them.

7 “(H) A pattern or practice of attempting
8 to settle or settling claims for less than the
9 amount that a reasonable person would believe
10 the insured individual or his or her beneficiary
11 was entitled by reference to written or printed
12 advertising material accompanying or made
13 part of an application.

14 “(I) Attempting to settle or settling claims
15 on the basis of an application that was materi-
16 ally altered without notice to, or knowledge or
17 consent of, the insured.

18 “(J) Failing to provide forms necessary to
19 present claims within 15 calendar days of a re-
20 quest with reasonable explanations regarding
21 their use.

22 “(K) Attempting to cancel a policy in less
23 time than that prescribed in the policy or by the
24 law of the primary State.

1 “(10) FRAUD AND ABUSE.—The term ‘fraud
2 and abuse’ means an act or omission committed by
3 a person who, knowingly and with intent to defraud,
4 commits, or conceals any material information con-
5 cerning, one or more of the following:

6 “(A) Presenting, causing to be presented
7 or preparing with knowledge or belief that it
8 will be presented to or by an insurer, a rein-
9 surer, broker or its agent, false information as
10 part of, in support of or concerning a fact ma-
11 terial to one or more of the following:

12 “(i) An application for the issuance or
13 renewal of an insurance policy or reinsur-
14 ance contract.

15 “(ii) The rating of an insurance policy
16 or reinsurance contract.

17 “(iii) A claim for payment or benefit
18 pursuant to an insurance policy or reinsur-
19 ance contract.

20 “(iv) Premiums paid on an insurance
21 policy or reinsurance contract.

22 “(v) Payments made in accordance
23 with the terms of an insurance policy or
24 reinsurance contract.

1 “(vi) A document filed with the com-
2 missioner or the chief insurance regulatory
3 official of another jurisdiction.

4 “(vii) The financial condition of an in-
5 surer or reinsurer.

6 “(viii) The formation, acquisition,
7 merger, reconsolidation, dissolution or
8 withdrawal from one or more lines of in-
9 surance or reinsurance in all or part of a
10 State by an insurer or reinsurer.

11 “(ix) The issuance of written evidence
12 of insurance.

13 “(x) The reinstatement of an insur-
14 ance policy.

15 “(B) Solicitation or acceptance of new or
16 renewal insurance risks on behalf of an insurer
17 reinsurer or other person engaged in the busi-
18 ness of insurance by a person who knows or
19 should know that the insurer or other person
20 responsible for the risk is insolvent at the time
21 of the transaction.

22 “(C) Transaction of the business of insur-
23 ance in violation of laws requiring a license, cer-
24 tificate of authority or other legal authority for
25 the transaction of the business of insurance.

1 “(D) Attempt to commit, aiding or abet-
2 ting in the commission of, or conspiracy to com-
3 mit the acts or omissions specified in this para-
4 graph.

5 **“SEC. 2796. APPLICATION OF LAW.**

6 “(a) IN GENERAL.—The covered laws of the primary
7 State shall apply to individual health insurance coverage
8 offered by a health insurance issuer in the primary State
9 and in any secondary State, but only if the coverage and
10 issuer comply with the conditions of this section with re-
11 spect to the offering of coverage in any secondary State.

12 “(b) EXEMPTIONS FROM COVERED LAWS IN A SEC-
13 ONDARY STATE.—Except as provided in this section, a
14 health insurance issuer with respect to its offer, sale, rat-
15 ing (including medical underwriting), renewal, and
16 issuance of individual health insurance coverage in any
17 secondary State is exempt from any covered laws of the
18 secondary State (and any rules, regulations, agreements,
19 or orders sought or issued by such State under or related
20 to such covered laws) to the extent that such laws would—

21 “(1) make unlawful, or regulate, directly or in-
22 directly, the operation of the health insurance issuer
23 operating in the secondary State, except that any
24 secondary State may require such an issuer—

1 “(A) to pay, on a nondiscriminatory basis,
2 applicable premium and other taxes (including
3 high risk pool assessments) which are levied on
4 insurers and surplus lines insurers, brokers, or
5 policyholders under the laws of the State;

6 “(B) to register with and designate the
7 State insurance commissioner as its agent solely
8 for the purpose of receiving service of legal doc-
9 uments or process;

10 “(C) to submit to an examination of its fi-
11 nancial condition by the State insurance com-
12 missioner in any State in which the issuer is
13 doing business to determine the issuer’s finan-
14 cial condition, if—

15 “(i) the State insurance commissioner
16 of the primary State has not done an ex-
17 amination within the period recommended
18 by the National Association of Insurance
19 Commissioners; and

20 “(ii) any such examination is con-
21 ducted in accordance with the examiners’
22 handbook of the National Association of
23 Insurance Commissioners and is coordi-
24 nated to avoid unjustified duplication and
25 unjustified repetition;

1 “(D) to comply with a lawful order
2 issued—

3 “(i) in a delinquency proceeding com-
4 menced by the State insurance commis-
5 sioner if there has been a finding of finan-
6 cial impairment under subparagraph (C);
7 or

8 “(ii) in a voluntary dissolution pro-
9 ceeding;

10 “(E) to comply with an injunction issued
11 by a court of competent jurisdiction, upon a pe-
12 tition by the State insurance commissioner al-
13 leging that the issuer is in hazardous financial
14 condition;

15 “(F) to participate, on a nondiscriminatory
16 basis, in any insurance insolvency guaranty as-
17 sociation or similar association to which a
18 health insurance issuer in the State is required
19 to belong;

20 “(G) to comply with any State law regard-
21 ing fraud and abuse (as defined in section
22 2795(10)), except that if the State seeks an in-
23 junction regarding the conduct described in this
24 subparagraph, such injunction must be obtained
25 from a court of competent jurisdiction;

1 “(H) to comply with any State law regard-
2 ing unfair claims settlement practices (as de-
3 fined in section 2795(9)); or

4 “(I) to comply with the applicable require-
5 ments for independent review under section
6 2798 with respect to coverage offered in the
7 State;

8 “(2) require any individual health insurance
9 coverage issued by the issuer to be countersigned by
10 an insurance agent or broker residing in that sec-
11 ondary State; or

12 “(3) otherwise discriminate against the issuer
13 issuing insurance in both the primary State and in
14 any secondary State.

15 “(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A
16 health insurance issuer shall provide the following notice,
17 in 12-point bold type, in any insurance coverage offered
18 in a secondary State under this part by such a health in-
19 surance issuer and at renewal of the policy, with the 5
20 blank spaces therein being appropriately filled with the
21 name of the health insurance issuer, the name of the pri-
22 mary State, the name of the secondary State, the name
23 of the secondary State, and the name of the secondary
24 State, respectively, for the coverage concerned:

25 “Notice

1 “‘This policy is issued by _____ and is
2 governed by the laws and regulations of the State of
3 _____, and it has met all the laws of that
4 State as determined by that State’s Department of
5 Insurance. This policy may be less expensive than
6 others because it is not subject to all of the insur-
7 ance laws and regulations of the State of
8 _____, including coverage of some services or
9 benefits mandated by the law of the State of
10 _____. Additionally, this policy is not subject
11 to all of the consumer protection laws or restrictions
12 on rate changes of the State of _____. As with
13 all insurance products, before purchasing this policy,
14 you should carefully review the policy and determine
15 what health care services the policy covers and what
16 benefits it provides, including any exclusions, limita-
17 tions, or conditions for such services or benefits.’”

18 “(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS
19 AND PREMIUM INCREASES.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, a health insurance issuer that provides indi-
22 vidual health insurance coverage to an individual
23 under this part in a primary or secondary State may
24 not upon renewal—

1 “(A) move or reclassify the individual in-
2 sured under the health insurance coverage from
3 the class such individual is in at the time of
4 issue of the contract based on the health-status
5 related factors of the individual; or

6 “(B) increase the premiums assessed the
7 individual for such coverage based on a health
8 status-related factor or change of a health sta-
9 tus-related factor or the past or prospective
10 claim experience of the insured individual.

11 “(2) CONSTRUCTION.—Nothing in paragraph
12 (1) shall be construed to prohibit a health insurance
13 issuer—

14 “(A) from terminating or discontinuing
15 coverage or a class of coverage in accordance
16 with subsections (b) and (c) of section 2742;

17 “(B) from raising premium rates for all
18 policyholders within a class based on claims ex-
19 perience;

20 “(C) from changing premiums or offering
21 discounted premiums to individuals who engage
22 in wellness activities at intervals prescribed by
23 the issuer, if such premium changes or incen-
24 tives—

1 “(i) are disclosed to the consumer in
2 the insurance contract;

3 “(ii) are based on specific wellness ac-
4 tivities that are not applicable to all indi-
5 viduals; and

6 “(iii) are not obtainable by all individ-
7 uals to whom coverage is offered;

8 “(D) from reinstating lapsed coverage; or

9 “(E) from retroactively adjusting the rates
10 charged an insured individual if the initial rates
11 were set based on material misrepresentation by
12 the individual at the time of issue.

13 “(e) PRIOR OFFERING OF POLICY IN PRIMARY
14 STATE.—A health insurance issuer may not offer for sale
15 individual health insurance coverage in a secondary State
16 unless that coverage is currently offered for sale in the
17 primary State.

18 “(f) LICENSING OF AGENTS OR BROKERS FOR
19 HEALTH INSURANCE ISSUERS.—Any State may require
20 that a person acting, or offering to act, as an agent or
21 broker for a health insurance issuer with respect to the
22 offering of individual health insurance coverage obtain a
23 license from that State, with commissions or other com-
24 pensation subject to the provisions of the laws of that
25 State, except that a State may not impose any qualifica-

1 tion or requirement which discriminates against a non-
2 resident agent or broker.

3 “(g) DOCUMENTS FOR SUBMISSION TO STATE IN-
4 SURANCE COMMISSIONER.—Each health insurance issuer
5 issuing individual health insurance coverage in both pri-
6 mary and secondary States shall submit—

7 “(1) to the insurance commissioner of each
8 State in which it intends to offer such coverage, be-
9 fore it may offer individual health insurance cov-
10 erage in such State—

11 “(A) a copy of the plan of operation or fea-
12 sibility study or any similar statement of the
13 policy being offered and its coverage (which
14 shall include the name of its primary State and
15 its principal place of business);

16 “(B) written notice of any change in its
17 designation of its primary State; and

18 “(C) written notice from the issuer of the
19 issuer’s compliance with all the laws of the pri-
20 mary State; and

21 “(2) to the insurance commissioner of each sec-
22 ondary State in which it offers individual health in-
23 surance coverage, a copy of the issuer’s quarterly fi-
24 nancial statement submitted to the primary State,
25 which statement shall be certified by an independent

1 public accountant and contain a statement of opin-
2 ion on loss and loss adjustment expense reserves
3 made by—

4 “(A) a member of the American Academy
5 of Actuaries; or

6 “(B) a qualified loss reserve specialist.

7 “(h) POWER OF COURTS TO ENJOIN CONDUCT.—
8 Nothing in this section shall be construed to affect the
9 authority of any Federal or State court to enjoin—

10 “(1) the solicitation or sale of individual health
11 insurance coverage by a health insurance issuer to
12 any person or group who is not eligible for such in-
13 surance; or

14 “(2) the solicitation or sale of individual health
15 insurance coverage that violates the requirements of
16 the law of a secondary State which are described in
17 subparagraphs (A) through (H) of section
18 2796(b)(1).

19 “(i) POWER OF SECONDARY STATES TO TAKE AD-
20 MINISTRATIVE ACTION.—Nothing in this section shall be
21 construed to affect the authority of any State to enjoin
22 conduct in violation of that State’s laws described in sec-
23 tion 2796(b)(1).

24 “(j) STATE POWERS TO ENFORCE STATE LAWS.—

1 “(1) IN GENERAL.—Subject to the provisions of
2 subsection (b)(1)(G) (relating to injunctions) and
3 paragraph (2), nothing in this section shall be con-
4 strued to affect the authority of any State to make
5 use of any of its powers to enforce the laws of such
6 State with respect to which a health insurance issuer
7 is not exempt under subsection (b).

8 “(2) COURTS OF COMPETENT JURISDICTION.—
9 If a State seeks an injunction regarding the conduct
10 described in paragraphs (1) and (2) of subsection
11 (h), such injunction must be obtained from a Fed-
12 eral or State court of competent jurisdiction.

13 “(k) STATES’ AUTHORITY TO SUE.—Nothing in this
14 section shall affect the authority of any State to bring ac-
15 tion in any Federal or State court.

16 “(l) GENERALLY APPLICABLE LAWS.—Nothing in
17 this section shall be construed to affect the applicability
18 of State laws generally applicable to persons or corpora-
19 tions.

20 “(m) GUARANTEED AVAILABILITY OF COVERAGE TO
21 HIPAA ELIGIBLE INDIVIDUALS.—To the extent that a
22 health insurance issuer is offering coverage in a primary
23 State that does not accommodate residents of secondary
24 States or does not provide a working mechanism for resi-
25 dents of a secondary State, and the issuer is offering cov-

1 erage under this part in such secondary State which has
2 not adopted a qualified high risk pool as its acceptable
3 alternative mechanism (as defined in section 2744(c)(2)),
4 the issuer shall, with respect to any individual health in-
5 surance coverage offered in a secondary State under this
6 part, comply with the guaranteed availability requirements
7 for eligible individuals in section 2741.

8 **“SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR**
9 **BEFORE ISSUER MAY SELL INTO SECONDARY**
10 **STATES.**

11 “A health insurance issuer may not offer, sell, or
12 issue individual health insurance coverage in a secondary
13 State if the State insurance commissioner does not use
14 a risk-based capital formula for the determination of cap-
15 ital and surplus requirements for all health insurance
16 issuers.

17 **“SEC. 2798. INDEPENDENT EXTERNAL APPEALS PROCE-**
18 **DURES.**

19 “(a) **RIGHT TO EXTERNAL APPEAL.**—A health insur-
20 ance issuer may not offer, sell, or issue individual health
21 insurance coverage in a secondary State under the provi-
22 sions of this title unless—

23 “(1) both the secondary State and the primary
24 State have legislation or regulations in place estab-
25 lishing an independent review process for individuals

1 who are covered by individual health insurance cov-
2 erage, or

3 “(2) in any case in which the requirements of
4 subparagraph (A) are not met with respect to the ei-
5 ther of such States, the issuer provides an inde-
6 pendent review mechanism substantially identical (as
7 determined by the applicable State authority of such
8 State) to that prescribed in the ‘Health Carrier Ex-
9 ternal Review Model Act’ of the National Association
10 of Insurance Commissioners for all individuals who
11 purchase insurance coverage under the terms of this
12 part, except that, under such mechanism, the review
13 is conducted by an independent medical reviewer, or
14 a panel of such reviewers, with respect to whom the
15 requirements of subsection (b) are met.

16 “(b) QUALIFICATIONS OF INDEPENDENT MEDICAL
17 REVIEWERS.—In the case of any independent review
18 mechanism referred to in subsection (a)(2), the following
19 shall apply:

20 “(1) IN GENERAL.—In referring a denial of a
21 claim to an independent medical reviewer, or to any
22 panel of such reviewers, to conduct independent
23 medical review, the issuer shall ensure that—

1 “(A) each independent medical reviewer
2 meets the qualifications described in paragraphs
3 (2) and (3);

4 “(B) with respect to each review, each re-
5 viewer meets the requirements of paragraph (4)
6 and the reviewer, or at least 1 reviewer on the
7 panel, meets the requirements described in
8 paragraph (5); and

9 “(C) compensation provided by the issuer
10 to each reviewer is consistent with paragraph
11 (6).

12 “(2) LICENSURE AND EXPERTISE.—Each inde-
13 pendent medical reviewer shall be a physician
14 (allopathic or osteopathic) or health care profes-
15 sional who—

16 “(A) is appropriately credentialed or li-
17 censed in one or more States to deliver health
18 care services; and

19 “(B) typically treats the condition, makes
20 the diagnosis, or provides the type of treatment
21 under review.

22 “(3) INDEPENDENCE.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), each independent medical reviewer
25 in a case shall—

1 “(i) not be a related party (as defined
2 in paragraph (7));

3 “(ii) not have a material familial, fi-
4 nancial, or professional relationship with
5 such a party; and

6 “(iii) not otherwise have a conflict of
7 interest with such a party (as determined
8 under regulations).

9 “(B) EXCEPTION.—Nothing in subpara-
10 graph (A) shall be construed to—

11 “(i) prohibit an individual, solely on
12 the basis of affiliation with the issuer,
13 from serving as an independent medical re-
14 viewer if—

15 “(I) a non-affiliated individual is
16 not reasonably available;

17 “(II) the affiliated individual is
18 not involved in the provision of items
19 or services in the case under review;

20 “(III) the fact of such an affili-
21 ation is disclosed to the issuer and the
22 enrollee (or authorized representative)
23 and neither party objects; and

24 “(IV) the affiliated individual is
25 not an employee of the issuer and

1 does not provide services exclusively or
2 primarily to or on behalf of the issuer;

3 “(ii) prohibit an individual who has
4 staff privileges at the institution where the
5 treatment involved takes place from serv-
6 ing as an independent medical reviewer
7 merely on the basis of such affiliation if
8 the affiliation is disclosed to the issuer and
9 the enrollee (or authorized representative),
10 and neither party objects; or

11 “(iii) prohibit receipt of compensation
12 by an independent medical reviewer from
13 an entity if the compensation is provided
14 consistent with paragraph (6).

15 “(4) PRACTICING HEALTH CARE PROFESSIONAL
16 IN SAME FIELD.—

17 “(A) IN GENERAL.—In a case involving
18 treatment, or the provision of items or serv-
19 ices—

20 “(i) by a physician, a reviewer shall be
21 a practicing physician (allopathic or osteo-
22 pathic) of the same or similar specialty, as
23 a physician who, acting within the appro-
24 priate scope of practice within the State in
25 which the service is provided or rendered,

1 typically treats the condition, makes the
2 diagnosis, or provides the type of treat-
3 ment under review; or

4 “(ii) by a non-physician health care
5 professional, the reviewer, or at least 1
6 member of the review panel, shall be a
7 practicing non-physician health care pro-
8 fessional of the same or similar specialty
9 as the non-physician health care profes-
10 sional who, acting within the appropriate
11 scope of practice within the State in which
12 the service is provided or rendered, typi-
13 cally treats the condition, makes the diag-
14 nosis, or provides the type of treatment
15 under review.

16 “(B) PRACTICING DEFINED.—For pur-
17 poses of this paragraph, the term ‘practicing’
18 means, with respect to an individual who is a
19 physician or other health care professional, that
20 the individual provides health care services to
21 individual patients on average at least 2 days
22 per week.

23 “(5) PEDIATRIC EXPERTISE.—In the case of an
24 external review relating to a child, a reviewer shall
25 have expertise under paragraph (2) in pediatrics.

1 “(6) LIMITATIONS ON REVIEWER COMPENSA-
2 TION.—Compensation provided by the issuer to an
3 independent medical reviewer in connection with a
4 review under this section shall—

5 “(A) not exceed a reasonable level; and

6 “(B) not be contingent on the decision ren-
7 dered by the reviewer.

8 “(7) RELATED PARTY DEFINED.—For purposes
9 of this section, the term ‘related party’ means, with
10 respect to a denial of a claim under a coverage relat-
11 ing to an enrollee, any of the following:

12 “(A) The issuer involved, or any fiduciary,
13 officer, director, or employee of the issuer.

14 “(B) The enrollee (or authorized represent-
15 ative).

16 “(C) The health care professional that pro-
17 vides the items or services involved in the de-
18 nial.

19 “(D) The institution at which the items or
20 services (or treatment) involved in the denial
21 are provided.

22 “(E) The manufacturer of any drug or
23 other item that is included in the items or serv-
24 ices involved in the denial.

1 “(F) Any other party determined under
2 any regulations to have a substantial interest in
3 the denial involved.

4 “(8) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) ENROLLEE.—The term ‘enrollee’
7 means, with respect to health insurance cov-
8 erage offered by a health insurance issuer, an
9 individual enrolled with the issuer to receive
10 such coverage.

11 “(B) HEALTH CARE PROFESSIONAL.—The
12 term ‘health care professional’ means an indi-
13 vidual who is licensed, accredited, or certified
14 under State law to provide specified health care
15 services and who is operating within the scope
16 of such licensure, accreditation, or certification.

17 **“SEC. 2799. ENFORCEMENT.**

18 “(a) IN GENERAL.—Subject to subsection (b), with
19 respect to specific individual health insurance coverage the
20 primary State for such coverage has sole jurisdiction to
21 enforce the primary State’s covered laws in the primary
22 State and any secondary State.

23 “(b) SECONDARY STATE’S AUTHORITY.—Nothing in
24 subsection (a) shall be construed to affect the authority

1 of a secondary State to enforce its laws as set forth in
2 the exception specified in section 2796(b)(1).

3 “(c) COURT INTERPRETATION.—In reviewing action
4 initiated by the applicable secondary State authority, the
5 court of competent jurisdiction shall apply the covered
6 laws of the primary State.

7 “(d) NOTICE OF COMPLIANCE FAILURE.—In the case
8 of individual health insurance coverage offered in a sec-
9 ondary State that fails to comply with the covered laws
10 of the primary State, the applicable State authority of the
11 secondary State may notify the applicable State authority
12 of the primary State.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply to individual health insurance
15 coverage offered, issued, or sold after the date that is one
16 year after the date of the enactment of this Act.

17 (c) GAO ONGOING STUDY AND REPORTS.—

18 (1) STUDY.—The Comptroller General of the
19 United States shall conduct an ongoing study con-
20 cerning the effect of the amendment made by sub-
21 section (a) on—

22 (A) the number of uninsured and under-
23 insured;

1 (B) the availability and cost of health in-
2 surance policies for individuals with preexisting
3 medical conditions;

4 (C) the availability and cost of health in-
5 surance policies generally;

6 (D) the elimination or reduction of dif-
7 ferent types of benefits under health insurance
8 policies offered in different States; and

9 (E) cases of fraud or abuse relating to
10 health insurance coverage offered under such
11 amendment and the resolution of such cases.

12 (2) ANNUAL REPORTS.—The Comptroller Gen-
13 eral shall submit to Congress an annual report, after
14 the end of each of the 5 years following the effective
15 date of the amendment made by subsection (a), on
16 the ongoing study conducted under paragraph (1).

17 **SEC. 702. SEVERABILITY.**

18 If any provision of this subtitle or the application of
19 such provision to any person or circumstance is held to
20 be unconstitutional, the remainder of this subtitle and the
21 application of the provisions of such to any other person
22 or circumstance shall not be affected.

1 **Subtitle B—Medical Malpractice**
2 **Reform**

3 **SEC. 711. PURPOSE.**

4 It is the purpose of this subtitle to implement reason-
5 able, comprehensive, and effective health care liability re-
6 forms designed to—

7 (1) improve the availability of health care serv-
8 ices in cases in which health care liability actions
9 have been shown to be a factor in the decreased
10 availability of services;

11 (2) reduce the incidence of “defensive medi-
12 cine” and lower the cost of health care liability in-
13 surance, all of which contribute to the escalation of
14 health care costs;

15 (3) ensure that persons with meritorious health
16 care injury claims receive fair and adequate com-
17 pensation, including reasonable noneconomic dam-
18 ages;

19 (4) improve the fairness and cost-effectiveness
20 of our current health care liability system to resolve
21 disputes over, and provide compensation for, health
22 care liability by reducing uncertainty in the amount
23 of compensation provided to injured individuals; and

1 (5) provide an increased sharing of information
2 in the health care system which will reduce unin-
3 tended injury and improve patient care.

4 **SEC. 712. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

5 The time for the commencement of a health care law-
6 suit shall be 3 years after the date of manifestation of
7 injury or 1 year after the claimant discovers, or through
8 the use of reasonable diligence should have discovered, the
9 injury, whichever occurs first. In no event shall the time
10 for commencement of a health care lawsuit exceed 3 years
11 after the date of manifestation of injury unless tolled for
12 any of the following—

13 (1) upon proof of fraud;

14 (2) intentional concealment; or

15 (3) the presence of a foreign body, which has no
16 therapeutic or diagnostic purpose or effect, in the
17 person of the injured person.

18 Actions by a minor shall be commenced within 3 years
19 from the date of the alleged manifestation of injury except
20 that actions by a minor under the full age of 6 years shall
21 be commenced within 3 years of manifestation of injury
22 or prior to the minor's 8th birthday, whichever provides
23 a longer period. Such time limitation shall be tolled for
24 minors for any period during which a parent or guardian
25 and a health care provider or health care organization

1 have committed fraud or collusion in the failure to bring
2 an action on behalf of the injured minor.

3 **SEC. 713. COMPENSATING PATIENT INJURY.**

4 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL
5 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any
6 health care lawsuit, nothing in this subtitle shall limit a
7 claimant’s recovery of the full amount of the available eco-
8 nomic damages, notwithstanding the limitation in sub-
9 section (b).

10 (b) ADDITIONAL NONECONOMIC DAMAGES.—In any
11 health care lawsuit, the amount of noneconomic damages,
12 if available, may be as much as \$250,000, regardless of
13 the number of parties against whom the action is brought
14 or the number of separate claims or actions brought with
15 respect to the same injury.

16 (c) NO DISCOUNT OF AWARD FOR NONECONOMIC
17 DAMAGES.—For purposes of applying the limitation in
18 subsection (b), future noneconomic damages shall not be
19 discounted to present value. The jury shall not be in-
20 formed about the maximum award for noneconomic dam-
21 ages. An award for noneconomic damages in excess of
22 \$250,000 shall be reduced either before the entry of judg-
23 ment, or by amendment of the judgment after entry of
24 judgment, and such reduction shall be made before ac-
25 counting for any other reduction in damages required by

1 law. If separate awards are rendered for past and future
2 noneconomic damages and the combined awards exceed
3 \$250,000, the future noneconomic damages shall be re-
4 duced first.

5 (d) FAIR SHARE RULE.—In any health care lawsuit,
6 each party shall be liable for that party’s several share
7 of any damages only and not for the share of any other
8 person. Each party shall be liable only for the amount of
9 damages allocated to such party in direct proportion to
10 such party’s percentage of responsibility. Whenever a
11 judgment of liability is rendered as to any party, a sepa-
12 rate judgment shall be rendered against each such party
13 for the amount allocated to such party. For purposes of
14 this section, the trier of fact shall determine the propor-
15 tion of responsibility of each party for the claimant’s
16 harm.

17 **SEC. 714. MAXIMIZING PATIENT RECOVERY.**

18 (a) COURT SUPERVISION OF SHARE OF DAMAGES
19 ACTUALLY PAID TO CLAIMANTS.—In any health care law-
20 suit, the court shall supervise the arrangements for pay-
21 ment of damages to protect against conflicts of interest
22 that may have the effect of reducing the amount of dam-
23 ages awarded that are actually paid to claimants. In par-
24 ticular, in any health care lawsuit in which the attorney
25 for a party claims a financial stake in the outcome by vir-

1 tue of a contingent fee, the court shall have the power
2 to restrict the payment of a claimant's damage recovery
3 to such attorney, and to redirect such damages to the
4 claimant based upon the interests of justice and principles
5 of equity. In no event shall the total of all contingent fees
6 for representing all claimants in a health care lawsuit ex-
7 ceed the following limits:

8 (1) Forty percent of the first \$50,000 recovered
9 by the claimant(s).

10 (2) Thirty-three and one-third percent of the
11 next \$50,000 recovered by the claimant(s).

12 (3) Twenty-five percent of the next \$500,000
13 recovered by the claimant(s).

14 (4) Fifteen percent of any amount by which the
15 recovery by the claimant(s) is in excess of \$600,000.

16 (b) APPLICABILITY.—The limitations in this section
17 shall apply whether the recovery is by judgment, settle-
18 ment, mediation, arbitration, or any other form of alter-
19 native dispute resolution. In a health care lawsuit involv-
20 ing a minor or incompetent person, a court retains the
21 authority to authorize or approve a fee that is less than
22 the maximum permitted under this section. The require-
23 ment for court supervision in the first two sentences of
24 subsection (a) applies only in civil actions.

1 **SEC. 715. PUNITIVE DAMAGES.**

2 (a) IN GENERAL.—Punitive damages may, if other-
3 wise permitted by applicable State or Federal law, be
4 awarded against any person in a health care lawsuit only
5 if it is proven by clear and convincing evidence that such
6 person acted with malicious intent to injure the claimant,
7 or that such person deliberately failed to avoid unneces-
8 sary injury that such person knew the claimant was sub-
9 stantially certain to suffer. In any health care lawsuit
10 where no judgment for compensatory damages is rendered
11 against such person, no punitive damages may be awarded
12 with respect to the claim in such lawsuit. No demand for
13 punitive damages shall be included in a health care lawsuit
14 as initially filed. A court may allow a claimant to file an
15 amended pleading for punitive damages only upon a mo-
16 tion by the claimant and after a finding by the court, upon
17 review of supporting and opposing affidavits or after a
18 hearing, after weighing the evidence, that the claimant has
19 established by a substantial probability that the claimant
20 will prevail on the claim for punitive damages. At the re-
21 quest of any party in a health care lawsuit, the trier of
22 fact shall consider in a separate proceeding—

23 (1) whether punitive damages are to be award-
24 ed and the amount of such award; and

25 (2) the amount of punitive damages following a
26 determination of punitive liability.

1 If a separate proceeding is requested, evidence relevant
2 only to the claim for punitive damages, as determined by
3 applicable State law, shall be inadmissible in any pro-
4 ceeding to determine whether compensatory damages are
5 to be awarded.

6 (b) DETERMINING AMOUNT OF PUNITIVE DAM-
7 AGES.—

8 (1) FACTORS CONSIDERED.—In determining
9 the amount of punitive damages, if awarded, in a
10 health care lawsuit, the trier of fact shall consider
11 only the following:

12 (A) The severity of the harm caused by the
13 conduct of such party.

14 (B) The duration of the conduct or any
15 concealment of it by such party.

16 (C) The profitability of the conduct to such
17 party.

18 (D) The number of products sold or med-
19 ical procedures rendered for compensation, as
20 the case may be, by such party, of the kind
21 causing the harm complained of by the claim-
22 ant.

23 (E) Any criminal penalties imposed on
24 such party, as a result of the conduct com-
25 plained of by the claimant.

1 (F) The amount of any civil fines assessed
2 against such party as a result of the conduct
3 complained of by the claimant.

4 (2) MAXIMUM AWARD.—The amount of punitive
5 damages, if awarded, in a health care lawsuit may
6 be as much as \$250,000 or as much as two times
7 the amount of economic damages awarded, which-
8 ever is greater. The jury may not be informed of this
9 limitation.

10 (c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT
11 COMPLY WITH FDA STANDARDS.—

12 (1) IN GENERAL.—

13 (A) No punitive damages may be awarded
14 against the manufacturer or distributor of a
15 medical product, or a supplier of any compo-
16 nent or raw material of such medical product,
17 based on a claim that such product caused the
18 claimant's harm where—

19 (i)(I) such medical product was sub-
20 ject to premarket approval, clearance, or li-
21 censure by the Food and Drug Administra-
22 tion with respect to the safety of the for-
23 mulation or performance of the aspect of
24 such medical product which caused the
25 claimant's harm or the adequacy of the

1 packaging or labeling of such medical
2 product; and

3 (II) such medical product was so ap-
4 proved, cleared, or licensed; or

5 (ii) such medical product is generally
6 recognized among qualified experts as safe
7 and effective pursuant to conditions estab-
8 lished by the Food and Drug Administra-
9 tion and applicable Food and Drug Admin-
10 istration regulations, including without
11 limitation those related to packaging and
12 labeling, unless the Food and Drug Admin-
13 istration has determined that such medical
14 product was not manufactured or distrib-
15 uted in substantial compliance with appli-
16 cable Food and Drug Administration stat-
17 utes and regulations.

18 (B) RULE OF CONSTRUCTION.—Subpara-
19 graph (A) may not be construed as establishing
20 the obligation of the Food and Drug Adminis-
21 tration to demonstrate affirmatively that a
22 manufacturer, distributor, or supplier referred
23 to in such subparagraph meets any of the con-
24 ditions described in such subparagraph.

1 (2) LIABILITY OF HEALTH CARE PROVIDERS.—

2 A health care provider who prescribes, or who dis-
3 penses pursuant to a prescription, a medical product
4 approved, licensed, or cleared by the Food and Drug
5 Administration shall not be named as a party to a
6 product liability lawsuit involving such product and
7 shall not be liable to a claimant in a class action
8 lawsuit against the manufacturer, distributor, or
9 seller of such product. Nothing in this paragraph
10 prevents a court from consolidating cases involving
11 health care providers and cases involving products li-
12 ability claims against the manufacturer, distributor,
13 or product seller of such medical product.

14 (3) PACKAGING.—In a health care lawsuit for
15 harm which is alleged to relate to the adequacy of
16 the packaging or labeling of a drug which is required
17 to have tamper-resistant packaging under regula-
18 tions of the Secretary of Health and Human Serv-
19 ices (including labeling regulations related to such
20 packaging), the manufacturer or product seller of
21 the drug shall not be held liable for punitive dam-
22 ages unless such packaging or labeling is found by
23 the trier of fact by clear and convincing evidence to
24 be substantially out of compliance with such regula-
25 tions.

1 (4) EXCEPTION.—Paragraph (1) shall not
2 apply in any health care lawsuit in which—

3 (A) a person, before or after premarket ap-
4 proval, clearance, or licensure of such medical
5 product, knowingly misrepresented to or with-
6 held from the Food and Drug Administration
7 information that is required to be submitted
8 under the Federal Food, Drug, and Cosmetic
9 Act (21 U.S.C. 301 et seq.) or section 351 of
10 the Public Health Service Act (42 U.S.C. 262)
11 that is material and is causally related to the
12 harm which the claimant allegedly suffered;

13 (B) a person made an illegal payment to
14 an official of the Food and Drug Administra-
15 tion for the purpose of either securing or main-
16 taining approval, clearance, or licensure of such
17 medical product; or

18 (C) the defendant caused the medical prod-
19 uct which caused the claimant's harm to be
20 misbranded or adulterated (as such terms are
21 used in chapter V of the Federal Food, Drug,
22 and Cosmetic Act (21 U.S.C. 351 et seq.)).

1 **SEC. 716. AUTHORIZATION OF PAYMENT OF FUTURE DAM-**
2 **AGES TO CLAIMANTS IN HEALTH CARE LAW-**
3 **SUITS.**

4 (a) **IN GENERAL.**—In any health care lawsuit, if an
5 award of future damages, without reduction to present
6 value, equaling or exceeding \$50,000 is made against a
7 party with sufficient insurance or other assets to fund a
8 periodic payment of such a judgment, the court shall, at
9 the request of any party, enter a judgment ordering that
10 the future damages be paid by periodic payments, in ac-
11 cordance with the Uniform Periodic Payment of Judg-
12 ments Act promulgated by the National Conference of
13 Commissioners on Uniform State Laws.

14 (b) **APPLICABILITY.**—This section applies to all ac-
15 tions which have not been first set for trial or retrial be-
16 fore the effective date of this subtitle.

17 **SEC. 717. DEFINITIONS.**

18 In this subtitle:

19 (1) **ALTERNATIVE DISPUTE RESOLUTION SYS-**
20 **TEM; ADR.**—The term “alternative dispute resolution
21 system” or “ADR” means a system that provides
22 for the resolution of health care lawsuits in a man-
23 ner other than through a civil action brought in a
24 State or Federal court.

25 (2) **CLAIMANT.**—The term “claimant” means
26 any person who brings a health care lawsuit, includ-

1 ing a person who asserts or claims a right to legal
2 or equitable contribution, indemnity, or subrogation,
3 arising out of a health care liability claim or action,
4 and any person on whose behalf such a claim is as-
5 serted or such an action is brought, whether de-
6 ceased, incompetent, or a minor.

7 (3) COMPENSATORY DAMAGES.—The term
8 “compensatory damages” means objectively
9 verifiable monetary losses incurred as a result of the
10 provision of, use of, or payment for (or failure to
11 provide, use, or pay for) health care services or med-
12 ical products, such as past and future medical ex-
13 penses, loss of past and future earnings, cost of ob-
14 taining domestic services, loss of employment, and
15 loss of business or employment opportunities, dam-
16 ages for physical and emotional pain, suffering, in-
17 convenience, physical impairment, mental anguish,
18 disfigurement, loss of enjoyment of life, loss of soci-
19 ety and companionship, loss of consortium (other
20 than loss of domestic service), hedonic damages, in-
21 jury to reputation, and all other nonpecuniary losses
22 of any kind or nature. The term “compensatory
23 damages” includes economic damages and non-
24 economic damages, as such terms are defined in this
25 section.

1 (4) CONTINGENT FEE.—The term “contingent
2 fee” includes all compensation to any person or per-
3 sons which is payable only if a recovery is effected
4 on behalf of one or more claimants.

5 (5) ECONOMIC DAMAGES.—The term “economic
6 damages” means objectively verifiable monetary
7 losses incurred as a result of the provision of, use
8 of, or payment for (or failure to provide, use, or pay
9 for) health care services or medical products, such as
10 past and future medical expenses, loss of past and
11 future earnings, cost of obtaining domestic services,
12 loss of employment, and loss of business or employ-
13 ment opportunities.

14 (6) HEALTH CARE LAWSUIT.—The term
15 “health care lawsuit” means any health care liability
16 claim concerning the provision of health care goods
17 or services or any medical product affecting inter-
18 state commerce, or any health care liability action
19 concerning the provision of health care goods or
20 services or any medical product affecting interstate
21 commerce, brought in a State or Federal court or
22 pursuant to an alternative dispute resolution system,
23 against a health care provider, a health care organi-
24 zation, or the manufacturer, distributor, supplier,
25 marketer, promoter, or seller of a medical product,

1 regardless of the theory of liability on which the
2 claim is based, or the number of claimants, plain-
3 tiffs, defendants, or other parties, or the number of
4 claims or causes of action, in which the claimant al-
5 leges a health care liability claim. Such term does
6 not include a claim or action which is based on
7 criminal liability; which seeks civil fines or penalties
8 paid to Federal, State, or local government; or which
9 is grounded in antitrust.

10 (7) HEALTH CARE LIABILITY ACTION.—The
11 term “health care liability action” means a civil ac-
12 tion brought in a State or Federal court or pursuant
13 to an alternative dispute resolution system, against
14 a health care provider, a health care organization, or
15 the manufacturer, distributor, supplier, marketer,
16 promoter, or seller of a medical product, regardless
17 of the theory of liability on which the claim is based,
18 or the number of plaintiffs, defendants, or other par-
19 ties, or the number of causes of action, in which the
20 claimant alleges a health care liability claim.

21 (8) HEALTH CARE LIABILITY CLAIM.—The
22 term “health care liability claim” means a demand
23 by any person, whether or not pursuant to ADR,
24 against a health care provider, health care organiza-
25 tion, or the manufacturer, distributor, supplier, mar-

1 keter, promoter, or seller of a medical product, in-
2 cluding, but not limited to, third-party claims, cross-
3 claims, counter-claims, or contribution claims, which
4 are based upon the provision of, use of, or payment
5 for (or the failure to provide, use, or pay for) health
6 care services or medical products, regardless of the
7 theory of liability on which the claim is based, or the
8 number of plaintiffs, defendants, or other parties, or
9 the number of causes of action.

10 (9) HEALTH CARE ORGANIZATION.—The term
11 “health care organization” means any person or en-
12 tity which is obligated to provide or pay for health
13 benefits under any health plan, including any person
14 or entity acting under a contract or arrangement
15 with a health care organization to provide or admin-
16 ister any health benefit.

17 (10) HEALTH CARE PROVIDER.—The term
18 “health care provider” means any person or entity
19 required by State or Federal laws or regulations to
20 be licensed, registered, or certified to provide health
21 care services, and being either so licensed, reg-
22 istered, or certified, or exempted from such require-
23 ment by other statute or regulation.

24 (11) HEALTH CARE GOODS OR SERVICES.—The
25 term “health care goods or services” means any

1 goods or services provided by a health care organiza-
2 tion, provider, or by any individual working under
3 the supervision of a health care provider, that relates
4 to the diagnosis, prevention, or treatment of any
5 human disease or impairment, or the assessment or
6 care of the health of human beings.

7 (12) MALICIOUS INTENT TO INJURE.—The
8 term “malicious intent to injure” means inten-
9 tionally causing or attempting to cause physical in-
10 jury other than providing health care goods or serv-
11 ices.

12 (13) MEDICAL PRODUCT.—The term “medical
13 product” means a drug, device, or biological product
14 intended for humans, and the terms “drug”, “de-
15 vice”, and “biological product” have the meanings
16 given such terms in sections 201(g)(1) and 201(h)
17 of the Federal Food, Drug, and Cosmetic Act (21
18 U.S.C. 321(g)(1) and (h)) and section 351(a) of the
19 Public Health Service Act (42 U.S.C. 262(a)), re-
20 spectively, including any component or raw material
21 used therein, but excluding health care services.

22 (14) NONECONOMIC DAMAGES.—The term
23 “noneconomic damages” means damages for phys-
24 ical and emotional pain, suffering, inconvenience,
25 physical impairment, mental anguish, disfigurement,

1 loss of enjoyment of life, loss of society and compan-
2 ionship, loss of consortium (other than loss of do-
3 mestic service), hedonic damages, injury to reputa-
4 tion, and all other nonpecuniary losses of any kind
5 or nature.

6 (15) PUNITIVE DAMAGES.—The term “punitive
7 damages” means damages awarded, for the purpose
8 of punishment or deterrence, and not solely for com-
9 pensatory purposes, against a health care provider,
10 health care organization, or a manufacturer, dis-
11 tributor, or supplier of a medical product. Punitive
12 damages are neither economic nor noneconomic
13 damages.

14 (16) RECOVERY.—The term “recovery” means
15 the net sum recovered after deducting any disburse-
16 ments or costs incurred in connection with prosecu-
17 tion or settlement of the claim, including all costs
18 paid or advanced by any person. Costs of health care
19 incurred by the plaintiff and the attorneys’ office
20 overhead costs or charges for legal services are not
21 deductible disbursements or costs for such purpose.

22 (17) STATE.—The term “State” means each of
23 the several States, the District of Columbia, the
24 Commonwealth of Puerto Rico, the Virgin Islands,
25 Guam, American Samoa, the Northern Mariana Is-

1 lands, the Trust Territory of the Pacific Islands, and
2 any other territory or possession of the United
3 States, or any political subdivision thereof.

4 **SEC. 718. EFFECT ON OTHER LAWS.**

5 (a) VACCINE INJURY.—

6 (1) To the extent that title XXI of the Public
7 Health Service Act establishes a Federal rule of law
8 applicable to a civil action brought for a vaccine-re-
9 lated injury or death—

10 (A) this subtitle does not affect the appli-
11 cation of the rule of law to such an action; and

12 (B) any rule of law prescribed by this sub-
13 title in conflict with a rule of law of such title
14 XXI shall not apply to such action.

15 (2) If there is an aspect of a civil action
16 brought for a vaccine-related injury or death to
17 which a Federal rule of law under title XXI of the
18 Public Health Service Act does not apply, then this
19 subtitle or otherwise applicable law (as determined
20 under this subtitle) will apply to such aspect of such
21 action.

22 (b) OTHER FEDERAL LAW.—Except as provided in
23 this section, nothing in this subtitle shall be deemed to
24 affect any defense available to a defendant in a health care
25 lawsuit or action under any other provision of Federal law.

1 **SEC. 719. STATE FLEXIBILITY AND PROTECTION OF**
2 **STATES' RIGHTS.**

3 (a) **HEALTH CARE LAWSUITS.**—The provisions gov-
4 erning health care lawsuits set forth in this subtitle pre-
5 empt, subject to subsections (b) and (c), State law to the
6 extent that State law prevents the application of any pro-
7 visions of law established by or under this subtitle. The
8 provisions governing health care lawsuits set forth in this
9 subtitle supersede chapter 171 of title 28, United States
10 Code, to the extent that such chapter—

11 (1) provides for a greater amount of damages
12 or contingent fees, a longer period in which a health
13 care lawsuit may be commenced, or a reduced appli-
14 cability or scope of periodic payment of future dam-
15 ages, than provided in this subtitle; or

16 (2) prohibits the introduction of evidence re-
17 garding collateral source benefits, or mandates or
18 permits subrogation or a lien on collateral source
19 benefits.

20 (b) **PROTECTION OF STATES' RIGHTS AND OTHER**
21 **LAWS.**—(1) Any issue that is not governed by any provi-
22 sion of law established by or under this subtitle (including
23 State standards of negligence) shall be governed by other-
24 wise applicable State or Federal law.

25 (2) This subtitle shall not preempt or supersede any
26 State or Federal law that imposes greater procedural or

1 substantive protections for health care providers and
2 health care organizations from liability, loss, or damages
3 than those provided by this subtitle or create a cause of
4 action.

5 (c) STATE FLEXIBILITY.—No provision of this sub-
6 title shall be construed to preempt—

7 (1) any State law (whether effective before, on,
8 or after the date of the enactment of this subtitle)
9 that specifies a particular monetary amount of com-
10 pensatory or punitive damages (or the total amount
11 of damages) that may be awarded in a health care
12 lawsuit, regardless of whether such monetary
13 amount is greater or lesser than is provided for
14 under this subtitle, notwithstanding section 4(a); or

15 (2) any defense available to a party in a health
16 care lawsuit under any other provision of State or
17 Federal law.

18 **SEC. 720. APPLICABILITY; EFFECTIVE DATE.**

19 This subtitle shall apply to any health care lawsuit
20 brought in a Federal or State court, or subject to an alter-
21 native dispute resolution system, that is initiated on or
22 after the date of the enactment of this subtitle, except that
23 any health care lawsuit arising from an injury occurring
24 prior to the date of the enactment of this subtitle shall

1 be governed by the applicable statute of limitations provi-
2 sions in effect at the time the injury occurred.

3 **SEC. 721. PROTECTION FOR EMERGENCY AND RELATED**
4 **SERVICES FURNISHED PURSUANT TO**
5 **EMTALA.**

6 Section 224(g) of the Public Health Service Act (42
7 U.S.C. 233(g)) is amended—

8 (1) in paragraph (4), by striking “An entity”
9 and inserting “Subject to paragraph (6), an entity”;
10 and

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

12 “(6)(A) For purposes of this section—

13 “(i) an entity described in subparagraph
14 (B) shall be considered to be an entity de-
15 scribed in paragraph (4); and

16 “(ii) the provisions of this section shall
17 apply to an entity described in subparagraph
18 (B) in the same manner as such provisions
19 apply to an entity described in paragraph (4),
20 except that—

21 “(I) notwithstanding paragraph
22 (1)(B), the deeming of any entity described
23 in subparagraph (B), or of an officer, gov-
24 erning board member, employee, con-
25 tractor, or on-call provider of such an enti-

1 ty, to be an employee of the Public Health
2 Service for purposes of this section shall
3 apply only with respect to items and serv-
4 ices that are furnished to an individual
5 pursuant to section 1867 of the Social Se-
6 curity Act and to post stabilization services
7 (as defined in subparagraph (D)) furnished
8 to such an individual;

9 “(II) nothing in paragraph (1)(D)
10 shall be construed as preventing a physi-
11 cian or physician group described in sub-
12 paragraph (B)(ii) from making the appli-
13 cation referred to in such paragraph or as
14 conditioning the deeming of a physician or
15 physician group that makes such an appli-
16 cation upon receipt by the Secretary of an
17 application from the hospital or emergency
18 department that employs or contracts with
19 the physician or group, or enlists the phy-
20 sician or physician group as an on-call pro-
21 vider;

22 “(III) notwithstanding paragraph (3),
23 this paragraph shall apply only with re-
24 spect to causes of action arising from acts

1 or omissions that occur on or after Janu-
2 ary 1, 2017;

3 “(IV) paragraph (5) shall not apply to
4 a physician or physician group described in
5 subparagraph (B)(ii);

6 “(V) the Attorney General, in con-
7 sultation with the Secretary, shall make
8 separate estimates under subsection (k)(1)
9 with respect to entities described in sub-
10 paragraph (B) and entities described in
11 paragraph (4) (other than those described
12 in subparagraph (B)), and the Secretary
13 shall establish separate funds under sub-
14 section (k)(2) with respect to such groups
15 of entities, and any appropriations under
16 this subsection for entities described in
17 subparagraph (B) shall be separate from
18 the amounts authorized by subsection
19 (k)(2);

20 “(VI) notwithstanding subsection
21 (k)(2), the amount of the fund established
22 by the Secretary under such subsection
23 with respect to entities described in sub-
24 paragraph (B) may exceed a total of
25 \$10,000,000 for a fiscal year; and

1 “(VII) subsection (m) shall not apply
2 to entities described in subparagraph (B).

3 “(B) An entity described in this subparagraph
4 is—

5 “(i) a hospital or an emergency depart-
6 ment to which section 1867 of the Social Secu-
7 rity Act applies; and

8 “(ii) a physician or physician group that is
9 employed by, is under contract with, or is an
10 on-call provider of such hospital or emergency
11 department, to furnish items and services to in-
12 dividuals under such section.

13 “(C) For purposes of this paragraph, the term
14 ‘on-call provider’ means a physician or physician
15 group that—

16 “(i) has full, temporary, or locum tenens
17 staff privileges at a hospital or emergency de-
18 partment to which section 1867 of the Social
19 Security Act applies; and

20 “(ii) is not employed by or under contract
21 with such hospital or emergency department,
22 but agrees to be ready and available to provide
23 services pursuant to section 1867 of the Social
24 Security Act or post-stabilization services to in-
25 dividuals being treated in the hospital or emer-

1 agency department with or without compensation
2 from the hospital or emergency department.

3 “(D) For purposes of this paragraph, the term
4 ‘post stabilization services’ means, with respect to an
5 individual who has been treated by an entity de-
6 scribed in subparagraph (B) for purposes of com-
7 plying with section 1867 of the Social Security Act,
8 services that are—

9 “(i) related to the condition that was so
10 treated; and

11 “(ii) provided after the individual is sta-
12 bilized in order to maintain the stabilized condi-
13 tion or to improve or resolve the condition of
14 the individual.

15 “(E)(i) Nothing in this paragraph (or in any
16 other provision of this section as such provision ap-
17 plies to entities described in subparagraph (B) by
18 operation of subparagraph (A)) shall be construed as
19 authorizing or requiring the Secretary to make pay-
20 ments to such entities, the budget authority for
21 which is not provided in advance by appropriation
22 Acts.

23 “(ii) The Secretary shall limit the total amount
24 of payments under this paragraph for a fiscal year
25 to the total amount appropriated in advance by ap-

1 appropriation Acts for such purpose for such fiscal
2 year. If the total amount of payments that would
3 otherwise be made under this paragraph for a fiscal
4 year exceeds such total amount appropriated, the
5 Secretary shall take such steps as may be necessary
6 to ensure that the total amount of payments under
7 this paragraph for such fiscal year does not exceed
8 such total amount appropriated.”.

9 **SEC. 722. CONSTITUTIONAL AUTHORITY.**

10 The constitutional authority upon which this subtitle
11 rests is the power of the Congress to provide for the gen-
12 eral welfare, to regulate commerce, and to make all laws
13 which shall be necessary and proper for carrying into exe-
14 cution Federal powers, as enumerated in section 8 of arti-
15 cle I of the Constitution of the United States.

16 **SEC. 723. APPLICATION OF THE ANTITRUST LAWS TO THE**
17 **BUSINESS OF HEALTH INSURANCE.**

18 (a) AMENDMENT TO McCARRAN-FERGUSON ACT.—
19 Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),
20 commonly known as the McCarran-Ferguson Act, is
21 amended by adding at the end the following:

22 “(c) Nothing contained in this Act shall modify, im-
23 pair, or supersede the operation of any of the antitrust
24 laws with respect to the business of health insurance. For
25 purposes of the preceding sentence, the term ‘antitrust

1 laws' has the meaning given it in subsection (a) of the
2 first section of the Clayton Act, except that such term in-
3 cludes section 5 of the Federal Trade Commission Act to
4 the extent that such section 5 applies to unfair methods
5 of competition. For the purposes of this subsection, the
6 term 'business of health insurance' shall—

7 “(1) mean ‘health insurance coverage’ offered
8 by a ‘health insurance issuer’ as those terms are de-
9 fined in section 2791 of the Public Health Service
10 Act; and

11 “(2) not include—

12 “(A) life insurance and annuities;

13 “(B) property or casualty insurance, in-
14 cluding but not limited to, automobile, medical
15 malpractice or workers’ compensation insur-
16 ance; or

17 “(C) any insurance or benefits defined as
18 ‘excepted benefits’ under section 9832(e) of the
19 Internal Revenue Code of 1986, whether offered
20 separately or in combination with products de-
21 scribed in subparagraph (A).”.

22 (b) RELATED PROVISION.—For purposes of section
23 5 of the Federal Trade Commission Act (15 U.S.C. 45)
24 to the extent such section applies to unfair methods of
25 competition, section 3(c) of the McCarran-Ferguson Act

1 shall apply with respect to the business of health insurance
2 without regard to whether such business is carried on for
3 profit, notwithstanding the definition of “Corporation”
4 contained in section 4 of the Federal Trade Commission
5 Act.

6 (c) LIMITATION ON CLASS ACTIONS.—

7 (1) LIMITATION.—No class action may be
8 heard in a Federal or State court on a claim against
9 a person engaged in the business of health insurance
10 for a violation of any of the antitrust laws (as de-
11 fined in section 3(e) of the Act of March 9, 1945
12 (15 U.S.C. 1013), commonly known as the
13 McCarran-Ferguson Act).

14 (2) EXEMPTION.—Paragraph (1) shall not
15 apply with respect to any action commenced—

16 (A) by the United States or any State; or

17 (B) by a named claimant for an injury
18 only to itself.

19 **SEC. 724. LIMITATION ON LIABILITY FOR VOLUNTEER**
20 **HEALTH CARE PROFESSIONALS.**

21 (a) IN GENERAL.—Title II of the Public Health Serv-
22 ice Act is amended by inserting after section 224 (42
23 U.S.C. 233(g)) the following:

1 **“SEC. 224A. LIMITATION ON LIABILITY FOR VOLUNTEER**
2 **HEALTH CARE PROFESSIONALS.**

3 “(a) **LIMITATION ON LIABILITY.**—Except as provided
4 in subsection (b), a health care professional shall not be
5 liable under Federal or State law for any harm caused
6 by an act or omission of the professional if—

7 “(1) the professional is serving as a volunteer
8 for purposes of responding to a disaster; and

9 “(2) the act or omission occurs—

10 “(A) during the period of the disaster, as
11 determined under the laws listed in subsection
12 (e)(1);

13 “(B) in the health care professional’s ca-
14 pacity as such a volunteer; and

15 “(C) in a good faith belief that the indi-
16 vidual being treated is in need of health care
17 services.

18 “(b) **EXCEPTIONS.**—Subsection (a) does not apply
19 if—

20 “(1) the harm was caused by an act or omission
21 constituting willful or criminal misconduct, gross
22 negligence, reckless misconduct, or a conscious fla-
23 grant indifference to the rights or safety of the indi-
24 vidual harmed by the health care professional; or

25 “(2) the health care professional rendered the
26 health care services under the influence (as deter-

1 mined pursuant to applicable State law) of intoxi-
2 cating alcohol or an intoxicating drug.

3 “(c) STANDARD OF PROOF.—In any civil action or
4 proceeding against a health care professional claiming that
5 the limitation in subsection (a) applies, the plaintiff shall
6 have the burden of proving by clear and convincing evi-
7 dence the extent to which limitation does not apply.

8 “(d) PREEMPTION.—

9 “(1) IN GENERAL.—This section preempts the
10 laws of a State or any political subdivision of a State
11 to the extent that such laws are inconsistent with
12 this section, unless such laws provide greater protec-
13 tion from liability.

14 “(2) VOLUNTEER PROTECTION ACT.—Protec-
15 tions afforded by this section are in addition to those
16 provided by the Volunteer Protection Act of 1997.

17 “(e) DEFINITIONS.—In this section:

18 “(1) The term ‘disaster’ means—

19 “(A) a national emergency declared by the
20 President under the National Emergencies Act;

21 “(B) an emergency or major disaster de-
22 clared by the President under the Robert T.
23 Stafford Disaster Relief and Emergency Assist-
24 ance Act; or

1 “(C) a public health emergency determined
2 by the Secretary under section 319 of this Act.

3 “(2) The term ‘harm’ includes physical, non-
4 physical, economic, and noneconomic losses.

5 “(3) The term ‘health care professional’ means
6 an individual who is licensed, certified, or authorized
7 in one or more States to practice a health care pro-
8 fession.

9 “(4) The term ‘State’ includes each of the sev-
10 eral States, the District of Columbia, the Common-
11 wealth of Puerto Rico, the Virgin Islands, Guam,
12 American Samoa, the Northern Mariana Islands,
13 and any other territory or possession of the United
14 States.

15 “(5)(A) The term ‘volunteer’ means a health
16 care professional who, with respect to the health
17 care services rendered, does not receive—

18 “(i) compensation; or

19 “(ii) any other thing of value in lieu of
20 compensation, in excess of \$500 per year.

21 “(B) For purposes of subparagraph (A), the
22 term ‘compensation’—

23 “(i) includes payment under any insurance
24 policy or health plan, or under any Federal or
25 State health benefits program; and

1 “(ii) excludes—
2 “(I) reasonable reimbursement or al-
3 lowance for expenses actually incurred;
4 “(II) receipt of paid leave; and
5 “(III) receipt of items to be used ex-
6 clusively for rendering the health services
7 in the health care professional’s capacity
8 as a volunteer described in subsection
9 (a)(1).”.

10 (b) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendment made by
12 subsection (a) shall take effect 90 days after the
13 date of the enactment of this subtitle.

14 (2) APPLICATION.—This section applies to any
15 claim for harm caused by an act or omission of a
16 health care professional where the claim is filed on
17 or after the effective date of this subtitle, but only
18 if the harm that is the subject of the claim or the
19 conduct that caused such harm occurred on or after
20 such effective date.

1 **TITLE VIII—PROMOTING**
2 **OFFSHORE ENERGY AND JOBS**
3 **Subtitle A—Outer Continental**
4 **Shelf Leasing Program Reforms**

5 **SEC. 801. OUTER CONTINENTAL SHELF LEASING PROGRAM**
6 **REFORMS.**

7 Section 18(a) of the Outer Continental Shelf Lands
8 Act (43 U.S.C. 1344(a)) is amended by adding at the end
9 the following:

10 “(5)(A) In each oil and gas leasing program
11 under this section, the Secretary shall make avail-
12 able for leasing and conduct lease sales including at
13 least 50 percent of the available unleased acreage
14 within each outer Continental Shelf planning area
15 considered to have the largest undiscovered, tech-
16 nically recoverable oil and gas resources (on a total
17 btu basis) based upon the most recent national geo-
18 logic assessment of the outer Continental Shelf, with
19 an emphasis on offering the most geologically pro-
20 spective parts of the planning area.

21 “(B) The Secretary shall include in each pro-
22 posed oil and gas leasing program under this section
23 any State subdivision of an outer Continental Shelf
24 planning area that the Governor of the State that
25 represents that subdivision requests be made avail-

1 able for leasing. The Secretary may not remove such
2 a subdivision from the program until publication of
3 the final program, and shall include and consider all
4 such subdivisions in any environmental review con-
5 ducted and statement prepared for such program
6 under section 102(2) of the National Environmental
7 Policy Act of 1969 (42 U.S.C. 4332(2)).

8 “(C) In this paragraph the term ‘available un-
9 leased acreage’ means that portion of the outer Con-
10 tinental Shelf that is not under lease at the time of
11 a proposed lease sale, and that has not otherwise
12 been made unavailable for leasing by law.

13 “(6)(A) In the 5-year oil and gas leasing pro-
14 gram, the Secretary shall make available for leasing
15 any outer Continental Shelf planning areas that—

16 “(i) are estimated to contain more than
17 2,500,000,000 barrels of oil; or

18 “(ii) are estimated to contain more than
19 7,500,000,000,000 cubic feet of natural gas.

20 “(B) To determine the planning areas described
21 in subparagraph (A), the Secretary shall use the
22 document entitled ‘Minerals Management Service
23 Assessment of Undiscovered Technically Recoverable
24 Oil and Gas Resources of the Nation’s Outer Conti-
25 nental Shelf, 2006’.”.

1 **SEC. 802. DOMESTIC OIL AND NATURAL GAS PRODUCTION**

2 **GOAL.**

3 Section 18(b) of the Outer Continental Shelf Lands
4 Act (43 U.S.C. 1344(b)) is amended to read as follows:

5 “(b) DOMESTIC OIL AND NATURAL GAS PRODUC-
6 TION GOAL.—

7 “(1) IN GENERAL.—In developing a 5-year oil
8 and gas leasing program, and subject to paragraph
9 (2), the Secretary shall determine a domestic stra-
10 tegic production goal for the development of oil and
11 natural gas as a result of that program. Such goal
12 shall be—

13 “(A) the best estimate of the possible in-
14 crease in domestic production of oil and natural
15 gas from the outer Continental Shelf;

16 “(B) focused on meeting domestic demand
17 for oil and natural gas and reducing the de-
18 pendence of the United States on foreign en-
19 ergy; and

20 “(C) focused on the production increases
21 achieved by the leasing program at the end of
22 the 15-year period beginning on the effective
23 date of the program.

24 “(2) PROGRAM GOAL.—For purposes of the 5-
25 year oil and gas leasing program, the production

1 goal referred to in paragraph (1) shall be an in-
2 crease by 2032 of—

3 “(A) no less than 3,000,000 barrels in the
4 amount of oil produced per day; and

5 “(B) no less than 10,000,000,000 cubic
6 feet in the amount of natural gas produced per
7 day.

8 “(3) REPORTING.—The Secretary shall report
9 annually, beginning at the end of the 5-year period
10 for which the program applies, to the Committee on
11 Natural Resources of the House of Representatives
12 and the Committee on Energy and Natural Re-
13 sources of the Senate on the progress of the pro-
14 gram in meeting the production goal. The Secretary
15 shall identify in the report projections for production
16 and any problems with leasing, permitting, or pro-
17 duction that will prevent meeting the goal.”.

18 **SEC. 803. DEVELOPMENT AND SUBMITTAL OF NEW 5-YEAR**

19 **OIL AND GAS LEASING PROGRAM.**

20 (a) IN GENERAL.—The Secretary of the Interior
21 shall—

22 (1) by not later than July 15, 2015, publish
23 and submit to Congress a new proposed oil and gas
24 leasing program under section 18 of the Outer Con-
25 tinental Shelf Lands Act (43 U.S.C. 1344) for the

1 5-year period beginning on such date and ending
2 July 15, 2021; and

3 (2) by not later than July 15, 2016, approve a
4 final oil and gas leasing program under such section
5 for such period.

6 (b) CONSIDERATION OF ALL AREAS.—In preparing
7 such program the Secretary shall include consideration of
8 areas of the Continental Shelf off the coasts of all States
9 (as such term is defined in section 2 of that Act, as
10 amended by this title), that are subject to leasing under
11 this title.

12 (c) TECHNICAL CORRECTION.—Section 18(d)(3) of
13 the Outer Continental Shelf Lands Act (43 U.S.C.
14 1344(d)(3)) is amended by striking “or after eighteen
15 months following the date of enactment of this section,
16 whichever first occurs,”.

17 **SEC. 804. RULE OF CONSTRUCTION.**

18 Nothing in this title shall be construed to authorize
19 the issuance of a lease under the Outer Continental Shelf
20 Lands Act (43 U.S.C. 1331 et seq.) to any person des-
21 ignated for the imposition of sanctions pursuant to—

22 (1) the Iran Sanctions Act of 1996 (50 U.S.C.
23 1701 note), the Comprehensive Iran Sanctions, Ac-
24 countability and Divestiture Act of 2010 (22 U.S.C.
25 8501 et seq.), the Iran Threat Reduction and Syria

1 Human Rights Act of 2012 (22 U.S.C. 8701 et
2 seq.), section 1245 of the National Defense Author-
3 ization Act for Fiscal Year 2012 (22 U.S.C. 8513a),
4 or the Iran Freedom and Counter-Proliferation Act
5 of 2012 (22 U.S.C. 8801 et seq.);

6 (2) Executive Order No. 13622 (July 30,
7 2012), Executive Order No. 13628 (October 9,
8 2012), or Executive Order No. 13645 (June 3,
9 2013);

10 (3) Executive Order No. 13224 (September 23,
11 2001) or Executive Order No. 13338 (May 11,
12 2004); or

13 (4) the Syria Accountability and Lebanese Sov-
14 ereignty Restoration Act of 2003 (22 U.S.C. 2151
15 note).

16 **SEC. 805. ADDITION OF LEASE SALES AFTER FINALIZATION**
17 **OF 5-YEAR PLAN.**

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

20 (1) in paragraph (3), by striking “After” and
21 inserting “Except as provided in paragraph (4),
22 after”; and

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

24 “(4) The Secretary may add to the areas included
25 in an approved leasing program additional areas to be

1 made available for leasing under the program, if all review
2 and documents required under section 102 of the National
3 Environmental Policy Act of 1969 (42 U.S.C. 4332) have
4 been completed with respect to leasing of each such addi-
5 tional area within the 5-year period preceding such addi-
6 tion.”.

7 **Subtitle B—Directing the President** 8 **To Conduct New OCS Sales**

9 **SEC. 811. REQUIREMENT TO CONDUCT PROPOSED OIL AND** 10 **GAS LEASE SALE 220 ON THE OUTER CONTI-** 11 **NENTAL SHELF OFFSHORE VIRGINIA.**

12 (a) IN GENERAL.—Notwithstanding the exclusion of
13 Lease Sale 220 in the Final Outer Continental Shelf Oil
14 & Gas Leasing Program 2012–2017, the Secretary of the
15 Interior shall conduct offshore oil and gas Lease Sale 220
16 under section 8 of the Outer Continental Shelf Lands Act
17 (43 U.S.C. 1337) as soon as practicable, but not later
18 than one year after the date of enactment of this Act.

19 (b) REQUIREMENT TO MAKE REPLACEMENT LEASE
20 BLOCKS AVAILABLE.—For each lease block in a proposed
21 lease sale under this section for which the Secretary of
22 Defense, in consultation with the Secretary of the Interior,
23 under the Memorandum of Agreement referred to in sec-
24 tion 815(b), issues a statement proposing deferral from
25 a lease offering due to defense-related activities that are

1 irreconcilable with mineral exploration and development,
2 the Secretary of the Interior, in consultation with the Sec-
3 retary of Defense, shall make available in the same lease
4 sale one other lease block in the Virginia lease sale plan-
5 ning area that is acceptable for oil and gas exploration
6 and production in order to mitigate conflict.

7 (c) BALANCING MILITARY AND ENERGY PRODUC-
8 TION GOALS.—In recognition that the Outer Continental
9 Shelf oil and gas leasing program and the domestic energy
10 resources produced therefrom are integral to national se-
11 curity, the Secretary of the Interior and the Secretary of
12 Defense shall work jointly in implementing this section in
13 order to ensure achievement of the following common
14 goals:

15 (1) Preserving the ability of the Armed Forces
16 of the United States to maintain an optimum state
17 of readiness through their continued use of the
18 Outer Continental Shelf.

19 (2) Allowing effective exploration, development,
20 and production of our Nation’s oil, gas, and renew-
21 able energy resources.

22 (d) DEFINITIONS.—In this section:

23 (1) LEASE SALE 220.—The term “Lease Sale
24 220” means such lease sale referred to in the Re-
25 quest for Comments on the Draft Proposed 5-Year

1 Outer Continental Shelf (OCS) Oil and Gas Leasing
2 Program for 2010–2015 and Notice of Intent To
3 Prepare an Environmental Impact Statement (EIS)
4 for the Proposed 5-Year Program published January
5 21, 2009 (74 Fed. Reg. 3631).

6 (2) VIRGINIA LEASE SALE PLANNING AREA.—
7 The term “Virginia lease sale planning area” means
8 the area of the outer Continental Shelf (as that term
9 is defined in the Outer Continental Shelf Lands Act
10 (33 U.S.C. 1331 et seq.)) that is bounded by—

11 (A) a northern boundary consisting of a
12 straight line extending from the northernmost
13 point of Virginia’s seaward boundary to the
14 point on the seaward boundary of the United
15 States exclusive economic zone located at 37 de-
16 grees 17 minutes 1 second North latitude, 71
17 degrees 5 minutes 16 seconds West longitude;
18 and

19 (B) a southern boundary consisting of a
20 straight line extending from the southernmost
21 point of Virginia’s seaward boundary to the
22 point on the seaward boundary of the United
23 States exclusive economic zone located at 36 de-
24 grees 31 minutes 58 seconds North latitude, 71
25 degrees 30 minutes 1 second West longitude.

1 **SEC. 812. SOUTH CAROLINA LEASE SALE.**

2 Notwithstanding exclusion of the South Atlantic
3 Outer Continental Shelf Planning Area from the Final
4 Outer Continental Shelf Oil & Gas Leasing Program
5 2012–2017, the Secretary of the Interior shall conduct a
6 lease sale not later than 2 years after the date of the en-
7 actment of this Act for areas off the coast of South Caro-
8 lina determined by the Secretary to have the most geologi-
9 cally promising hydrocarbon resources and constituting
10 not less than 25 percent of the leasable area within the
11 South Carolina offshore administrative boundaries de-
12 picted in the notice entitled “Federal Outer Continental
13 Shelf (OCS) Administrative Boundaries Extending from
14 the Submerged Lands Act Boundary seaward to the Limit
15 of the United States Outer Continental Shelf”, published
16 January 3, 2006 (71 Fed. Reg. 127).

17 **SEC. 813. SOUTHERN CALIFORNIA EXISTING INFRASTRUC-**
18 **TURE LEASE SALE.**

19 (a) IN GENERAL.—The Secretary of the Interior shall
20 offer for sale leases of tracts in the Santa Maria and
21 Santa Barbara/Ventura Basins of the Southern California
22 OCS Planning Area as soon as practicable, but not later
23 than December 31, 2015.

24 (b) USE OF EXISTING STRUCTURES OR ONSHORE-
25 BASED DRILLING.—The Secretary of the Interior shall in-
26 clude in leases offered for sale under this lease sale such

1 terms and conditions as are necessary to require that de-
2 velopment and production may occur only from offshore
3 infrastructure in existence on the date of the enactment
4 of this Act or from onshore-based, extended-reach drilling.

5 **SEC. 814. ENVIRONMENTAL IMPACT STATEMENT REQUIRE-**
6 **MENT.**

7 (a) IN GENERAL.—For the purposes of this title, the
8 Secretary of the Interior shall prepare a multisale environ-
9 mental impact statement under section 102 of the Na-
10 tional Environmental Policy Act of 1969 (42 U.S.C. 4332)
11 for all lease sales required under this subtitle.

12 (b) ACTIONS TO BE CONSIDERED.—Notwithstanding
13 section 102 of the National Environmental Policy Act of
14 1969 (42 U.S.C. 4332), in such statement—

15 (1) the Secretary is not required to identify
16 nonleasing alternative courses of action or to analyze
17 the environmental effects of such alternative courses
18 of action; and

19 (2) the Secretary shall only—

20 (A) identify a preferred action for leasing
21 and not more than one alternative leasing pro-
22 posal; and

23 (B) analyze the environmental effects and
24 potential mitigation measures for such pre-

1 ferred action and such alternative leasing pro-
2 posal.

3 **SEC. 815. NATIONAL DEFENSE.**

4 (a) NATIONAL DEFENSE AREAS.—This title does not
5 affect the existing authority of the Secretary of Defense,
6 with the approval of the President, to designate national
7 defense areas on the Outer Continental Shelf pursuant to
8 section 12(d) of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1341(d)).

10 (b) PROHIBITION ON CONFLICTS WITH MILITARY
11 OPERATIONS.—No person may engage in any exploration,
12 development, or production of oil or natural gas on the
13 Outer Continental Shelf under a lease issued under this
14 title that would conflict with any military operation, as
15 determined in accordance with the Memorandum of Agree-
16 ment between the Department of Defense and the Depart-
17 ment of the Interior on Mutual Concerns on the Outer
18 Continental Shelf signed July 20, 1983, and any revision
19 or replacement for that agreement that is agreed to by
20 the Secretary of Defense and the Secretary of the Interior
21 after that date but before the date of issuance of the lease
22 under which such exploration, development, or production
23 is conducted.

1 **SEC. 816. EASTERN GULF OF MEXICO NOT INCLUDED.**

2 Nothing in this title affects restrictions on oil and gas
3 leasing under the Gulf of Mexico Energy Security Act of
4 2006 (title I of division C of Public Law 109–432; 43
5 U.S.C. 1331 note).

6 **Subtitle C—Equitable Sharing of**
7 **Outer Continental Shelf Revenues**

8 **SEC. 821. DISPOSITION OF OUTER CONTINENTAL SHELF**
9 **REVENUES TO COASTAL STATES.**

10 (a) IN GENERAL.—Section 9 of the Outer Conti-
11 nental Shelf Lands Act (43 U.S.C. 1338) is amended—

12 (1) in the existing text—

13 (A) in the first sentence, by striking “All
14 rentals,” and inserting the following:

15 “(c) DISPOSITION OF REVENUE UNDER OLD
16 LEASES.—All rentals,”; and

17 (B) in subsection (c) (as designated by the
18 amendment made by subparagraph (A) of this
19 paragraph), by striking “for the period from
20 June 5, 1950, to date, and thereafter” and in-
21 serting “in the period beginning June 5, 1950,
22 and ending on the date of enactment of the
23 Lowering Gasoline Prices to Fuel an America
24 That Works Act of 2015”;

25 (2) by adding after subsection (c) (as so des-
26 ignated) the following:

1 “(d) DEFINITIONS.—In this section:

2 “(1) COASTAL STATE.—The term ‘coastal
3 State’ includes a territory of the United States.

4 “(2) NEW LEASING REVENUES.—The term ‘new
5 leasing revenues’—

6 “(A) means amounts received by the
7 United States as bonuses, rents, and royalties
8 under leases for oil and gas, wind, tidal, or
9 other energy exploration, development, and pro-
10 duction on new areas of the outer Continental
11 Shelf that are authorized to be made available
12 for leasing as a result of enactment of the Low-
13 ering Gasoline Prices to Fuel an America That
14 Works Act of 2015 and leasing under that Act;
15 and

16 “(B) does not include amounts received by
17 the United States under any lease of an area lo-
18 cated in the boundaries of the Central Gulf of
19 Mexico and Western Gulf of Mexico Outer Con-
20 tinental Shelf Planning Areas on the date of en-
21 actment of the Lowering Gasoline Prices to
22 Fuel an America That Works Act of 2015, in-
23 cluding a lease issued before, on, or after such
24 date of enactment.”; and

1 (3) by inserting before subsection (c) (as so
2 designated) the following:

3 “(a) PAYMENT OF NEW LEASING REVENUES TO
4 COASTAL STATES.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), of the amount of new leasing revenues re-
7 ceived by the United States each fiscal year, 37.5
8 percent shall be allocated and paid in accordance
9 with subsection (b) to coastal States that are af-
10 fected States with respect to the leases under which
11 those revenues are received by the United States.

12 “(2) PHASE-IN.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), paragraph (1) shall be ap-
15 plied—

16 “(i) with respect to new leasing reve-
17 nues under leases awarded under the first
18 leasing program under section 18(a) that
19 takes effect after the date of enactment of
20 the Lowering Gasoline Prices to Fuel an
21 America That Works Act of 2015, by sub-
22 stituting ‘12.5 percent’ for ‘37.5 percent’;
23 and

24 “(ii) with respect to new leasing reve-
25 nues under leases awarded under the sec-

1 ond leasing program under section 18(a)
2 that takes effect after the date of enact-
3 ment of the Lowering Gasoline Prices to
4 Fuel an America That Works Act of 2015,
5 by substituting ‘25 percent’ for ‘37.5 per-
6 cent’.

7 “(B) EXEMPTED LEASE SALES.—This
8 paragraph shall not apply with respect to any
9 lease issued under subtitle B of the Lowering
10 Gasoline Prices to Fuel an America That
11 Works Act of 2015.

12 “(b) ALLOCATION OF PAYMENTS.—

13 “(1) IN GENERAL.—The amount of new leasing
14 revenues received by the United States with respect
15 to a leased tract that are required to be paid to
16 coastal States in accordance with this subsection
17 each fiscal year shall be allocated among and paid
18 to coastal States that are within 200 miles of the
19 leased tract, in amounts that are inversely propor-
20 tional to the respective distances between the point
21 on the coastline of each such State that is closest to
22 the geographic center of the lease tract, as deter-
23 mined by the Secretary.

24 “(2) MINIMUM AND MAXIMUM ALLOCATION.—

25 The amount allocated to a coastal State under para-

1 graph (1) each fiscal year with respect to a leased
2 tract shall be—

3 “(A) in the case of a coastal State that is
4 the nearest State to the geographic center of
5 the leased tract, not less than 25 percent of the
6 total amounts allocated with respect to the
7 leased tract;

8 “(B) in the case of any other coastal State,
9 not less than 10 percent, and not more than 15
10 percent, of the total amounts allocated with re-
11 spect to the leased tract; and

12 “(C) in the case of a coastal State that is
13 the only coastal State within 200 miles of a
14 leased tract, 100 percent of the total amounts
15 allocated with respect to the leased tract.

16 “(3) ADMINISTRATION.—Amounts allocated to
17 a coastal State under this subsection—

18 “(A) shall be available to the coastal State
19 without further appropriation;

20 “(B) shall remain available until expended;

21 “(C) shall be in addition to any other
22 amounts available to the coastal State under
23 this Act; and

24 “(D) shall be distributed in the fiscal year
25 following receipt.

1 “(4) USE OF FUNDS.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a coastal State may use
4 funds allocated and paid to it under this sub-
5 section for any purpose as determined by the
6 laws of that State.

7 “(B) RESTRICTION ON USE FOR MATCH-
8 ING.—Funds allocated and paid to a coastal
9 State under this subsection may not be used as
10 matching funds for any other Federal pro-
11 gram.”.

12 (b) LIMITATION ON APPLICATION.—This section and
13 the amendment made by this section shall not affect the
14 application of section 105 of the Gulf of Mexico Energy
15 Security Act of 2006 (title I of division C of Public Law
16 109–432; 43 U.S.C. 1331 note), as in effect before the
17 enactment of this Act, with respect to revenues received
18 by the United States under oil and gas leases issued for
19 tracts located in the Western and Central Gulf of Mexico
20 Outer Continental Shelf Planning Areas, including such
21 leases issued on or after the date of the enactment of this
22 Act.

1 **Subtitle D—Reorganization of Min-**
2 **erals Management Agencies of**
3 **the Department of the Interior**

4 **SEC. 831. ESTABLISHMENT OF UNDER SECRETARY FOR EN-**
5 **ERGY, LANDS, AND MINERALS AND ASSIST-**
6 **ANT SECRETARY OF OCEAN ENERGY AND**
7 **SAFETY.**

8 There shall be in the Department of the Interior—

9 (1) an Under Secretary for Energy, Lands, and
10 Minerals, who shall—

11 (A) be appointed by the President, by and
12 with the advise and consent of the Senate;

13 (B) report to the Secretary of the Interior
14 or, if directed by the Secretary, to the Deputy
15 Secretary of the Interior;

16 (C) be paid at the rate payable for level III
17 of the Executive Schedule; and

18 (D) be responsible for—

19 (i) the safe and responsible develop-
20 ment of our energy and mineral resources
21 on Federal lands in appropriate accordance
22 with United States energy demands; and

23 (ii) ensuring multiple-use missions of
24 the Department of the Interior that pro-
25 mote the safe and sustained development

1 of energy and minerals resources on public
2 lands (as that term is defined in the Fed-
3 eral Land Policy and Management Act of
4 1976 (43 U.S.C. 1701 et seq.));

5 (2) an Assistant Secretary of Ocean Energy
6 and Safety, who shall—

7 (A) be appointed by the President, by and
8 with the advise and consent of the Senate;

9 (B) report to the Under Secretary for En-
10 ergy, Lands, and Minerals;

11 (C) be paid at the rate payable for level IV
12 of the Executive Schedule; and

13 (D) be responsible for ensuring safe and
14 efficient development of energy and minerals on
15 the Outer Continental Shelf of the United
16 States; and

17 (3) an Assistant Secretary of Land and Min-
18 erals Management, who shall—

19 (A) be appointed by the President, by and
20 with the advise and consent of the Senate;

21 (B) report to the Under Secretary for En-
22 ergy, Lands, and Minerals;

23 (C) be paid at the rate payable for level IV
24 of the Executive Schedule; and

1 (D) be responsible for ensuring safe and
2 efficient development of energy and minerals on
3 public lands and other Federal onshore lands
4 under the jurisdiction of the Department of the
5 Interior, including implementation of the Min-
6 eral Leasing Act (30 U.S.C. 181 et seq.) and
7 the Surface Mining Control and Reclamation
8 Act (30 U.S.C. 1201 et seq.) and administra-
9 tion of the Office of Surface Mining.

10 **SEC. 832. BUREAU OF OCEAN ENERGY.**

11 (a) ESTABLISHMENT.—There is established in the
12 Department of the Interior a Bureau of Ocean Energy (re-
13 ferred to in this section as the “Bureau”), which shall—

14 (1) be headed by a Director of Ocean Energy
15 (referred to in this section as the “Director”); and

16 (2) be administered under the direction of the
17 Assistant Secretary of Ocean Energy and Safety.

18 (b) DIRECTOR.—

19 (1) APPOINTMENT.—The Director shall be ap-
20 pointed by the Secretary of the Interior.

21 (2) COMPENSATION.—The Director shall be
22 compensated at the rate provided for level V of the
23 Executive Schedule under section 5316 of title 5,
24 United States Code.

25 (c) DUTIES.—

1 (1) IN GENERAL.—The Secretary of the Inte-
2 rior shall carry out through the Bureau all func-
3 tions, powers, and duties vested in the Secretary re-
4 lating to the administration of a comprehensive pro-
5 gram of offshore mineral and renewable energy re-
6 sources management.

7 (2) SPECIFIC AUTHORITIES.—The Director
8 shall promulgate and implement regulations—

9 (A) for the proper issuance of leases for
10 the exploration, development, and production of
11 nonrenewable and renewable energy and min-
12 eral resources on the Outer Continental Shelf;

13 (B) relating to resource identification, ac-
14 cess, evaluation, and utilization;

15 (C) for development of leasing plans, lease
16 sales, and issuance of leases for such resources;
17 and

18 (D) regarding issuance of environmental
19 impact statements related to leasing and post
20 leasing activities including exploration, develop-
21 ment, and production, and the use of third
22 party contracting for necessary environmental
23 analysis for the development of such resources.

1 (3) LIMITATION.—The Secretary shall not carry
2 out through the Bureau any function, power, or duty
3 that is—

4 (A) required by section 833 to be carried
5 out through the Ocean Energy Safety Service;
6 or

7 (B) required by section 834 to be carried
8 out through the Office of Natural Resources
9 Revenue.

10 (d) RESPONSIBILITIES OF LAND MANAGEMENT
11 AGENCIES.—Nothing in this section shall affect the au-
12 thorities of the Bureau of Land Management under the
13 Federal Land Policy and Management Act of 1976 (43
14 U.S.C. 1701 et seq.) or of the Forest Service under the
15 National Forest Management Act of 1976 (Public Law
16 94–588).

17 **SEC. 833. OCEAN ENERGY SAFETY SERVICE.**

18 (a) ESTABLISHMENT.—There is established in the
19 Department of the Interior an Ocean Energy Safety Serv-
20 ice (referred to in this section as the “Service”), which
21 shall—

22 (1) be headed by a Director of Energy Safety
23 (referred to in this section as the “Director”); and

24 (2) be administered under the direction of the
25 Assistant Secretary of Ocean Energy and Safety.

1 (b) DIRECTOR.—

2 (1) APPOINTMENT.—The Director shall be ap-
3 pointed by the Secretary of the Interior.

4 (2) COMPENSATION.—The Director shall be
5 compensated at the rate provided for level V of the
6 Executive Schedule under section 5316 of title 5,
7 United States Code.

8 (c) DUTIES.—

9 (1) IN GENERAL.—The Secretary of the Inte-
10 rior shall carry out through the Service all functions,
11 powers, and duties vested in the Secretary relating
12 to the administration of safety and environmental
13 enforcement activities related to offshore mineral
14 and renewable energy resources on the Outer Conti-
15 nental Shelf pursuant to the Outer Continental Shelf
16 Lands Act (43 U.S.C. 1331 et seq.) including the
17 authority to develop, promulgate, and enforce regu-
18 lations to ensure the safe and sound exploration, de-
19 velopment, and production of mineral and renewable
20 energy resources on the Outer Continental Shelf in
21 a timely fashion.

22 (2) SPECIFIC AUTHORITIES.—The Director
23 shall be responsible for all safety activities related to
24 exploration and development of renewable and min-

1 eral resources on the Outer Continental Shelf, in-
2 cluding—

3 (A) exploration, development, production,
4 and ongoing inspections of infrastructure;

5 (B) the suspending or prohibiting, on a
6 temporary basis, any operation or activity, in-
7 cluding production under leases held on the
8 Outer Continental Shelf, in accordance with
9 section 5(a)(1) of the Outer Continental Shelf
10 Lands Act (43 U.S.C. 1334(a)(1));

11 (C) cancelling any lease, permit, or right-
12 of-way on the Outer Continental Shelf, in ac-
13 cordance with section 5(a)(2) of the Outer Con-
14 tinental Shelf Lands Act (43 U.S.C.
15 1334(a)(2));

16 (D) compelling compliance with applicable
17 Federal laws and regulations relating to worker
18 safety and other matters;

19 (E) requiring comprehensive safety and en-
20 vironmental management programs for persons
21 engaged in activities connected with the explo-
22 ration, development, and production of mineral
23 or renewable energy resources;

24 (F) developing and implementing regula-
25 tions for Federal employees to carry out any in-

1 specification or investigation to ascertain compli-
2 ance with applicable regulations, including
3 health, safety, or environmental regulations;

4 (G) implementing the Offshore Technology
5 Research and Risk Assessment Program under
6 section 21 of the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1347);

8 (H) summoning witnesses and directing
9 the production of evidence;

10 (I) levying fines and penalties and disquali-
11 fying operators;

12 (J) carrying out any safety, response, and
13 removal preparedness functions; and

14 (K) the processing of permits, exploration
15 plans, development plans.

16 (d) EMPLOYEES.—

17 (1) IN GENERAL.—The Secretary shall ensure
18 that the inspection force of the Bureau consists of
19 qualified, trained employees who meet qualification
20 requirements and adhere to the highest professional
21 and ethical standards.

22 (2) QUALIFICATIONS.—The qualification re-
23 quirements referred to in paragraph (1)—

24 (A) shall be determined by the Secretary,
25 subject to subparagraph (B); and

1 (B) shall include—

2 (i) 3 years of practical experience in
3 oil and gas exploration, development, or
4 production; or

5 (ii) a degree in an appropriate field of
6 engineering from an accredited institution
7 of higher learning.

8 (3) ASSIGNMENT.—In assigning oil and gas in-
9 spectors to the inspection and investigation of indi-
10 vidual operations, the Secretary shall give due con-
11 sideration to the extent possible to their previous ex-
12 perience in the particular type of oil and gas oper-
13 ation in which such inspections are to be made.

14 (4) BACKGROUND CHECKS.—The Director shall
15 require that an individual to be hired as an inspec-
16 tion officer undergo an employment investigation
17 (including a criminal history record check).

18 (5) LANGUAGE REQUIREMENTS.—Individuals
19 hired as inspectors must be able to read, speak, and
20 write English well enough to—

21 (A) carry out written and oral instructions
22 regarding the proper performance of inspection
23 duties; and

24 (B) write inspection reports and state-
25 ments and log entries in the English language.

1 (6) VETERANS PREFERENCE.—The Director
2 shall provide a preference for the hiring of an indi-
3 vidual as a inspection officer if the individual is a
4 member or former member of the Armed Forces and
5 is entitled, under statute, to retired, retirement, or
6 retainer pay on account of service as a member of
7 the Armed Forces.

8 (7) ANNUAL PROFICIENCY REVIEW.—

9 (A) ANNUAL PROFICIENCY REVIEW.—The
10 Director shall provide that an annual evaluation
11 of each individual assigned inspection duties is
12 conducted and documented.

13 (B) CONTINUATION OF EMPLOYMENT.—An
14 individual employed as an inspector may not
15 continue to be employed in that capacity unless
16 the evaluation demonstrates that the indi-
17 vidual—

18 (i) continues to meet all qualifications
19 and standards;

20 (ii) has a satisfactory record of per-
21 formance and attention to duty based on
22 the standards and requirements in the in-
23 spection program; and

24 (iii) demonstrates the current knowl-
25 edge and skills necessary to courteously,

1 vigilantly, and effectively perform inspec-
2 tion functions.

3 (8) LIMITATION ON RIGHT TO STRIKE.—Any
4 individual that conducts permitting or inspections
5 under this section may not participate in a strike, or
6 assert the right to strike.

7 (9) PERSONNEL AUTHORITY.—Notwithstanding
8 any other provision of law, the Director may employ,
9 appoint, discipline and terminate for cause, and fix
10 the compensation, terms, and conditions of employ-
11 ment of Federal service for individuals as the em-
12 ployees of the Service in order to restore and main-
13 tain the trust of the people of the United States in
14 the accountability of the management of our Na-
15 tion’s energy safety program.

16 (10) TRAINING ACADEMY.—

17 (A) IN GENERAL.—The Secretary shall es-
18 tablish and maintain a National Offshore En-
19 ergy Safety Academy (referred to in this para-
20 graph as the “Academy”) as an agency of the
21 Ocean Energy Safety Service.

22 (B) FUNCTIONS OF ACADEMY.—The Sec-
23 retary, through the Academy, shall be respon-
24 sible for—

1 (i) the initial and continued training
2 of both newly hired and experienced off-
3 shore oil and gas inspectors in all aspects
4 of health, safety, environmental, and oper-
5 ational inspections;

6 (ii) the training of technical support
7 personnel of the Bureau;

8 (iii) any other training programs for
9 offshore oil and gas inspectors, Bureau
10 personnel, Department personnel, or other
11 persons as the Secretary shall designate;
12 and

13 (iv) certification of the successful
14 completion of training programs for newly
15 hired and experienced offshore oil and gas
16 inspectors.

17 (C) COOPERATIVE AGREEMENTS.—

18 (i) IN GENERAL.—In performing func-
19 tions under this paragraph, and subject to
20 clause (ii), the Secretary may enter into
21 cooperative educational and training agree-
22 ments with educational institutions, related
23 Federal academies, other Federal agencies,
24 State governments, safety training firms,

1 and oil and gas operators and related in-
2 dustries.

3 (ii) TRAINING REQUIREMENT.—Such
4 training shall be conducted by the Acad-
5 emy in accordance with curriculum needs
6 and assignment of instructional personnel
7 established by the Secretary.

8 (11) USE OF DEPARTMENT PERSONNEL.—In
9 performing functions under this subsection, the Sec-
10 retary shall use, to the extent practicable, the facili-
11 ties and personnel of the Department of the Interior.
12 The Secretary may appoint or assign to the Acad-
13 emy such officers and employees as the Secretary
14 considers necessary for the performance of the du-
15 ties and functions of the Academy.

16 (12) ADDITIONAL TRAINING PROGRAMS.—

17 (A) IN GENERAL.—The Secretary shall
18 work with appropriate educational institutions,
19 operators, and representatives of oil and gas
20 workers to develop and maintain adequate pro-
21 grams with educational institutions and oil and
22 gas operators that are designed—

23 (i) to enable persons to qualify for po-
24 sitions in the administration of this title;
25 and

1 (ii) to provide for the continuing edu-
2 cation of inspectors or other appropriate
3 Department of the Interior personnel.

4 (B) FINANCIAL AND TECHNICAL ASSIST-
5 ANCE.—The Secretary may provide financial
6 and technical assistance to educational institu-
7 tions in carrying out this paragraph.

8 (e) LIMITATION.—The Secretary shall not carry out
9 through the Service any function, power, or duty that is—

10 (1) required by section 832 to be carried out
11 through the Bureau of Ocean Energy; or

12 (2) required by section 834 to be carried out
13 through the Office of Natural Resources Revenue.

14 **SEC. 834. OFFICE OF NATURAL RESOURCES REVENUE.**

15 (a) ESTABLISHMENT.—There is established in the
16 Department of the Interior an Office of Natural Resources
17 Revenue (referred to in this section as the “Office”) to
18 be headed by a Director of Natural Resources Revenue
19 (referred to in this section as the “Director”).

20 (b) APPOINTMENT AND COMPENSATION.—

21 (1) IN GENERAL.—The Director shall be ap-
22 pointed by the Secretary of the Interior.

23 (2) COMPENSATION.—The Director shall be
24 compensated at the rate provided for Level V of the

1 Executive Schedule under section 5316 of title 5,
2 United States Code.

3 (c) DUTIES.—

4 (1) IN GENERAL.—The Secretary of the Inte-
5 rior shall carry out, through the Office, all functions,
6 powers, and duties vested in the Secretary and relat-
7 ing to the administration of offshore royalty and rev-
8 enue management functions.

9 (2) SPECIFIC AUTHORITIES.—The Secretary
10 shall carry out, through the Office, all functions,
11 powers, and duties previously assigned to the Min-
12 erals Management Service (including the authority
13 to develop, promulgate, and enforce regulations) re-
14 garding offshore royalty and revenue collection; roy-
15 alty and revenue distribution; auditing and compli-
16 ance; investigation and enforcement of royalty and
17 revenue regulations; and asset management for on-
18 shore and offshore activities.

19 (d) LIMITATION.—The Secretary shall not carry out
20 through the Office any function, power, or duty that is—

21 (1) required by section 832 to be carried out
22 through the Bureau of Ocean Energy; or

23 (2) required by section 833 to be carried out
24 through the Ocean Energy Safety Service.

1 **SEC. 835. ETHICS AND DRUG TESTING.**

2 (a) CERTIFICATION.—The Secretary of the Interior
3 shall certify annually that all Department of the Interior
4 officers and employees having regular, direct contact with
5 lessees, contractors, concessionaires, and other businesses
6 interested before the Government as a function of their
7 official duties, or conducting investigations, issuing per-
8 mits, or responsible for oversight of energy programs, are
9 in full compliance with all Federal employee ethics laws
10 and regulations under the Ethics in Government Act of
11 1978 (5 U.S.C. App.) and part 2635 of title 5, Code of
12 Federal Regulations, and all guidance issued under sub-
13 section (c).

14 (b) DRUG TESTING.—The Secretary shall conduct a
15 random drug testing program of all Department of the
16 Interior personnel referred to in subsection (a).

17 (c) GUIDANCE.—Not later than 90 days after the
18 date of enactment of this Act, the Secretary shall issue
19 supplementary ethics and drug testing guidance for the
20 employees for which certification is required under sub-
21 section (a). The Secretary shall update the supplementary
22 ethics guidance not less than once every 3 years there-
23 after.

1 **SEC. 836. ABOLISHMENT OF MINERALS MANAGEMENT**

2 **SERVICE.**

3 (a) **ABOLISHMENT.**—The Minerals Management
4 Service is abolished.

5 (b) **COMPLETED ADMINISTRATIVE ACTIONS.**—

6 (1) **IN GENERAL.**—Completed administrative
7 actions of the Minerals Management Service shall
8 not be affected by the enactment of this Act, but
9 shall continue in effect according to their terms until
10 amended, modified, superseded, terminated, set
11 aside, or revoked in accordance with law by an offi-
12 cer of the United States or a court of competent ju-
13 risdiction, or by operation of law.

14 (2) **COMPLETED ADMINISTRATIVE ACTION DE-**
15 **FINED.**—For purposes of paragraph (1), the term
16 “completed administrative action” includes orders,
17 determinations, memoranda of understanding,
18 memoranda of agreements, rules, regulations, per-
19 sonnel actions, permits, agreements, grants, con-
20 tracts, certificates, licenses, registrations, and privi-
21 leges.

22 (c) **PENDING PROCEEDINGS.**—Subject to the author-
23 ity of the Secretary of the Interior and the officers of the
24 Department of the Interior under this title—

25 (1) pending proceedings in the Minerals Man-
26 agement Service, including notices of proposed rule-

1 making, and applications for licenses, permits, cer-
2 tificates, grants, and financial assistance, shall con-
3 tinue, notwithstanding the enactment of this Act or
4 the vesting of functions of the Service in another
5 agency, unless discontinued or modified under the
6 same terms and conditions and to the same extent
7 that such discontinuance or modification could have
8 occurred if this title had not been enacted; and

9 (2) orders issued in such proceedings, and ap-
10 peals therefrom, and payments made pursuant to
11 such orders, shall issue in the same manner and on
12 the same terms as if this title had not been enacted,
13 and any such orders shall continue in effect until
14 amended, modified, superseded, terminated, set
15 aside, or revoked by an officer of the United States
16 or a court of competent jurisdiction, or by operation
17 of law.

18 (d) PENDING CIVIL ACTIONS.—Subject to the au-
19 thority of the Secretary of the Interior or any officer of
20 the Department of the Interior under this title, pending
21 civil actions shall continue notwithstanding the enactment
22 of this Act, and in such civil actions, proceedings shall be
23 had, appeals taken, and judgments rendered and enforced
24 in the same manner and with the same effect as if such
25 enactment had not occurred.

1 (e) REFERENCES.—References relating to the Min-
2 erals Management Service in statutes, Executive orders,
3 rules, regulations, directives, or delegations of authority
4 that precede the effective date of this Act are deemed to
5 refer, as appropriate, to the Department, to its officers,
6 employees, or agents, or to its corresponding organiza-
7 tional units or functions. Statutory reporting requirements
8 that applied in relation to the Minerals Management Serv-
9 ice immediately before the effective date of this title shall
10 continue to apply.

11 **SEC. 837. CONFORMING AMENDMENTS TO EXECUTIVE**
12 **SCHEDULE PAY RATES.**

13 (a) UNDER SECRETARY FOR ENERGY, LANDS, AND
14 MINERALS.—Section 5314 of title 5, United States Code,
15 is amended by inserting after the item relating to “Under
16 Secretaries of the Treasury (3).” the following:

17 “Under Secretary for Energy, Lands, and Min-
18 erals, Department of the Interior.”.

19 (b) ASSISTANT SECRETARIES.—Section 5315 of title
20 5, United States Code, is amended by striking “Assistant
21 Secretaries of the Interior (6).” and inserting the fol-
22 lowing:

23 “Assistant Secretaries, Department of the Inte-
24 rior (7).”.

1 (c) DIRECTORS.—Section 5316 of title 5, United
2 States Code, is amended by striking “Director, Bureau of
3 Mines, Department of the Interior.” and inserting the fol-
4 lowing new items:

5 “Director, Bureau of Ocean Energy, Depart-
6 ment of the Interior.

7 “Director, Ocean Energy Safety Service, De-
8 partment of the Interior.

9 “Director, Office of Natural Resources Rev-
10 enue, Department of the Interior.”.

11 **SEC. 838. OUTER CONTINENTAL SHELF ENERGY SAFETY**

12 **ADVISORY BOARD.**

13 (a) ESTABLISHMENT.—The Secretary of the Interior
14 shall establish, under the Federal Advisory Committee
15 Act, an Outer Continental Shelf Energy Safety Advisory
16 Board (referred to in this section as the “Board”)—

17 (1) to provide the Secretary and the Directors
18 established by this title with independent scientific
19 and technical advice on safe, responsible, and timely
20 mineral and renewable energy exploration, develop-
21 ment, and production activities; and

22 (2) to review operations of the National Off-
23 shore Energy Health and Safety Academy estab-
24 lished under section 833(d), including submitting to

1 the Secretary recommendations of curriculum to en-
2 sure training scientific and technical advancements.

3 (b) MEMBERSHIP.—

4 (1) SIZE.—The Board shall consist of not more
5 than 11 members, who—

6 (A) shall be appointed by the Secretary
7 based on their expertise in oil and gas drilling,
8 well design, operations, well containment and
9 oil spill response; and

10 (B) must have significant scientific, engi-
11 neering, management, and other credentials and
12 a history of working in the field related to safe
13 energy exploration, development, and produc-
14 tion activities.

15 (2) CONSULTATION AND NOMINATIONS.—The
16 Secretary shall consult with the National Academy
17 of Sciences and the National Academy of Engineer-
18 ing to identify potential candidates for the Board
19 and shall take nominations from the public.

20 (3) TERM.—The Secretary shall appoint Board
21 members to staggered terms of not more than 4
22 years, and shall not appoint a member for more
23 than 2 consecutive terms.

1 (4) BALANCE.—In appointing members to the
2 Board, the Secretary shall ensure a balanced rep-
3 resentation of industry and research interests.

4 (c) CHAIR.—The Secretary shall appoint the Chair
5 for the Board from among its members.

6 (d) MEETINGS.—The Board shall meet not less than
7 3 times per year and shall host, at least once per year,
8 a public forum to review and assess the overall energy
9 safety performance of Outer Continental Shelf mineral
10 and renewable energy resource activities.

11 (e) OFFSHORE DRILLING SAFETY ASSESSMENTS
12 AND RECOMMENDATIONS.—As part of its duties under
13 this section, the Board shall, by not later than 180 days
14 after the date of enactment of this section and every 5
15 years thereafter, submit to the Secretary a report that—

16 (1) assesses offshore oil and gas well control
17 technologies, practices, voluntary standards, and
18 regulations in the United States and elsewhere; and

19 (2) as appropriate, recommends modifications
20 to the regulations issued under this title to ensure
21 adequate protection of safety and the environment,
22 including recommendations on how to reduce regula-
23 tions and administrative actions that are duplicative
24 or unnecessary.

1 (f) REPORTS.—Reports of the Board shall be sub-
2 mitted by the Board to the Committee on Natural Re-
3 sources of the House of Representatives and the Com-
4 mittee on Energy and Natural Resources of the Senate
5 and made available to the public in electronically acces-
6 sible form.

7 (g) TRAVEL EXPENSES.—Members of the Board,
8 other than full-time employees of the Federal Government,
9 while attending meeting of the Board or while otherwise
10 serving at the request of the Secretary or the Director
11 while serving away from their homes or regular places of
12 business, may be allowed travel expenses, including per
13 diem in lieu of subsistence, as authorized by section 5703
14 of title 5, United States Code, for individuals in the Gov-
15 ernment serving without pay.

16 **SEC. 839. OUTER CONTINENTAL SHELF INSPECTION FEES.**

17 Section 22 of the Outer Continental Shelf Lands Act
18 (43 U.S.C. 1348) is amended by adding at the end of the
19 section the following:

20 “(g) INSPECTION FEES.—

21 “(1) ESTABLISHMENT.—The Secretary of the
22 Interior shall collect from the operators of facilities
23 subject to inspection under subsection (c) non-re-
24 fundable fees for such inspections—

1 “(A) at an aggregate level equal to the
2 amount necessary to offset the annual expenses
3 of inspections of outer Continental Shelf facili-
4 ties (including mobile offshore drilling units) by
5 the Department of the Interior; and

6 “(B) using a schedule that reflects the dif-
7 ferences in complexity among the classes of fa-
8 cilities to be inspected.

9 “(2) OCEAN ENERGY SAFETY FUND.—There is
10 established in the Treasury a fund, to be known as
11 the ‘Ocean Energy Enforcement Fund’ (referred to
12 in this subsection as the ‘Fund’), into which shall be
13 deposited all amounts collected as fees under para-
14 graph (1) and which shall be available as provided
15 under paragraph (3).

16 “(3) AVAILABILITY OF FEES.—

17 “(A) IN GENERAL.—Notwithstanding sec-
18 tion 3302 of title 31, United States Code, all
19 amounts deposited in the Fund—

20 “(i) shall be credited as offsetting col-
21 lections;

22 “(ii) shall be available for expenditure
23 for purposes of carrying out inspections of
24 outer Continental Shelf facilities (including
25 mobile offshore drilling units) and the ad-

1 ministration of the inspection program
2 under this section;

3 “(iii) shall be available only to the ex-
4 tent provided for in advance in an appro-
5 priations Act; and

6 “(iv) shall remain available until ex-
7 pended.

8 “(B) USE FOR FIELD OFFICES.—Not less
9 than 75 percent of amounts in the Fund may
10 be appropriated for use only for the respective
11 Department of the Interior field offices where
12 the amounts were originally assessed as fees.

13 “(4) INITIAL FEES.—Fees shall be established
14 under this subsection for the fiscal year in which
15 this subsection takes effect and the subsequent 10
16 years, and shall not be raised without advise and
17 consent of the Congress, except as determined by the
18 Secretary to be appropriate as an adjustment equal
19 to the percentage by which the Consumer Price
20 Index for the month of June of the calendar year
21 preceding the adjustment exceeds the Consumer
22 Price Index for the month of June of the calendar
23 year in which the claim was determined or last ad-
24 justed.

1 “(5) ANNUAL FEES.—Annual fees shall be col-
2 lected under this subsection for facilities that are
3 above the waterline, excluding drilling rigs, and are
4 in place at the start of the fiscal year. Fees for fiscal
5 year 2013 shall be—

6 “(A) \$10,500 for facilities with no wells,
7 but with processing equipment or gathering
8 lines;

9 “(B) \$17,000 for facilities with 1 to 10
10 wells, with any combination of active or inactive
11 wells; and

12 “(C) \$31,500 for facilities with more than
13 10 wells, with any combination of active or in-
14 active wells.

15 “(6) FEES FOR DRILLING RIGS.—Fees for drill-
16 ing rigs shall be assessed under this subsection for
17 all inspections completed in fiscal years 2015
18 through 2024. Fees for fiscal year 2015 shall be—

19 “(A) \$30,500 per inspection for rigs oper-
20 ating in water depths of 1,000 feet or more;
21 and

22 “(B) \$16,700 per inspection for rigs oper-
23 ating in water depths of less than 1,000 feet.

24 “(7) BILLING.—The Secretary shall bill des-
25 ignated operators under paragraph (5) within 60

1 days after the date of the inspection, with payment
2 required within 30 days of billing. The Secretary
3 shall bill designated operators under paragraph (6)
4 within 30 days of the end of the month in which the
5 inspection occurred, with payment required within
6 30 days after billing.

7 “(8) SUNSET.—No fee may be collected under
8 this subsection for any fiscal year after fiscal year
9 2024.

10 “(9) ANNUAL REPORTS.—

11 “(A) IN GENERAL.—Not later than 60
12 days after the end of each fiscal year beginning
13 with fiscal year 2015, the Secretary shall sub-
14 mit to the Committee on Energy and Natural
15 Resources of the Senate and the Committee on
16 Natural Resources of the House of Representa-
17 tives a report on the operation of the Fund dur-
18 ing the fiscal year.

19 “(B) CONTENTS.—Each report shall in-
20 clude, for the fiscal year covered by the report,
21 the following:

22 “(i) A statement of the amounts de-
23 posited into the Fund.

24 “(ii) A description of the expenditures
25 made from the Fund for the fiscal year, in-

1 cluding the purpose of the expenditures
2 and the additional hiring of personnel.

3 “(iii) A statement of the balance re-
4 maining in the Fund at the end of the fis-
5 cal year.

6 “(iv) An accounting of pace of permit
7 approvals.

8 “(v) If fee increases are proposed
9 after the initial 10-year period referred to
10 in paragraph (5), a proper accounting of
11 the potential adverse economic impacts
12 such fee increases will have on offshore
13 economic activity and overall production,
14 conducted by the Secretary.

15 “(vi) Recommendations to increase
16 the efficacy and efficiency of offshore in-
17 spections.

18 “(vii) Any corrective actions levied
19 upon offshore inspectors as a result of any
20 form of misconduct.”.

21 **SEC. 840. PROHIBITION ON ACTION BASED ON NATIONAL**
22 **OCEAN POLICY DEVELOPED UNDER EXECU-**
23 **TIVE ORDER NO. 13547.**

24 (a) PROHIBITION.—The Bureau of Ocean Energy
25 and the Ocean Energy Safety Service may not develop,

1 propose, finalize, administer, or implement, any limitation
2 on activities under their jurisdiction as a result of the
3 coastal and marine spatial planning component of the Na-
4 tional Ocean Policy developed under Executive Order No.
5 13547.

6 (b) REPORT ON EXPENDITURES.—Not later than 60
7 days after the date of enactment of this Act, the President
8 shall submit a report to the Committee on Natural Re-
9 sources of the House of Representatives and the Com-
10 mittee on Energy and Natural Resources of the Senate
11 identifying all Federal expenditures in fiscal years 2011,
12 2012, 2013, and 2014 by the Bureau of Ocean Energy
13 and the Ocean Energy Safety Service and their prede-
14 cessor agencies, by agency, account, and any pertinent
15 subaccounts, for the development, administration, or im-
16 plementation of the coastal and marine spatial planning
17 component of the National Ocean Policy developed under
18 Executive Order No. 13547, including staff time, travel,
19 and other related expenses.

1 **Subtitle E—United States**
2 **Territories**

3 **SEC. 851. APPLICATION OF OUTER CONTINENTAL SHELF**
4 **LANDS ACT WITH RESPECT TO TERRITORIES**
5 **OF THE UNITED STATES.**

6 Section 2 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1331) is amended—

8 (1) in paragraph (a), by inserting after “con-
9 trol” the following: “or lying within the United
10 States exclusive economic zone and the Continental
11 Shelf adjacent to any territory of the United
12 States”;

13 (2) in paragraph (p), by striking “and” after
14 the semicolon at the end;

15 (3) in paragraph (q), by striking the period at
16 the end and inserting “; and”; and

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

18 “(r) The term ‘State’ includes each territory of the
19 United States.”.

1 **Subtitle F—Miscellaneous**
2 **Provisions**

3 **SEC. 861. RULES REGARDING DISTRIBUTION OF REVENUES**
4 **UNDER GULF OF MEXICO ENERGY SECURITY**
5 **ACT OF 2006.**

6 (a) IN GENERAL.—Not later than 60 days after the
7 date of enactment of this Act, the Secretary of the Interior
8 shall issue rules to provide more clarity, certainty, and sta-
9 bility to the revenue streams contemplated by the Gulf of
10 Mexico Energy Security Act of 2006 (43 U.S.C. 1331
11 note).

12 (b) CONTENTS.—The rules shall include clarification
13 of the timing and methods of disbursements of funds
14 under section 105(b)(2) of such Act.

15 **SEC. 862. AMOUNT OF DISTRIBUTED QUALIFIED OUTER**
16 **CONTINENTAL SHELF REVENUES.**

17 Section 105(f)(1) of the Gulf of Mexico Energy Secu-
18 rity Act of 2006 (title I of division C of Public Law 109–
19 432; 43 U.S.C. 1331 note) shall be applied by substituting
20 “2024, and shall not exceed \$999,999,999 for each of fis-
21 cal years 2025 through 2055” for “2055”.

22 **SEC. 863. SOUTH ATLANTIC OUTER CONTINENTAL SHELF**
23 **PLANNING AREA DEFINED.**

24 For the purposes of this Act, the Outer Continental
25 Shelf Lands Act (43 U.S.C. 1331 et seq.), and any regula-

1 tions or 5-year plan issued under that Act, the term
2 “South Atlantic Outer Continental Shelf Planning Area”
3 means the area of the outer Continental Shelf (as defined
4 in section 2 of that Act (43 U.S.C. 1331)) that is located
5 between the northern lateral seaward administrative
6 boundary of the State of Virginia and the southernmost
7 lateral seaward administrative boundary of the State of
8 Georgia.

9 **SEC. 864. ENHANCING GEOLOGICAL AND GEOPHYSICAL IN-**
10 **FORMATION FOR AMERICA’S ENERGY FU-**
11 **TURE.**

12 Section 11 of the Outer Continental Shelf Lands Act
13 (43 U.S.C. 1340) is amended by adding at the end the
14 following:

15 “(i) ENHANCING GEOLOGICAL AND GEOPHYSICAL
16 INFORMATION FOR AMERICA’S ENERGY FUTURE.—

17 “(1) The Secretary, acting through the Director
18 of the Bureau of Ocean Energy Management, shall
19 facilitate and support the practical study of geology
20 and geophysics to better understand the oil, gas, and
21 other hydrocarbon potential in the South Atlantic
22 Outer Continental Shelf Planning Area by entering
23 into partnerships to conduct geological and geo-
24 physical activities on the outer Continental Shelf.

1 “(2)(A) No later than 180 days after the date
2 of enactment of the Lowering Gasoline Prices to
3 Fuel an America That Works Act of 2015, the Gov-
4 ernors of the States of Georgia, South Carolina,
5 North Carolina, and Virginia may each nominate for
6 participation in the partnerships—

7 “(i) one institution of higher education lo-
8 cated within the Governor’s State; and

9 “(ii) one institution of higher education
10 within the Governor’s State that is a histori-
11 cally black college or university, as defined in
12 section 631(a) of the Higher Education Act of
13 1965 (20 U.S.C. 1132(a)).

14 “(B) In making nominations, the Governors
15 shall give preference to those institutions of higher
16 education that demonstrate a vigorous rate of ad-
17 mission of veterans of the Armed Forces of the
18 United States.

19 “(3) The Secretary shall only select as a part-
20 ner a nominee that the Secretary determines dem-
21 onstrates excellence in geophysical sciences cur-
22 riculum, engineering curriculum, or information
23 technology or other technical studies relating to seis-
24 mic research (including data processing).

1 “(4) Notwithstanding subsection (d), nominees
2 selected as partners by the Secretary may conduct
3 geological and geophysical activities under this sec-
4 tion after filing a notice with the Secretary 30 days
5 prior to commencement of the activity without any
6 further authorization by the Secretary except those
7 activities that use solid or liquid explosives shall re-
8 quire a permit. The Secretary may not charge any
9 fee for the provision of data or other information
10 collected under this authority, other than the cost of
11 duplicating any data or information provided. Nomi-
12 nees selected as partners under this section shall
13 provide to the Secretary any data or other informa-
14 tion collected under this subsection within 60 days
15 after completion of an initial analysis of the data or
16 other information collected, if so requested by the
17 Secretary.

18 “(5) Data or other information produced as a
19 result of activities conducted by nominees selected as
20 partners under this subsection shall not be used or
21 shared for commercial purposes by the nominee, may
22 not be produced for proprietary use or sale, and
23 shall be made available by the Secretary to the pub-
24 lic.

1 “(6) The Secretary shall submit to the Com-
2 mittee on Natural Resources of the House of Rep-
3 resentatives and the Committee on Energy and Nat-
4 ural Resources of the Senate reports on the data or
5 other information produced under the partnerships
6 under this section. Such reports shall be made no
7 less frequently than every 180 days following the
8 conduct of the first geological and geophysical activi-
9 ties under this section.

10 “(7) In this subsection the term ‘geological and
11 geophysical activities’ means any oil- or gas-related
12 investigation conducted on the outer Continental
13 Shelf, including geophysical surveys where magnetic,
14 gravity, seismic, or other systems are used to detect
15 or imply the presence of oil or gas.”.

16 **Subtitle G—Judicial Review**

17 **SEC. 871. TIME FOR FILING COMPLAINT.**

18 (a) **IN GENERAL.**—Any cause of action that arises
19 from a covered energy decision must be filed not later than
20 the end of the 60-day period beginning on the date of the
21 covered energy decision. Any cause of action not filed with-
22 in this time period shall be barred.

23 (b) **EXCEPTION.**—Subsection (a) shall not apply to
24 a cause of action brought by a party to a covered energy
25 lease.

1 **SEC. 872. DISTRICT COURT DEADLINE.**

2 (a) IN GENERAL.—All proceedings that are subject
3 to section 10701—

4 (1) shall be brought in the United States dis-
5 trict court for the district in which the Federal prop-
6 erty for which a covered energy lease is issued is lo-
7 cated or the United States District Court of the Dis-
8 trict of Columbia;

9 (2) shall be resolved as expeditiously as pos-
10 sible, and in any event not more than 180 days after
11 such cause or claim is filed; and

12 (3) shall take precedence over all other pending
13 matters before the district court.

14 (b) FAILURE TO COMPLY WITH DEADLINE.—If an
15 interlocutory or final judgment, decree, or order has not
16 been issued by the district court by the deadline described
17 under this section, the cause or claim shall be dismissed
18 with prejudice and all rights relating to such cause or
19 claim shall be terminated.

20 **SEC. 873. ABILITY TO SEEK APPELLATE REVIEW.**

21 An interlocutory or final judgment, decree, or order
22 of the district court in a proceeding that is subject to sec-
23 tion 871 may be reviewed by the U.S. Court of Appeals
24 for the District of Columbia Circuit. The D.C. Circuit
25 shall resolve any such appeal as expeditiously as possible
26 and, in any event, not more than 180 days after such in-

1 terlocutory or final judgment, decree, or order of the dis-
2 trict court was issued.

3 **SEC. 874. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

4 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
5 SIONS.—In any judicial review of any Federal action under
6 this subtitle, any administrative findings and conclusions
7 relating to the challenged Federal action shall be pre-
8 sumed to be correct unless shown otherwise by clear and
9 convincing evidence contained in the administrative
10 record.

11 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
12 judicial review of any action, or failure to act, under this
13 subtitle, the Court shall not grant or approve any prospec-
14 tive relief unless the Court finds that such relief is nar-
15 rowly drawn, extends no further than necessary to correct
16 the violation of a Federal law requirement, and is the least
17 intrusive means necessary to correct the violation con-
18 cerned.

19 **SEC. 875. LEGAL FEES.**

20 Any person filing a petition seeking judicial review
21 of any action, or failure to act, under this subtitle who
22 is not a prevailing party shall pay to the prevailing parties
23 (including intervening parties), other than the United
24 States, fees and other expenses incurred by that party in
25 connection with the judicial review, unless the Court finds

1 that the position of the person was substantially justified
2 or that special circumstances make an award unjust.

3 **SEC. 876. EXCLUSION.**

4 This subtitle shall not apply with respect to disputes
5 between the parties to a lease issued pursuant to an au-
6 thorizing leasing statute regarding the obligations of such
7 lease or the alleged breach thereof.

8 **SEC. 877. DEFINITIONS.**

9 In this subtitle, the following definitions apply:

10 (1) COVERED ENERGY DECISION.—The term
11 “covered energy decision” means any action or deci-
12 sion by a Federal official regarding the issuance of
13 a covered energy lease.

14 (2) COVERED ENERGY LEASE.—The term “cov-
15 ered energy lease” means any lease under this title
16 or under an oil and gas leasing program under this
17 title.

1 **TITLE IX—INCREASING ON-**
2 **SHORE OIL AND GAS DEVEL-**
3 **OPMENT AND ENERGY SECU-**
4 **RITY**

5 **Subtitle A—Federal Lands Jobs**
6 **and Energy Security**

7 **SEC. 901. SHORT TITLE.**

8 This subtitle may be cited as the “Federal Lands
9 Jobs and Energy Security Act”.

10 **SEC. 902. POLICIES REGARDING BUYING, BUILDING, AND**
11 **WORKING FOR AMERICA.**

12 (a) CONGRESSIONAL INTENT.—It is the intent of the
13 Congress that—

14 (1) this subtitle will support a healthy and
15 growing United States domestic energy sector that,
16 in turn, helps to reinvigorate American manufac-
17 turing, transportation, and service sectors by em-
18 ploying the vast talents of United States workers to
19 assist in the development of energy from domestic
20 sources;

21 (2) to ensure a robust onshore energy produc-
22 tion industry and ensure that the benefits of devel-
23 opment support local communities, under this sub-
24 title, the Secretary shall make every effort to pro-
25 mote the development of onshore American energy,

1 and shall take into consideration the socioeconomic
2 impacts, infrastructure requirements, and fiscal sta-
3 bility for local communities located within areas con-
4 taining onshore energy resources; and

5 (3) the Congress will monitor the deployment of
6 personnel and material onshore to encourage the de-
7 velopment of American manufacturing to enable
8 United States workers to benefit from this subtitle
9 through good jobs and careers, as well as the estab-
10 lishment of important industrial facilities to support
11 expanded access to American resources.

12 (b) REQUIREMENT.—The Secretary of the Interior
13 shall when possible, and practicable, encourage the use of
14 United States workers and equipment manufactured in
15 the United States in all construction related to mineral
16 resource development under this subtitle.

17 **CHAPTER 1—ONSHORE OIL AND GAS**

18 **PERMIT STREAMLINING**

19 **Subchapter A—Miscellaneous Provisions**

20 **SEC. 911. SHORT TITLE.**

21 This chapter may be cited as the “Streamlining Per-
22 mitting of American Energy Act of 2015”.

23 **SEC. 912. PERMIT TO DRILL APPLICATION TIMELINE.**

24 Section 17(p)(2) of the Mineral Leasing Act (30
25 U.S.C. 226(p)(2)) is amended to read as follows:

1 “(2) APPLICATIONS FOR PERMITS TO DRILL RE-
2 FORM AND PROCESS.—

3 “(A) TIMELINE.—The Secretary shall de-
4 cide whether to issue a permit to drill within 30
5 days after receiving an application for the per-
6 mit. The Secretary may extend such period for
7 up to 2 periods of 15 days each, if the Sec-
8 retary has given written notice of the delay to
9 the applicant. The notice shall be in the form
10 of a letter from the Secretary or a designee of
11 the Secretary, and shall include the names and
12 titles of the persons processing the application,
13 the specific reasons for the delay, and a specific
14 date a final decision on the application is ex-
15 pected.

16 “(B) NOTICE OF REASONS FOR DENIAL.—
17 If the application is denied, the Secretary shall
18 provide the applicant—

19 “(i) in writing, clear and comprehen-
20 sive reasons why the application was not
21 accepted and detailed information con-
22 cerning any deficiencies; and

23 “(ii) an opportunity to remedy any de-
24 ficiencies.

1 “(C) APPLICATION DEEMED APPROVED.—

2 If the Secretary has not made a decision on the
3 application by the end of the 60-day period be-
4 ginning on the date the application is received
5 by the Secretary, the application is deemed ap-
6 proved, except in cases in which existing reviews
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.) or the Endan-
9 gered Species Act of 1973 (16 U.S.C. 1531 et
10 seq.) are incomplete.

11 “(D) DENIAL OF PERMIT.—If the Sec-
12 retary decides not to issue a permit to drill in
13 accordance with subparagraph (A), the Sec-
14 retary shall—

15 “(i) provide to the applicant a descrip-
16 tion of the reasons for the denial of the
17 permit;

18 “(ii) allow the applicant to resubmit
19 an application for a permit to drill during
20 the 10-day period beginning on the date
21 the applicant receives the description of
22 the denial from the Secretary; and

23 “(iii) issue or deny any resubmitted
24 application not later than 10 days after the

1 date the application is submitted to the
2 Secretary.

3 “(E) FEE.—

4 “(i) IN GENERAL.—Notwithstanding
5 any other law, the Secretary shall collect a
6 single \$6,500 permit processing fee per ap-
7 plication from each applicant at the time
8 the final decision is made whether to issue
9 a permit under subparagraph (A). This fee
10 shall not apply to any resubmitted applica-
11 tion.

12 “(ii) TREATMENT OF PERMIT PROC-
13 ESSING FEE.—Of all fees collected under
14 this paragraph, 50 percent shall be trans-
15 ferred to the field office where they are col-
16 lected and used to process protests, leases,
17 and permits under this Act subject to ap-
18 propriation.”.

19 **SEC. 913. ADMINISTRATIVE PROTEST DOCUMENTATION RE-**
20 **FORM.**

21 Section 17(p) of the Mineral Leasing Act (30 U.S.C.
22 226(p)) is further amended by adding at the end the fol-
23 lowing:

24 “(4) PROTEST FEE.—

1 “(A) IN GENERAL.—The Secretary shall
2 collect a \$5,000 documentation fee to accom-
3 pany each protest for a lease, right-of-way, or
4 application for permit to drill.

5 “(B) TREATMENT OF FEES.—Of all fees
6 collected under this paragraph, 50 percent shall
7 remain in the field office where they are col-
8 lected and used to process protests subject to
9 appropriation.”.

10 **SEC. 914. MAKING PILOT OFFICES PERMANENT TO IM-**
11 **PROVE ENERGY PERMITTING ON FEDERAL**
12 **LANDS.**

13 (a) ESTABLISHMENT.—The Secretary of the Interior
14 (referred to in this section as the “Secretary”) shall estab-
15 lish a Federal Permit Streamlining Project (referred to
16 in this section as the “Project”) in every Bureau of Land
17 Management field office with responsibility for permitting
18 energy projects on Federal land.

19 (b) MEMORANDUM OF UNDERSTANDING.—

20 (1) IN GENERAL.—Not later than 90 days after
21 the date of enactment of this Act, the Secretary
22 shall enter into a memorandum of understanding for
23 purposes of this section with—

24 (A) the Secretary of Agriculture;

1 (B) the Administrator of the Environ-
2 mental Protection Agency; and

3 (C) the Chief of the Army Corps of Engi-
4 neers.

5 (2) STATE PARTICIPATION.—The Secretary
6 may request that the Governor of any State with en-
7 ergy projects on Federal lands to be a signatory to
8 the memorandum of understanding.

9 (c) DESIGNATION OF QUALIFIED STAFF.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of the signing of the memorandum of un-
12 derstanding under subsection (b), all Federal signa-
13 tory parties shall, if appropriate, assign to each of
14 the Bureau of Land Management field offices an
15 employee who has expertise in the regulatory issues
16 relating to the office in which the employee is em-
17 ployed, including, as applicable, particular expertise
18 in—

19 (A) the consultations and the preparation
20 of biological opinions under section 7 of the En-
21 dangered Species Act of 1973 (16 U.S.C.
22 1536);

23 (B) permits under section 404 of the Fed-
24 eral Water Pollution Control Act (33 U.S.C.
25 1344);

1 (C) regulatory matters under the Clean Air
2 Act (42 U.S.C. 7401 et seq.);

3 (D) planning under the National Forest
4 Management Act of 1976 (16 U.S.C. 472a et
5 seq.); and

6 (E) the preparation of analyses under the
7 National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.).

9 (2) DUTIES.—Each employee assigned under
10 paragraph (1) shall—

11 (A) not later than 90 days after the date
12 of assignment, report to the Bureau of Land
13 Management Field Managers in the office to
14 which the employee is assigned;

15 (B) be responsible for all issues relating to
16 the energy projects that arise under the au-
17 thorities of the employee's home agency; and

18 (C) participate as part of the team of per-
19 sonnel working on proposed energy projects,
20 planning, and environmental analyses on Fed-
21 eral lands.

22 (d) ADDITIONAL PERSONNEL.—The Secretary shall
23 assign to each Bureau of Land Management field office
24 identified in subsection (a) any additional personnel that
25 are necessary to ensure the effective approval and imple-

1 mentation of energy projects administered by the Bureau
2 of Land Management field offices, including inspection
3 and enforcement relating to energy development on Fed-
4 eral land, in accordance with the multiple use mandate
5 of the Federal Land Policy and Management Act of 1976
6 (43 U.S.C. 1701 et seq.).

7 (e) FUNDING.—Funding for the additional personnel
8 shall come from the Department of the Interior reforms
9 identified in sections 21111 and 21121.

10 (f) SAVINGS PROVISION.—Nothing in this section af-
11 fects—

12 (1) the operation of any Federal or State law;

13 or

14 (2) any delegation of authority made by the
15 head of a Federal agency whose employees are par-
16 ticipating in the Project.

17 (g) DEFINITION.—For purposes of this section the
18 term “energy projects” includes oil, natural gas, and other
19 energy projects as defined by the Secretary.

20 **SEC. 915. ADMINISTRATION OF CURRENT LAW.**

21 Notwithstanding any other law, the Secretary of the
22 Interior shall not require a finding of extraordinary cir-
23 cumstances in administering section 390 of the Energy
24 Policy Act of 2005 (42 U.S.C. 15942).

1 **SEC. 916. FUNDING OIL AND GAS RESOURCE ASSESSMENTS.**

2 (a) IN GENERAL.—The Secretary of the Interior shall
3 provide matching funding for joint projects with States to
4 conduct oil and gas resource assessments on Federal lands
5 with significant oil and gas potential.

6 (b) COST SHARING.—The Federal share of the cost
7 of activities under this section shall not exceed 50 percent.

8 (c) RESOURCE ASSESSMENT.—Any resource assess-
9 ment under this section shall be conducted by a State, in
10 consultation with the United States Geological Survey.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to the Secretary to carry
13 out this section a total of \$50,000,000 for fiscal years
14 2015 through 2018.

15 **SEC. 917. RULE OF CONSTRUCTION.**

16 Nothing in this subtitle shall be construed to author-
17 ize the issuance of a lease under the Mineral Leasing Act
18 (30 U.S.C. 181 et seq.) to any person designated for the
19 imposition of sanctions pursuant to—

20 (1) the Iran Sanctions Act of 1996 (50 U.S.C.
21 1701 note), the Comprehensive Iran Sanctions, Ac-
22 countability and Divestiture Act of 2010 (22 U.S.C.
23 8501 et seq.), the Iran Threat Reduction and Syria
24 Human Rights Act of 2012 (22 U.S.C. 8701 et
25 seq.), section 1245 of the National Defense Author-
26 ization Act for Fiscal Year 2012 (22 U.S.C. 8513a),

1 or the Iran Freedom and Counter-Proliferation Act
2 of 2012 (22 U.S.C. 8801 et seq.);

3 (2) Executive Order No. 13622 (July 30,
4 2012), Executive Order No. 13628 (October 9,
5 2012), or Executive Order No. 13645 (June 3,
6 2013);

7 (3) Executive Order No. 13224 (September 23,
8 2001) or Executive Order No. 13338 (May 11,
9 2004); or

10 (4) the Syria Accountability and Lebanese Sov-
11 ereignty Restoration Act of 2003 (22 U.S.C. 2151
12 note).

13 **Subchapter B—Judicial Review**

14 **SEC. 921. DEFINITIONS.**

15 In this subchapter—

16 (1) the term “covered civil action” means a civil
17 action containing a claim under section 702 of title
18 5, United States Code, regarding agency action (as
19 defined for the purposes of that section) affecting a
20 covered energy project on Federal lands of the
21 United States; and

22 (2) the term “covered energy project” means
23 the leasing of Federal lands of the United States for
24 the exploration, development, production, processing,
25 or transmission of oil, natural gas, or any other

1 source of energy, and any action under such a lease,
2 except that the term does not include any disputes
3 between the parties to a lease regarding the obliga-
4 tions under such lease, including regarding any al-
5 leged breach of the lease.

6 **SEC. 922. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
7 **RELATING TO COVERED ENERGY PROJECTS.**

8 Venue for any covered civil action shall lie in the dis-
9 trict court where the project or leases exist or are pro-
10 posed.

11 **SEC. 923. TIMELY FILING.**

12 To ensure timely redress by the courts, a covered civil
13 action must be filed no later than the end of the 90-day
14 period beginning on the date of the final Federal agency
15 action to which it relates.

16 **SEC. 924. EXPEDITION IN HEARING AND DETERMINING THE**
17 **ACTION.**

18 The court shall endeavor to hear and determine any
19 covered civil action as expeditiously as possible.

20 **SEC. 925. STANDARD OF REVIEW.**

21 In any judicial review of a covered civil action, admin-
22 istrative findings and conclusions relating to the chal-
23 lenged Federal action or decision shall be presumed to be
24 correct, and the presumption may be rebutted only by the

1 preponderance of the evidence contained in the adminis-
2 trative record.

3 **SEC. 926. LIMITATION ON INJUNCTION AND PROSPECTIVE**
4 **RELIEF.**

5 In a covered civil action, the court shall not grant
6 or approve any prospective relief unless the court finds
7 that such relief is narrowly drawn, extends no further than
8 necessary to correct the violation of a legal requirement,
9 and is the least intrusive means necessary to correct that
10 violation. In addition, courts shall limit the duration of
11 preliminary injunctions to halt covered energy projects to
12 no more than 60 days, unless the court finds clear reasons
13 to extend the injunction. In such cases of extensions, such
14 extensions shall only be in 30-day increments and shall
15 require action by the court to renew the injunction.

16 **SEC. 927. LIMITATION ON ATTORNEYS' FEES.**

17 Sections 504 of title 5, United States Code, and 2412
18 of title 28, United States Code (together commonly called
19 the Equal Access to Justice Act), do not apply to a covered
20 civil action, nor shall any party in such a covered civil ac-
21 tion receive payment from the Federal Government for
22 their attorneys' fees, expenses, and other court costs.

23 **SEC. 928. LEGAL STANDING.**

24 Challengers filing appeals with the Department of the
25 Interior Board of Land Appeals shall meet the same

1 standing requirements as challengers before a United
2 States district court.

3 **CHAPTER 2—OIL AND GAS LEASING**

4 **CERTAINTY**

5 **SEC. 931. SHORT TITLE.**

6 This chapter may be cited as the “Providing Leasing
7 Certainty for American Energy Act of 2015”.

8 **SEC. 932. MINIMUM ACREAGE REQUIREMENT FOR ON- 9 SHORE LEASE SALES.**

10 In conducting lease sales as required by section 17(a)
11 of the Mineral Leasing Act (30 U.S.C. 226(a)), each year
12 the Secretary of the Interior shall perform the following:

13 (1) The Secretary shall offer for sale no less
14 than 25 percent of the annual nominated acreage
15 not previously made available for lease. Acreage of-
16 fered for lease pursuant to this paragraph shall not
17 be subject to protest and shall be eligible for cat-
18 egorical exclusions under section 390 of the Energy
19 Policy Act of 2005 (42 U.S.C. 15942), except that
20 it shall not be subject to the test of extraordinary
21 circumstances.

22 (2) In administering this section, the Secretary
23 shall only consider leasing of Federal lands that are
24 available for leasing at the time the lease sale oc-
25 curs.

1 **SEC. 933. LEASING CERTAINTY.**

2 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
3 226(a)) is amended by inserting “(1)” before “All lands”,
4 and by adding at the end the following:

5 “(2)(A) The Secretary shall not withdraw any cov-
6 ered energy project issued under this Act without finding
7 a violation of the terms of the lease by the lessee.

8 “(B) The Secretary shall not infringe upon lease
9 rights under leases issued under this Act by indefinitely
10 delaying issuance of project approvals, drilling and seismic
11 permits, and rights of way for activities under such a
12 lease.

13 “(C) No later than 18 months after an area is des-
14 ignated as open under the current land use plan the Sec-
15 retary shall make available nominated areas for lease
16 under the criteria in section 2.

17 “(D) Notwithstanding any other law, the Secretary
18 shall issue all leases sold no later than 60 days after the
19 last payment is made.

20 “(E) The Secretary shall not cancel or withdraw any
21 lease parcel after a competitive lease sale has occurred and
22 a winning bidder has submitted the last payment for the
23 parcel.

24 “(F) After the conclusion of the public comment pe-
25 riod for a planned competitive lease sale, the Secretary

1 shall not cancel, defer, or withdraw any lease parcel an-
2 nounced to be auctioned in the lease sale.

3 “(G) Not later than 60 days after a lease sale held
4 under this Act, the Secretary shall adjudicate any lease
5 protests filed following a lease sale. If after 60 days any
6 protest is left unsettled, said protest is automatically de-
7 nied and appeal rights of the protestor begin.

8 “(H) No additional lease stipulations may be added
9 after the parcel is sold without consultation and agree-
10 ment of the lessee, unless the Secretary deems such stipu-
11 lations as emergency actions to conserve the resources of
12 the United States.”.

13 **SEC. 934. LEASING CONSISTENCY.**

14 Federal land managers must follow existing resource
15 management plans and continue to actively lease in areas
16 designated as open when resource management plans are
17 being amended or revised, until such time as a new record
18 of decision is signed.

19 **SEC. 935. REDUCE REDUNDANT POLICIES.**

20 Bureau of Land Management Instruction Memo-
21 randum 2010–117 shall have no force or effect.

22 **SEC. 936. STREAMLINED CONGRESSIONAL NOTIFICATION.**

23 Section 31(e) of the Mineral Leasing Act (30 U.S.C.
24 188(e)) is amended in the matter following paragraph (4)

1 by striking “at least thirty days in advance of the rein-
2 statement” and inserting “in an annual report”.

3 **CHAPTER 3—OIL SHALE**

4 **SEC. 941. SHORT TITLE.**

5 This chapter may be cited as the “Protecting Invest-
6 ment in Oil Shale the Next Generation of Environmental,
7 Energy, and Resource Security Act” or the “PIONEERS
8 Act”.

9 **SEC. 942. EFFECTIVENESS OF OIL SHALE REGULATIONS,**
10 **AMENDMENTS TO RESOURCE MANAGEMENT**
11 **PLANS, AND RECORD OF DECISION.**

12 (a) REGULATIONS.—Notwithstanding any other law
13 or regulation to the contrary, the final regulations regard-
14 ing oil shale management published by the Bureau of
15 Land Management on November 18, 2008 (73 Fed. Reg.
16 69,414), are deemed to satisfy all legal and procedural re-
17 quirements under any law, including the Federal Land
18 Policy and Management Act of 1976 (43 U.S.C. 1701 et
19 seq.), the Endangered Species Act of 1973 (16 U.S.C.
20 1531 et seq.), and the National Environmental Policy Act
21 of 1969 (42 U.S.C. 4321 et seq.), and the Secretary of
22 the Interior shall implement those regulations, including
23 the oil shale leasing program authorized by the regula-
24 tions, without any other administrative action necessary.

1 (b) AMENDMENTS TO RESOURCE MANAGEMENT
2 PLANS AND RECORD OF DECISION.—Notwithstanding
3 any other law or regulation to the contrary, the November
4 17, 2008, U.S. Bureau of Land Management Approved
5 Resource Management Plan Amendments/Record of Deci-
6 sion for Oil Shale and Tar Sands Resources to Address
7 Land Use Allocations in Colorado, Utah, and Wyoming
8 and Final Programmatic Environmental Impact State-
9 ment are deemed to satisfy all legal and procedural re-
10 quirements under any law, including the Federal Land
11 Policy and Management Act of 1976 (43 U.S.C. 1701 et
12 seq.), the Endangered Species Act of 1973 (16 U.S.C.
13 1531 et seq.), and the National Environmental Policy Act
14 of 1969 (42 U.S.C. 4321 et seq.), and the Secretary of
15 the Interior shall implement the oil shale leasing program
16 authorized by the regulations referred to in subsection (a)
17 in those areas covered by the resource management plans
18 amended by such amendments, and covered by such record
19 of decision, without any other administrative action nec-
20 essary.

21 **SEC. 943. OIL SHALE LEASING.**

22 (a) ADDITIONAL RESEARCH AND DEVELOPMENT
23 LEASE SALES.—The Secretary of the Interior shall hold
24 a lease sale within 180 days after the date of enactment
25 of this Act offering an additional 10 parcels for lease for

1 research, development, and demonstration of oil shale re-
2 sources, under the terms offered in the solicitation of bids
3 for such leases published on January 15, 2009 (74 Fed.
4 Reg. 10).

5 (b) **COMMERCIAL LEASE SALES.**—No later than Jan-
6 uary 1, 2016, the Secretary of the Interior shall hold no
7 less than 5 separate commercial lease sales in areas con-
8 sidered to have the most potential for oil shale develop-
9 ment, as determined by the Secretary, in areas nominated
10 through public comment. Each lease sale shall be for an
11 area of not less than 25,000 acres, and in multiple lease
12 blocs.

13 **Subtitle B—Planning for American** 14 **Energy**

15 **SEC. 951. SHORT TITLE.**

16 This subtitle may be cited as the “Planning for Amer-
17 ican Energy Act of 2015”.

18 **SEC. 952. ONSHORE DOMESTIC ENERGY PRODUCTION** 19 **STRATEGIC PLAN.**

20 (a) **IN GENERAL.**—The Mineral Leasing Act (30
21 U.S.C. 181 et seq.) is amended by redesignating section
22 44 as section 45, and by inserting after section 43 the
23 following:

1 **“SEC. 44. QUADRENNIAL STRATEGIC FEDERAL ONSHORE**
2 **ENERGY PRODUCTION STRATEGY.**

3 “(a) IN GENERAL.—

4 “(1) The Secretary of the Interior (hereafter in
5 this section referred to as ‘Secretary’), in consulta-
6 tion with the Secretary of Agriculture with regard to
7 lands administered by the Forest Service, shall de-
8 velop and publish every 4 years a Quadrennial Fed-
9 eral Onshore Energy Production Strategy. This
10 Strategy shall direct Federal land energy develop-
11 ment and department resource allocation in order to
12 promote the energy and national security of the
13 United States in accordance with Bureau of Land
14 Management’s mission of promoting the multiple use
15 of Federal lands as set forth in the Federal Land
16 Policy and Management Act of 1976 (43 U.S.C.
17 1701 et seq.).

18 “(2) In developing this Strategy, the Secretary
19 shall consult with the Administrator of the Energy
20 Information Administration on the projected energy
21 demands of the United States for the next 30-year
22 period, and how energy derived from Federal on-
23 shore lands can put the United States on a trajec-
24 tory to meet that demand during the next 4-year pe-
25 riod. The Secretary shall consider how Federal lands
26 will contribute to ensuring national energy security,

1 with a goal for increasing energy independence and
2 production, during the next 4-year period.

3 “(3) The Secretary shall determine a domestic
4 strategic production objective for the development of
5 energy resources from Federal onshore lands. Such
6 objective shall be—

7 “(A) the best estimate, based upon com-
8 mercial and scientific data, of the expected in-
9 crease in domestic production of oil and natural
10 gas from the Federal onshore mineral estate,
11 with a focus on lands held by the Bureau of
12 Land Management and the Forest Service;

13 “(B) the best estimate, based upon com-
14 mercial and scientific data, of the expected in-
15 crease in domestic coal production from Federal
16 lands;

17 “(C) the best estimate, based upon com-
18 mercial and scientific data, of the expected in-
19 crease in domestic production of strategic and
20 critical energy minerals from the Federal on-
21 shore mineral estate;

22 “(D) the best estimate, based upon com-
23 mercial and scientific data, of the expected in-
24 crease in megawatts for electricity production
25 from each of the following sources: wind, solar,

1 biomass, hydropower, and geothermal energy
2 produced on Federal lands administered by the
3 Bureau of Land Management and the Forest
4 Service;

5 “(E) the best estimate, based upon com-
6 mercial and scientific data, of the expected in-
7 crease in unconventional energy production,
8 such as oil shale;

9 “(F) the best estimate, based upon com-
10 mercial and scientific data, of the expected in-
11 crease in domestic production of oil, natural
12 gas, coal, and other renewable sources from
13 tribal lands for any federally recognized Indian
14 tribe that elects to participate in facilitating en-
15 ergy production on its lands;

16 “(G) the best estimate, based upon com-
17 mercial and scientific data, of the expected in-
18 crease in production of helium on Federal lands
19 administered by the Bureau of Land Manage-
20 ment and the Forest Service; and

21 “(H) the best estimate, based upon com-
22 mercial and scientific data, of the expected in-
23 crease in domestic production of geothermal,
24 solar, wind, or other renewable energy sources
25 from ‘available lands’ (as such term is defined

1 in section 203 of the Hawaiian Homes Commis-
2 sion Act, 1920 (42 Stat. 108 et seq.), and in-
3 cluding any other lands deemed by the Terri-
4 tory or State of Hawaii, as the case may be, to
5 be included within that definition) that the
6 agency or department of the government of the
7 State of Hawaii that is responsible for the ad-
8 ministration of such lands selects to be used for
9 such energy production.

10 “(4) The Secretary shall consult with the Ad-
11 ministrator of the Energy Information Administra-
12 tion regarding the methodology used to arrive at its
13 estimates for purposes of this section.

14 “(5) The Secretary has the authority to expand
15 the energy development plan to include other energy
16 production technology sources or advancements in
17 energy on Federal lands.

18 “(6) The Secretary shall include in the Strategy
19 a plan for addressing new demands for transmission
20 lines and pipelines for distribution of oil and gas
21 across Federal lands to ensure that energy produced
22 can be distributed to areas of need.

23 “(b) TRIBAL OBJECTIVES.—It is the sense of Con-
24 gress that federally recognized Indian tribes may elect to
25 set their own production objectives as part of the Strategy

1 under this section. The Secretary shall work in coopera-
2 tion with any federally recognized Indian tribe that elects
3 to participate in achieving its own strategic energy objec-
4 tives designated under this subsection.

5 “(c) EXECUTION OF THE STRATEGY.—The relevant
6 Secretary shall have all necessary authority to make deter-
7 minations regarding which additional lands will be made
8 available in order to meet the production objectives estab-
9 lished by strategies under this section. The Secretary shall
10 also take all necessary actions to achieve these production
11 objectives unless the President determines that it is not
12 in the national security and economic interests of the
13 United States to increase Federal domestic energy produc-
14 tion and to further decrease dependence upon foreign
15 sources of energy. In administering this section, the rel-
16 evant Secretary shall only consider leasing Federal lands
17 available for leasing at the time the lease sale occurs.

18 “(d) STATE, FEDERALLY RECOGNIZED INDIAN
19 TRIBES, LOCAL GOVERNMENT, AND PUBLIC INPUT.—In
20 developing each strategy, the Secretary shall solicit the
21 input of affected States, federally recognized Indian tribes,
22 local governments, and the public.

23 “(e) REPORTING.—The Secretary shall report annu-
24 ally to the Committee on Natural Resources of the House
25 of Representatives and the Committee on Energy and

1 Natural Resources of the Senate on the progress of meet-
2 ing the production goals set forth in the strategy. The Sec-
3 retary shall identify in the report projections for produc-
4 tion and capacity installations and any problems with leas-
5 ing, permitting, siting, or production that will prevent
6 meeting the goal. In addition, the Secretary shall make
7 suggestions to help meet any shortfalls in meeting the pro-
8 duction goals.

9 “(f) PROGRAMMATIC ENVIRONMENTAL IMPACT
10 STATEMENT.—Not later than 12 months after the date
11 of enactment of this section, in accordance with section
12 102(2)(C) of the National Environmental Policy Act of
13 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall com-
14 plete a programmatic environmental impact statement.
15 This programmatic environmental impact statement will
16 be deemed sufficient to comply with all requirements
17 under that Act for all necessary resource management and
18 land use plans associated with the implementation of the
19 strategy.

20 “(g) CONGRESSIONAL REVIEW.—At least 60 days
21 prior to publishing a proposed strategy under this section,
22 the Secretary shall submit it to the President and the Con-
23 gress, together with any comments received from States,
24 federally recognized Indian tribes, and local governments.
25 Such submission shall indicate why any specific rec-

1 ommendation of a State, federally recognized Indian tribe,
2 or local government was not accepted.

3 “(h) STRATEGIC AND CRITICAL ENERGY MINERALS
4 DEFINED.—For purposes of this section, the term ‘stra-
5 tegic and critical energy minerals’ means those that are
6 necessary for the Nation’s energy infrastructure including
7 pipelines, refining capacity, electrical power generation
8 and transmission, and renewable energy production and
9 those that are necessary to support domestic manufac-
10 turing, including but not limited to, materials used in en-
11 ergy generation, production, and transportation.”.

12 (b) FIRST QUADRENNIAL STRATEGY.—Not later
13 than 18 months after the date of enactment of this Act,
14 the Secretary of the Interior shall submit to Congress the
15 first Quadrennial Federal Onshore Energy Production
16 Strategy under the amendment made by subsection (a).

17 **Subtitle C—National Petroleum**
18 **Reserve in Alaska Access**

19 **SEC. 961. SHORT TITLE.**

20 This subtitle may be cited as the “National Petro-
21 leum Reserve Alaska Access Act”.

22 **SEC. 962. SENSE OF CONGRESS AND REAFFIRMING NA-**
23 **TIONAL POLICY FOR THE NATIONAL PETRO-**
24 **LEUM RESERVE IN ALASKA.**

25 It is the sense of Congress that—

1 (1) the National Petroleum Reserve in Alaska
2 remains explicitly designated, both in name and legal
3 status, for purposes of providing oil and natural gas
4 resources to the United States; and

5 (2) accordingly, the national policy is to actively
6 advance oil and gas development within the Reserve
7 by facilitating the expeditious exploration, produc-
8 tion, and transportation of oil and natural gas from
9 and through the Reserve.

10 **SEC. 963. NATIONAL PETROLEUM RESERVE IN ALASKA:**

11 **LEASE SALES.**

12 Section 107(a) of the Naval Petroleum Reserves Pro-
13 duction Act of 1976 (42 U.S.C. 6506a(a)) is amended to
14 read as follows:

15 “(a) IN GENERAL.—The Secretary shall conduct an
16 expeditious program of competitive leasing of oil and gas
17 in the reserve in accordance with this Act. Such program
18 shall include at least one lease sale annually in those areas
19 of the reserve most likely to produce commercial quantities
20 of oil and natural gas each year in the period 2017
21 through 2027.”.

1 **SEC. 964. NATIONAL PETROLEUM RESERVE IN ALASKA:**
2 **PLANNING AND PERMITTING PIPELINE AND**
3 **ROAD CONSTRUCTION.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-
5 sion of law, the Secretary of the Interior, in consultation
6 with other appropriate Federal agencies, shall facilitate
7 and ensure permits, in a timely and environmentally re-
8 sponsible manner, for all surface development activities,
9 including for the construction of pipelines and roads, nec-
10 essary to—

11 (1) develop and bring into production any areas
12 within the National Petroleum Reserve in Alaska
13 that are subject to oil and gas leases; and

14 (2) transport oil and gas from and through the
15 National Petroleum Reserve in Alaska in the most
16 direct manner possible to existing transportation or
17 processing infrastructure on the North Slope of
18 Alaska.

19 (b) **TIMELINE.**—The Secretary shall ensure that any
20 Federal permitting agency shall issue permits in accord-
21 ance with the following timeline:

22 (1) Permits for such construction for transpor-
23 tation of oil and natural gas produced under existing
24 Federal oil and gas leases with respect to which the
25 Secretary has issued a permit to drill shall be ap-

1 proved within 60 days after the date of enactment
2 of this Act.

3 (2) Permits for such construction for transpor-
4 tation of oil and natural gas produced under Federal
5 oil and gas leases shall be approved within 6 months
6 after the submission to the Secretary of a request
7 for a permit to drill.

8 (c) PLAN.—To ensure timely future development of
9 the Reserve, within 270 days after the date of the enact-
10 ment of this Act, the Secretary of the Interior shall submit
11 to Congress a plan for approved rights-of-way for a plan
12 for pipeline, road, and any other surface infrastructure
13 that may be necessary infrastructure that will ensure that
14 all leasable tracts in the Reserve are within 25 miles of
15 an approved road and pipeline right-of-way that can serve
16 future development of the Reserve.

17 **SEC. 965. ISSUANCE OF A NEW INTEGRATED ACTIVITY**
18 **PLAN AND ENVIRONMENTAL IMPACT STATE-**
19 **MENT.**

20 (a) ISSUANCE OF NEW INTEGRATED ACTIVITY
21 PLAN.—The Secretary of the Interior shall, within 180
22 days after the date of enactment of this Act, issue—

23 (1) a new proposed integrated activity plan
24 from among the non-adopted alternatives in the Na-
25 tional Petroleum Reserve Alaska Integrated Activity

1 Plan Record of Decision issued by the Secretary of
2 the Interior and dated February 21, 2013; and

3 (2) an environmental impact statement under
4 section 102(2)(C) of the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4332(2)(C)) for
6 issuance of oil and gas leases in the National Petro-
7 leum Reserve-Alaska to promote efficient and max-
8 imum development of oil and natural gas resources
9 of such reserve.

10 (b) NULLIFICATION OF EXISTING RECORD OF DECI-
11 SION, IAP, AND EIS.—Except as provided in subsection
12 (a), the National Petroleum Reserve-Alaska Integrated
13 Activity Plan Record of Decision issued by the Secretary
14 of the Interior and dated February 21, 2013, including
15 the integrated activity plan and environmental impact
16 statement referred to in that record of decision, shall have
17 no force or effect.

18 **SEC. 966. DEPARTMENTAL ACCOUNTABILITY FOR DEVEL-**
19 **OPMENT.**

20 The Secretary of the Interior shall issue regulations
21 not later than 180 days after the date of enactment of
22 this Act that establish clear requirements to ensure that
23 the Department of the Interior is supporting development
24 of oil and gas leases in the National Petroleum Reserve-
25 Alaska.

1 **SEC. 967. DEADLINES UNDER NEW PROPOSED INTEGRATED**
2 **ACTIVITY PLAN.**

3 At a minimum, the new proposed integrated activity
4 plan issued under section 965(a)(1) shall—

5 (1) require the Department of the Interior to
6 respond within 5 business days to a person who sub-
7 mits an application for a permit for development of
8 oil and natural gas leases in the National Petroleum
9 Reserve-Alaska acknowledging receipt of such appli-
10 cation; and

11 (2) establish a timeline for the processing of
12 each such application, that—

13 (A) specifies deadlines for decisions and
14 actions on permit applications; and

15 (B) provides that the period for issuing
16 each permit after submission of such an appli-
17 cation shall not exceed 60 days without the con-
18 currence of the applicant.

19 **SEC. 968. UPDATED RESOURCE ASSESSMENT.**

20 (a) IN GENERAL.—The Secretary of the Interior shall
21 complete a comprehensive assessment of all technically re-
22 coverable fossil fuel resources within the National Petro-
23 leum Reserve in Alaska, including all conventional and un-
24 conventional oil and natural gas.

25 (b) COOPERATION AND CONSULTATION.—The re-
26 source assessment required by subsection (a) shall be car-

1 ried out by the United States Geological Survey in co-
2 operation and consultation with the State of Alaska and
3 the American Association of Petroleum Geologists.

4 (c) TIMING.—The resource assessment required by
5 subsection (a) shall be completed within 24 months of the
6 date of the enactment of this Act.

7 (d) FUNDING.—The United States Geological Survey
8 may, in carrying out the duties under this section, coop-
9 eratively use resources and funds provided by the State
10 of Alaska.

11 **Subtitle D—BLM Live Internet** 12 **Auctions**

13 **SEC. 971. SHORT TITLE.**

14 This subtitle may be cited as the “BLM Live Internet
15 Auctions Act”.

16 **SEC. 972. INTERNET-BASED ONSHORE OIL AND GAS LEASE** 17 **SALES.**

18 (a) AUTHORIZATION.—Section 17(b)(1) of the Min-
19 eral Leasing Act (30 U.S.C. 226(b)(1)) is amended—

20 (1) in subparagraph (A), in the third sentence,
21 by inserting “, except as provided in subparagraph
22 (C)” after “by oral bidding”; and

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

24 “(C) In order to diversify and expand the Nation’s
25 onshore leasing program to ensure the best return to the

1 Federal taxpayer, reduce fraud, and secure the leasing
2 process, the Secretary may conduct onshore lease sales
3 through Internet-based bidding methods. Each individual
4 Internet-based lease sale shall conclude within 7 days.”.

5 (b) REPORT.—Not later than 90 days after the tenth
6 Internet-based lease sale conducted under the amendment
7 made by subsection (a), the Secretary of the Interior shall
8 analyze the first 10 such lease sales and report to Con-
9 gress the findings of the analysis. The report shall in-
10 clude—

11 (1) estimates on increases or decreases in such
12 lease sales, compared to sales conducted by oral bid-
13 ding, in—

14 (A) the number of bidders;

15 (B) the average amount of bid;

16 (C) the highest amount bid; and

17 (D) the lowest bid;

18 (2) an estimate on the total cost or savings to
19 the Department of the Interior as a result of such
20 sales, compared to sales conducted by oral bidding;
21 and

22 (3) an evaluation of the demonstrated or ex-
23 pected effectiveness of different structures for lease
24 sales which may provide an opportunity to better
25 maximize bidder participation, ensure the highest re-

1 turn to the Federal taxpayers, minimize opportuni-
2 ties for fraud or collusion, and ensure the security
3 and integrity of the leasing process.

4 **Subtitle E—Native American**
5 **Energy**

6 **SEC. 981. SHORT TITLE.**

7 This subtitle may be cited as the “Native American
8 Energy Act”.

9 **SEC. 982. APPRAISALS.**

10 (a) AMENDMENT.—Title XXVI of the Energy Policy
11 Act of 1992 (25 U.S.C. 3501 et seq.) is amended by add-
12 ing at the end the following:

13 **“SEC. 2607. APPRAISAL REFORMS.**

14 “(a) OPTIONS TO INDIAN TRIBES.—With respect to
15 a transaction involving Indian land or the trust assets of
16 an Indian tribe that requires the approval of the Sec-
17 retary, any appraisal relating to fair market value required
18 to be conducted under applicable law, regulation, or policy
19 may be completed by—

20 “(1) the Secretary;

21 “(2) the affected Indian tribe; or

22 “(3) a certified, third-party appraiser pursuant
23 to a contract with the Indian tribe.

24 “(b) TIME LIMIT ON SECRETARIAL REVIEW AND AC-
25 TION.—Not later than 30 days after the date on which

1 the Secretary receives an appraisal conducted by or for
2 an Indian tribe pursuant to paragraph (2) or (3) of sub-
3 section (a), the Secretary shall—

4 “(1) review the appraisal; and

5 “(2) provide to the Indian tribe a written notice
6 of approval or disapproval of the appraisal.

7 “(c) FAILURE OF SECRETARY TO APPROVE OR DIS-
8 APPROVE.—If, after 60 days, the Secretary has failed to
9 approve or disapprove any appraisal received, the ap-
10 praisal shall be deemed approved.

11 “(d) OPTION TO INDIAN TRIBES TO WAIVE AP-
12 PRAISAL.—

13 “(1) An Indian tribe wishing to waive the re-
14 quirements of subsection (a), may do so after it has
15 satisfied the requirements of subsections (2) and (3)
16 below.

17 “(2) An Indian tribe wishing to forego the ne-
18 cessity of a waiver pursuant to this section must
19 provide to the Secretary a written resolution, state-
20 ment, or other unambiguous indication of tribal in-
21 tent, duly approved by the governing body of the In-
22 dian tribe.

23 “(3) The unambiguous indication of intent pro-
24 vided by the Indian tribe to the Secretary under
25 paragraph (2) must include an express waiver by the

1 Indian tribe of any claims for damages it might have
2 against the United States as a result of the lack of
3 an appraisal undertaken.

4 “(e) DEFINITION.—For purposes of this subsection,
5 the term ‘appraisal’ includes appraisals and other esti-
6 mates of value.

7 “(f) REGULATIONS.—The Secretary shall develop
8 regulations for implementing this section, including stand-
9 ards the Secretary shall use for approving or disapproving
10 an appraisal.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
12 tents of the Energy Policy Act of 1992 (42 U.S.C. 13201
13 note) is amended by adding at the end of the items relat-
14 ing to title XXVI the following:

“Sec. 2607. Appraisal reforms.”.

15 **SEC. 983. STANDARDIZATION.**

16 As soon as practicable after the date of the enactment
17 of this Act, the Secretary of the Interior shall implement
18 procedures to ensure that each agency within the Depart-
19 ment of the Interior that is involved in the review, ap-
20 proval, and oversight of oil and gas activities on Indian
21 lands shall use a uniform system of reference numbers and
22 tracking systems for oil and gas wells.

1 **SEC. 984. ENVIRONMENTAL REVIEWS OF MAJOR FEDERAL**
2 **ACTIONS ON INDIAN LANDS.**

3 Section 102 of the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4332) is amended by inserting
5 “(a) IN GENERAL.—” before the first sentence, and by
6 adding at the end the following:

7 “(b) REVIEW OF MAJOR FEDERAL ACTIONS ON IN-
8 DIAN LANDS.—

9 “(1) IN GENERAL.—For any major Federal ac-
10 tion on Indian lands of an Indian tribe requiring the
11 preparation of a statement under subsection
12 (a)(2)(C), the statement shall only be available for
13 review and comment by the members of the Indian
14 tribe and by any other individual residing within the
15 affected area.

16 “(2) REGULATIONS.—The Chairman of the
17 Council on Environmental Quality shall develop reg-
18 ulations to implement this section, including descrip-
19 tions of affected areas for specific major Federal ac-
20 tions, in consultation with Indian tribes.

21 “(3) DEFINITIONS.—In this subsection, each of
22 the terms ‘Indian land’ and ‘Indian tribe’ has the
23 meaning given that term in section 2601 of the En-
24 ergy Policy Act of 1992 (25 U.S.C. 3501).

25 “(4) CLARIFICATION OF AUTHORITY.—Nothing
26 in the Native American Energy Act, except section

1 25006 of that Act, shall give the Secretary any addi-
2 tional authority over energy projects on Alaska Na-
3 tive Claims Settlement Act lands.”.

4 **SEC. 985. JUDICIAL REVIEW.**

5 (a) **TIME FOR FILING COMPLAINT.**—Any energy re-
6 lated action must be filed not later than the end of the
7 60-day period beginning on the date of the final agency
8 action. Any energy related action not filed within this time
9 period shall be barred.

10 (b) **DISTRICT COURT VENUE AND DEADLINE.**—All
11 energy related actions—

12 (1) shall be brought in the United States Dis-
13 trict Court for the District of Columbia; and

14 (2) shall be resolved as expeditiously as pos-
15 sible, and in any event not more than 180 days after
16 such cause of action is filed.

17 (c) **APPELLATE REVIEW.**—An interlocutory order or
18 final judgment, decree or order of the district court in an
19 energy related action may be reviewed by the U.S. Court
20 of Appeals for the District of Columbia Circuit. The D.C.
21 Circuit Court of Appeals shall resolve such appeal as expe-
22 ditiously as possible, and in any event not more than 180
23 days after such interlocutory order or final judgment, de-
24 cree or order of the district court was issued.

1 (d) LIMITATION ON CERTAIN PAYMENTS.—Notwith-
2 standing section 1304 of title 31, United States Code, no
3 award may be made under section 504 of title 5, United
4 States Code, or under section 2412 of title 28, United
5 States Code, and no amounts may be obligated or ex-
6 pended from the Claims and Judgment Fund of the
7 United States Treasury to pay any fees or other expenses
8 under such sections, to any person or party in an energy
9 related action.

10 (e) LEGAL FEES.—In any energy related action in
11 which the plaintiff does not ultimately prevail, the court
12 shall award to the defendant (including any intervenor-
13 defendants), other than the United States, fees and other
14 expenses incurred by that party in connection with the en-
15 ergy related action, unless the court finds that the position
16 of the plaintiff was substantially justified or that special
17 circumstances make an award unjust. Whether or not the
18 position of the plaintiff was substantially justified shall be
19 determined on the basis of the administrative record, as
20 a whole, which is made in the energy related action for
21 which fees and other expenses are sought.

22 (f) DEFINITIONS.—For the purposes of this section,
23 the following definitions apply:

1 (1) AGENCY ACTION.—The term “agency ac-
2 tion” has the same meaning given such term in sec-
3 tion 551 of title 5, United States Code.

4 (2) INDIAN LAND.—The term “Indian Land”
5 has the same meaning given such term in section
6 203(c)(3) of the Energy Policy Act of 2005 (Public
7 Law 109–58; 25 U.S.C. 3501), including lands
8 owned by Native Corporations under the Alaska Na-
9 tive Claims Settlement Act (Public Law 92–203; 43
10 U.S.C. 1601).

11 (3) ENERGY RELATED ACTION.—The term “en-
12 ergy related action” means a cause of action that—

13 (A) is filed on or after the effective date of
14 this Act; and

15 (B) seeks judicial review of a final agency
16 action to issue a permit, license, or other form
17 of agency permission allowing:

18 (i) any person or entity to conduct ac-
19 tivities on Indian Land, which activities in-
20 volve the exploration, development, produc-
21 tion or transportation of oil, gas, coal,
22 shale gas, oil shale, geothermal resources,
23 wind or solar resources, underground coal
24 gasification, biomass, or the generation of
25 electricity; or

1 (ii) any Indian tribe, or any organiza-
2 tion of two or more entities, at least one
3 of which is an Indian tribe, to conduct ac-
4 tivities involving the exploration, develop-
5 ment, production or transportation of oil,
6 gas, coal, shale gas, oil shale, geothermal
7 resources, wind or solar resources, under-
8 ground coal gasification, biomass, or the
9 generation of electricity, regardless of
10 where such activities are undertaken.

11 (4) **ULTIMATELY PREVAIL.**—The phrase “ulti-
12 mately prevail” means, in a final enforceable judg-
13 ment, the court rules in the party’s favor on at least
14 one cause of action which is an underlying rationale
15 for the preliminary injunction, administrative stay,
16 or other relief requested by the party, and does not
17 include circumstances where the final agency action
18 is modified or amended by the issuing agency unless
19 such modification or amendment is required pursu-
20 ant to a final enforceable judgment of the court or
21 a court-ordered consent decree.

22 **SEC. 986. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

23 The Tribal Forest Protection Act of 2004 is amended
24 by inserting after section 2 (25 U.S.C. 3115a) the fol-
25 lowing:

1 **“SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

2 “(a) IN GENERAL.—For each of fiscal years 2017
3 through 2021, the Secretary shall enter into stewardship
4 contracts or other agreements, other than agreements that
5 are exclusively direct service contracts, with Indian tribes
6 to carry out demonstration projects to promote biomass
7 energy production (including biofuel, heat, and electricity
8 generation) on Indian forest land and in nearby commu-
9 nities by providing reliable supplies of woody biomass from
10 Federal land.

11 “(b) DEFINITIONS.—The definitions in section 2
12 shall apply to this section.

13 “(c) DEMONSTRATION PROJECTS.—In each fiscal
14 year for which projects are authorized, the Secretary shall
15 enter into contracts or other agreements described in sub-
16 section (a) to carry out at least 4 new demonstration
17 projects that meet the eligibility criteria described in sub-
18 section (d).

19 “(d) ELIGIBILITY CRITERIA.—To be eligible to enter
20 into a contract or other agreement under this subsection,
21 an Indian tribe shall submit to the Secretary an applica-
22 tion—

23 “(1) containing such information as the Sec-
24 retary may require; and

25 “(2) that includes a description of—

1 “(A) the Indian forest land or rangeland
2 under the jurisdiction of the Indian tribe; and

3 “(B) the demonstration project proposed
4 to be carried out by the Indian tribe.

5 “(e) SELECTION.—In evaluating the applications
6 submitted under subsection (c), the Secretary—

7 “(1) shall take into consideration the factors set
8 forth in paragraphs (1) and (2) of section 2(e) of
9 Public Law 108–278; and whether a proposed dem-
10 onstration project would—

11 “(A) increase the availability or reliability
12 of local or regional energy;

13 “(B) enhance the economic development of
14 the Indian tribe;

15 “(C) improve the connection of electric
16 power transmission facilities serving the Indian
17 tribe with other electric transmission facilities;

18 “(D) improve the forest health or water-
19 sheds of Federal land or Indian forest land or
20 rangeland; or

21 “(E) otherwise promote the use of woody
22 biomass; and

23 “(2) shall exclude from consideration any mer-
24 chantable logs that have been identified by the Sec-
25 retary for commercial sale.

1 “(f) IMPLEMENTATION.—The Secretary shall—

2 “(1) ensure that the criteria described in sub-
3 section (c) are publicly available by not later than
4 120 days after the date of enactment of this section;
5 and

6 “(2) to the maximum extent practicable, consult
7 with Indian tribes and appropriate intertribal orga-
8 nizations likely to be affected in developing the ap-
9 plication and otherwise carrying out this section.

10 “(g) REPORT.—Not later than September 20, 2015,
11 the Secretary shall submit to Congress a report that de-
12 scribes, with respect to the reporting period—

13 “(1) each individual tribal application received
14 under this section; and

15 “(2) each contract and agreement entered into
16 pursuant to this section.

17 “(h) INCORPORATION OF MANAGEMENT PLANS.—In
18 carrying out a contract or agreement under this section,
19 on receipt of a request from an Indian tribe, the Secretary
20 shall incorporate into the contract or agreement, to the
21 extent practicable, management plans (including forest
22 management and integrated resource management plans)
23 in effect on the Indian forest land or rangeland of the re-
24 spective Indian tribe.

1 “(i) TERM.—A stewardship contract or other agree-
2 ment entered into under this section—

3 “(1) shall be for a term of not more than 20
4 years; and

5 “(2) may be renewed in accordance with this
6 section for not more than an additional 10 years.”.

7 **SEC. 987. TRIBAL RESOURCE MANAGEMENT PLANS.**

8 Unless otherwise explicitly exempted by Federal law
9 enacted after the date of the enactment of this Act, any
10 activity conducted or resources harvested or produced pur-
11 suant to a tribal resource management plan or an inte-
12 grated resource management plan approved by the Sec-
13 retary of the Interior under the National Indian Forest
14 Resources Management Act (25 U.S.C. 3101 et seq.) or
15 the American Indian Agricultural Resource Management
16 Act (25 U.S.C. 3701 et seq.), shall be considered a sus-
17 tainable management practice for purposes of any Federal
18 standard, benefit, or requirement that requires a dem-
19 onstration of such sustainability.

20 **SEC. 988. LEASES OF RESTRICTED LANDS FOR THE NAVAJO**
21 **NATION.**

22 Subsection (e)(1) of the first section of the Act of
23 August 9, 1955 (25 U.S.C. 415(e)(1); commonly referred
24 to as the “Long-Term Leasing Act”), is amended—

1 (1) by striking “, except a lease for” and insert-
2 ing “, including leases for”;

3 (2) in subparagraph (A), by striking “25” the
4 first place it appears and all that follows and insert-
5 ing “99 years;”;

6 (3) in subparagraph (B), by striking the period
7 and inserting “; and”; and

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

9 “(C) in the case of a lease for the exploration,
10 development, or extraction of mineral resources, in-
11 cluding geothermal resources, 25 years, except that
12 any such lease may include an option to renew for
13 one additional term not to exceed 25 years.”.

14 **SEC. 989. NONAPPLICABILITY OF CERTAIN RULES.**

15 No rule promulgated by the Department of the Inte-
16 rior regarding hydraulic fracturing used in the develop-
17 ment or production of oil or gas resources shall have any
18 effect on any land held in trust or restricted status for
19 the benefit of Indians except with the express consent of
20 the beneficiary on whose behalf such land is held in trust
21 or restricted status.

1 **Subtitle F—State Authority for**
2 **Hydraulic Fracturing Regulation**

3 **SEC. 991. SHORT TITLE.**

4 This subtitle may be cited as the “Protecting States’
5 Rights to Promote American Energy Security Act”.

6 **SEC. 992. STATE AUTHORITY FOR HYDRAULIC FRACTURING**
7 **REGULATION.**

8 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
9 amended by redesignating section 44 as section 45, and
10 by inserting after section 43 the following:

11 **“SEC. 44. STATE AUTHORITY FOR HYDRAULIC FRACTURING**
12 **REGULATION.**

13 “(a) IN GENERAL.—The Department of the Interior
14 shall not enforce any Federal regulation, guidance, or per-
15 mit requirement regarding hydraulic fracturing, or any
16 component of that process, relating to oil, gas, or geo-
17 thermal production activities on or under any land in any
18 State that has regulations, guidance, or permit require-
19 ments for that activity.

20 “(b) STATE AUTHORITY.—The Department of the
21 Interior shall recognize and defer to State regulations,
22 permitting, and guidance, for all activities related to hy-
23 draulic fracturing, or any component of that process, re-
24 lating to oil, gas, or geothermal production activities on
25 Federal land.

1 “(c) TRANSPARENCY OF STATE REGULATIONS.—

2 “(1) IN GENERAL.—Each State shall submit to
3 the Bureau of Land Management a copy of its regu-
4 lations that apply to hydraulic fracturing operations
5 on Federal land.

6 “(2) AVAILABILITY.—The Secretary of the In-
7 terior shall make available to the public State regu-
8 lations submitted under this subsection.

9 “(d) TRANSPARENCY OF STATE DISCLOSURE RE-
10 QUIREMENTS.—

11 “(1) IN GENERAL.—Each State shall submit to
12 the Bureau of Land Management a copy of any reg-
13 ulations of the State that require disclosure of
14 chemicals used in hydraulic fracturing operations on
15 Federal land.

16 “(2) AVAILABILITY.—The Secretary of the In-
17 terior shall make available to the public State regu-
18 lations submitted under this subsection.

19 “(e) HYDRAULIC FRACTURING DEFINED.—In this
20 section the term ‘hydraulic fracturing’ means the process
21 by which fracturing fluids (or a fracturing fluid system)
22 are pumped into an underground geologic formation at a
23 calculated, predetermined rate and pressure to generate
24 fractures or cracks in the target formation and thereby

1 increase the permeability of the rock near the wellbore and
2 improve production of natural gas or oil.”.

3 **SEC. 993. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

4 (a) STUDY.—The Comptroller General of the United
5 States shall conduct a study examining the economic bene-
6 fits of domestic shale oil and gas production resulting from
7 the process of hydraulic fracturing. This study will include
8 identification of—

9 (1) State and Federal revenue generated as a
10 result of shale gas production;

11 (2) jobs created both directly and indirectly as
12 a result of shale oil and gas production; and

13 (3) an estimate of potential energy prices with-
14 out domestic shale oil and gas production.

15 (b) REPORT.—The Comptroller General shall submit
16 a report on the findings of such study to the Committee
17 on Natural Resources of the House of Representatives
18 within 30 days after completion of the study.

19 **SEC. 994. TRIBAL AUTHORITY ON TRUST LAND.**

20 The Department of the Interior shall not enforce any
21 Federal regulation, guidance, or permit requirement re-
22 garding the process of hydraulic fracturing (as that term
23 is defined in section 44 of the Mineral Leasing Act, as
24 amended by section 102 of this Act), or any component
25 of that process, relating to oil, gas, or geothermal produc-

1 tion activities on any land held in trust or restricted status
2 for the benefit of Indians except with the express consent
3 of the beneficiary on whose behalf such land is held in
4 trust or restricted status.

5 **TITLE X—PROMOTING STEM**
6 **EDUCATION IN THE WORK-**
7 **FORCE**

8 **SEC. 1001. FINDINGS; SENSE OF CONGRESS.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) According to the National Science Board’s
11 Science and Engineering Indicators, the science and
12 engineering workforce has shown sustained growth
13 for more than half a century, and workers with
14 science and engineering degrees tend to earn more
15 than comparable workers in other fields.

16 (2) According to the Program for International
17 Student Assessment 2012 results, America lags be-
18 hind many other nations in STEM education. Amer-
19 ican students rank 21st in science and 26th in
20 mathematics.

21 (3) Junior Achievement USA and ING found a
22 decrease of 25 percent in the percentage of teenage
23 students interested in STEM careers.

24 (4) According to a 2007 report from the De-
25 partment of Labor, industries and firms dependent

1 on a strong science and mathematics workforce have
2 launched a variety of programs that target K–12
3 students and undergraduate and graduate students
4 in STEM fields.

5 (5) The Federal Government spends nearly \$3
6 billion annually on STEM education related program
7 and activities, but encouraging STEM education ac-
8 tivities beyond the scope of the Federal Government,
9 including privately sponsored competitions and pro-
10 grams in our schools, is crucial to the future tech-
11 nical and economic competitiveness of the United
12 States.

13 (b) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 (1) more effective coordination and adoption of
16 performance measurement based on objective out-
17 comes for federally supported STEM programs is
18 needed;

19 (2) leveraging private and nonprofit invest-
20 ments in STEM education will be essential to
21 strengthening the Federal STEM portfolio;

22 (3) strengthening the Federal STEM portfolio
23 may require program consolidations and termi-
24 nations, but such changes should be based on evi-
25 dence with stakeholder input;

1 (4) coordinating STEM programs and activities
2 across the Federal Government in order to limit du-
3 plication and engage stakeholders in STEM pro-
4 grams and related activities for which objective out-
5 comes can be measured will bolster results of Fed-
6 eral STEM education programs, improve the return
7 on taxpayers' investments in STEM education pro-
8 grams, and in turn strengthen the United States
9 economy; and

10 (5) as the Committee on STEM Education im-
11 plements the 5-year Strategic Plan for Federal
12 STEM education required under section 101(b)(5)
13 of the America COMPETES Reauthorization Act of
14 2010 (42 U.S.C. 6621(b)(5)), STEM education
15 stakeholders must be engaged and outcome-based
16 evaluation metrics should be considered in the co-
17 ordination and consolidation efforts for the Federal
18 STEM portfolio.

19 **SEC. 1002. STEM EDUCATION ADVISORY PANEL.**

20 (a) ESTABLISHMENT.—The President shall establish
21 or designate a STEM Education Advisory Panel that in-
22 corporates key stakeholders from the education and indus-
23 try sectors. The co-chairs shall be members of the Presi-
24 dent's Council of Advisors on Science and Technology.

1 (b) QUALIFICATIONS.—The Advisory Panel estab-
2 lished or designated by the President under subsection (a)
3 shall consist primarily of members from academic institu-
4 tions, nonprofit organizations, and industry and shall in-
5 clude in-school, out-of-school, and informal educational
6 practitioners. Members of the Advisory Panel shall be
7 qualified to provide advice and information on STEM edu-
8 cation research, development, training, implementation,
9 interventions, professional development, or workforce
10 needs or concerns. In selecting or designating an Advisory
11 Panel, the President may also seek and give consideration
12 to recommendations from the Congress, industry, the sci-
13 entific community (including the National Academy of
14 Sciences, scientific professional societies, and academia),
15 State and local governments, and other appropriate orga-
16 nizations. The Advisory Panel shall consist of 15 mem-
17 bers, with 3 members appointed by the Speaker of the
18 House of Representatives and 2 members appointed by the
19 Majority Leader of the Senate.

20 (c) DUTIES.—The Advisory Panel shall advise the
21 President, the Committee on STEM Education, and the
22 STEM Education Coordinating Office established under
23 section 1004 on matters relating to STEM education, and
24 shall each year provide general guidance to every Federal
25 agency with STEM education programs or activities, in-

1 cluding in the preparation of requests for appropriations
2 for activities related to STEM education. The Advisory
3 Panel shall also assess and develop recommendations
4 for—

5 (1) progress made in implementing the STEM
6 education Strategic Plan required under section 101
7 of the America COMPETES Reauthorization Act of
8 2010 (42 U.S.C. 6621), and any needs or opportuni-
9 ties to update the strategic plan;

10 (2) the management, coordination, and imple-
11 mentation of STEM education programs and activi-
12 ties across the Federal Government;

13 (3) the appropriateness of criteria used by Fed-
14 eral agencies to evaluate the effectiveness of Federal
15 STEM education programs and activities;

16 (4) ways to leverage private and nonprofit
17 STEM investments and encourage public-private
18 partnerships to strengthen STEM education and
19 help build the STEM workforce pipeline;

20 (5) ways to incorporate workforce needs into
21 Federal STEM education programs, particularly for
22 specific fields of national interest and areas experi-
23 encing high unemployment rates;

24 (6) ways to better vertically and horizontally in-
25 tegrate Federal STEM programs and activities from

1 pre-K through graduate study and the workforce,
2 and from in-school to out-of-school in order to im-
3 prove transitions for students moving through the
4 STEM pipeline;

5 (7) whether societal and workforce concerns are
6 adequately addressed by current Federal STEM
7 education programs and activities;

8 (8) the extent to which Federal STEM edu-
9 cation programs and activities are contributing to
10 recruitment and retention of women and underrep-
11 resented students in the STEM education and work-
12 force pipeline; and

13 (9) ways to encourage geographic diversity in
14 STEM education and the workforce pipeline.

15 (d) REPORTS.—The Advisory Panel shall report, not
16 less frequently than once every 3 fiscal years, to the Presi-
17 dent and Congress on its assessments under subsection
18 (c) and its recommendations for ways to improve Federal
19 STEM education programs. The first report under this
20 subsection shall be submitted within 1 year after the date
21 of enactment of this Act.

22 (e) TRAVEL EXPENSES OF NON-FEDERAL MEM-
23 BERS.—Non-Federal members of the Advisory Panel,
24 while attending meetings of the Advisory Panel or while
25 otherwise serving at the request of the head of the Advi-

1 sory Panel away from their homes or regular places of
2 business, may be allowed travel expenses, including per
3 diem in lieu of subsistence, as authorized by section 5703
4 of title 5, United States Code, for individuals in the Gov-
5 ernment serving without pay. Nothing in this subsection
6 shall be construed to prohibit members of the Advisory
7 Panel who are officers or employees of the United States
8 from being allowed travel expenses, including per diem in
9 lieu of subsistence, in accordance with existing law.

10 **SEC. 1003. COMMITTEE ON STEM EDUCATION.**

11 Section 101 of the America COMPETES Reauthor-
12 ization Act of 2010 (42 U.S.C. 6621) is amended—

13 (1) in the first subsection (b)—

14 (A) by redesignating paragraphs (3)
15 through (6) as paragraphs (5) through (8), re-
16 spectively;

17 (B) by inserting after paragraph (2) the
18 following new paragraphs:

19 “(3) collaborate with the STEM Education Ad-
20 visory Panel established under section 1002 of the
21 Reducing Employer Burdens, Unleashing Innova-
22 tion, and Labor Development Act of 2015 and other
23 outside stakeholders to ensure the engagement of
24 the STEM education community;

1 “(4) review evaluation measures used for Fed-
2 eral STEM education programs;” and

3 (C) in paragraph (8), as so redesignated
4 by subparagraph (A) of this paragraph, by
5 striking “, periodically update,”; and

6 (2) in the second subsection (b) and in sub-
7 section (c), by striking “subsection (b)(5)” and in-
8 serting “subsection (b)(7)”.

9 **SEC. 1004. STEM EDUCATION COORDINATING OFFICE.**

10 (a) **ESTABLISHMENT.**—The Director of the National
11 Science Foundation shall establish within the Directorate
12 for Education and Human Resources a STEM Education
13 Coordinating Office, which shall have a Director and staff
14 that shall include career employees detailed from Federal
15 agencies that fund STEM education programs and activi-
16 ties.

17 (b) **RESPONSIBILITIES.**—The STEM Education Co-
18 ordinating Office shall—

19 (1) provide technical and administrative support
20 to—

21 (A) the Committee on STEM Education,
22 especially in its coordination of Federal STEM
23 programs and strategic planning responsibil-
24 ities;

1 (B) the Advisory Panel established under
2 section 1002; and

3 (C) Federal agencies with STEM edu-
4 cation programs;

5 (2) periodically update and maintain the inven-
6 tory of federally sponsored STEM education pro-
7 grams and activities established under section
8 101(b)(8) of the America COMPETES Reauthoriza-
9 tion Act of 2010 (42 U.S.C. 6621); and

10 (3) provide for dissemination of information on
11 Federal STEM education programs and activities, as
12 appropriate, to stakeholders in academia, industry,
13 nonprofit organizations with expertise in STEM edu-
14 cation, State and local educational agencies, and
15 other STEM stakeholders.

16 (c) REPORT.—The Director of the STEM Education
17 Coordinating Office shall transmit a report annually to
18 Congress not later than 60 days after the submission of
19 the President’s budget request. The annual report shall
20 include—

21 (1) any updates to the inventory required under
22 subsection (b)(2);

23 (2) a description of all consolidations and ter-
24 minations of Federal STEM education programs im-
25 plemented in the previous fiscal year, including an

1 explanation of the reasons for consolidations and
2 terminations;

3 (3) recommendations for consolidations and ter-
4 minations of STEM education programs or activities
5 in the upcoming fiscal year;

6 (4) a description of any significant new STEM
7 education public-private partnerships; and

8 (5) a description of the progress made in car-
9 rying out the strategic plan required under section
10 101 of the America COMPETES Reauthorization
11 Act of 2010 (42 U.S.C. 6621), including a descrip-
12 tion of the outcome of any program assessments
13 completed in the previous year.

14 (d) RESPONSIBILITIES OF NSF.—The Director of
15 the National Science Foundation shall encourage and
16 monitor the efforts of the STEM Education Coordinating
17 Office to ensure that the Coordinating Office is carrying
18 out its responsibilities under subsection (b) appropriately.

19 **SEC. 1005. DEFINITIONS.**

20 In this title—

21 (1) the term “STEM” means the subjects of
22 science, technology, engineering, and mathematics;

23 (2) the term “STEM education” means edu-
24 cation in the subjects of STEM, including computer
25 science; and

1 (3) the term “Committee on STEM Education”
2 means the Committee on Science, Technology, Engi-
3 neering, and Mathematics Education established
4 under section 101 of the America COMPETES Re-
5 authorization Act of 2010 (42 U.S.C. 6621).

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