

ENERGY POLICY ACT OF 2005

Title I: Energy Efficiency

- Establishes requirements for energy and water savings in Congressional Buildings.
- Requires annual reduction in the consumption of energy by federal buildings.
- Strengthens requirements that federal managers procure energy efficient products.
- Extends the Energy Savings Performance Contracts program.
- Encourages business and industry to enter into voluntary programs with the Department of Energy to reduce energy consumption by not less than 2.5% annually.
- Establishes energy efficiency standards for federal buildings.
- Authorizes \$1.23 billion for three years for weatherization assistance.
- Encourages States to periodically revise and upgrade their energy conservation plans.
- Authorizes the expenditure of up to \$250 million over five years to provide rebates to consumers purchasing energy efficient appliances.
- Creates a grant program to help States and Local governments encourage the construction of energy efficient public buildings.
- Establishes a model building energy code compliance program.
- Establishes educational programs to heighten consumer awareness of the benefits of energy efficiency and energy conservation.
- Establishes energy conservation standards for a number of products including commercial refrigerators, freezers, and refrigerator-freezers, battery chargers, distribution transformers, commercial clothes washers, dehumidifiers, commercial ice makers and commercial package air conditioning and heating equipment.
- Encourages electric and natural gas utilities to reduce energy consumption
- Extends Daylight Saving Time by four weeks – three weeks in the spring and one week in November -- to reduce energy consumption by the equivalent of 100,000 barrels of oil for each day of the extension. The new times go into effect one year after the bill is enacted. Congress also directed DOE to conduct a study of possible energy savings. If the study does not report adequate savings, Congress has the option to return to the original Daylight Savings Time schedule. Studies indicate that the proposal to adopt Daylight Savings Time from the second Sunday in March to the first Sunday in November will

also lower crime and traffic fatalities and allow for more recreation time and increased economic activity.

Title II: Renewable Energy

- Provides for an ongoing assessment of renewable energy resources.
- Extends existing authority for incentive programs for production of renewable electricity by nonprofit electric utilities.
- Requires the Federal government to purchase a set amount of electric energy from renewable resources.
- Requires an update of energy plans for insular areas.
- The use of biomass from Federal or Indian lands is encouraged by the creation of two grant programs to produce electric energy or heat from biomass and to improve biomass utilization technology.
- The program encourages removal of hazardous fuels from the highest risk areas on Federal and Indian lands and development of new technologies to use biomass.
- Updates the Geothermal Steam Act by amending the leasing provisions to provide for a competitive leasing system.
- Also directs other actions that will facilitate new development of geothermal resources.
- Reforms the hydropower licensing process of the Federal Power Act.
- Allows a 2-MW hydropower project in Montana to go forward.
- Amends the State of Alaska's authority over its small hydropower projects.
- Sets a 7.5-billion gallon renewable fuels standard by 2012 and exempts California from this standard during the summer months.
- Addresses the need for protection and improvement of electric power transmission and distribution lines in the insular areas.
- Authorizes projects in the insular areas, on a cost-share basis with local utilities, to reduce dependence on fossil fuels used in the generation of electricity.
- Provides incentives for the increased production of hydropower.
- Provides incentives for hydroelectric efficiency improvements.
- Revives a DOE program to develop small hydropower projects.

Title III: Oil and Gas

- Provides permanent authority to operate the Strategic Petroleum Reserve and other energy programs. Authorizes the Secretary of Energy to fill the SPR to a one billion barrel capacity and provides guidance to the Secretary in choosing appropriate sites to enable the SPR to be filled to this capacity.
- Permanently authorizes the Northeast Home Heating Oil Reserve (NHOR). Established in 2000, the NHOR holds two million barrels of emergency fuel stocks stored at commercial tank farms. Two million barrels would give Northeast consumers adequate supplies for approximately 10 days, the time required for ships to carry heating oil from the Gulf of Mexico to New York Harbor.
- Authorizes the federal government to continue to receive physical quantities of oil and gas royalty-in-kind payments provided the Secretary determines that receiving royalties in-kind provides benefits to the United States greater than or equal to those that it would have received in-value.
- Marginal property production incentives: Requires the Secretary Requires the Secretary of the Interior to issue regulations defining offshore marginal wells and to provide relief. If the Secretary finds this to be impracticable, the Secretary shall report to Congress within 18 months explaining why such a finding was made.
- Provides incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico. There is a trigger based on the market price of natural gas determined at the Secretary's discretion which limits the granting of relief.
- Authorizes that the suspension of royalties for leases in water depths greater than 400 meters in the Planning Areas outlined in section (a) shall be established at volumes and in distances enumerated in subsection (b). This section authorizes that Secretary to have discretion based upon market price in placing limitations upon royalty relief granted.
- Provides Alaska offshore royalty suspension at the Secretary's discretion in order to promote increased production and encourage production of marginal resources, reduce or eliminate any royalty or net profit share set forth in a lease.
- Amends the leasing provisions for the National Petroleum Reserve-Alaska to provide additional time for bringing oil and gas into production in a manner the protects the harsh but fragile arctic environment. Provides new authority for developing oil and gas facilities as efficient units to minimize surface impacts.
- Establishes a long term effort to improve coordination and collection of scientific information needed by industry and regulatory agencies for developing and conserving public resources on the North Slope of Alaska by directing the Secretary of the Interior to work in cooperation with the State of Alaska, North Slope Borough, Arctic Slope Regional Corporation and other federal agencies.
- Provides a five-year, \$20,000,000 annual authorization to the Secretary of the Interior to develop a program to remediate, reclaim, and close, orphaned, abandoned, or idled wells

on Federal land. Includes a pilot project to permit a new oil and gas lessee to reclaim and close old abandoned sites and be reimbursed through royalty credits.

- Amends the Naval Petroleum Reserve Production Act by transferring leasing provisions for the National Petroleum Reserve-Alaska from the Interior and Related Agencies Appropriations Act of 1981 to the Naval Petroleum Reserve Production Act.
- Directs the Secretary of the Interior in cooperation with the State of Alaska, North Slope Borough, Arctic Slope Regional Corporation and other federal agencies, to establish a long term effort to improve coordination and collection of scientific information needed by regulatory and land management agencies in managing public resources on the North Slope of Alaska.
- Provides a five-year, \$20,000,000 annual authorization to the Secretary of the Interior to develop a program to remediate, reclaim, and close, orphaned, abandoned, or idled wells on Federal land.
- Combined hydrocarbon leasing – This section amends the Mineral Leasing Act to authorize the Secretary of the Interior to issue separately, for the same area, a lease for tar sand and a lease for oil and gas. It also requires a lease for tar sand to be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas.
- Alternate energy-related uses on the outer Continental Shelf: This section seeks to protect the economic and land use interests of the United States through the management and oversight of alternate energy-related projects on the Outer Continental Shelf. This section establishes Department of the Interior management and oversight and provides for interagency coordination in the siting and permitting of alternate-energy activities. This section does not override any existing authority, but seeks to fill in a gap in the law with respect to alternate energy projects. This section also provides for a 27% sharing of any royalties, bonuses, and rentals for these projects in distances of three miles seaward of state waters.
- Preservation of geological and geophysical data: This section directs the Secretary of the Interior to develop a data preservation program, working in cooperation with the States to archive geological, geophysical, and engineering data and samples related to oil and gas development.
- Oil and gas lease acreage limitations: Amends the Mineral Leasing Act provision relating to the limitation on the amount of acreage that can be held by a person under lease in any one state.
- Requires the Secretary of the Interior to arrange for the National Academy of Public Administration to perform a review of Federal onshore oil and gas leasing practices and report to Congress within 18 months.
- Directs the Secretaries of the Interior and Agriculture to improve administration of Federal oil and gas leasing programs including the improvement of inspection and enforcement of oil and gas activities. It also requires the development and implementation of best management practices.

- Requires the Secretaries of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to improve coordination and consultation on oil and gas leasing activities.
- Creates a pilot project to improve Federal permit coordination in six western BLM offices. This section requires the Secretary of the Interior to establish a Federal Permit Streamlining Pilot Project that requires that relevant federal agencies deploy staff to work with BLM land managers as a team on all environmental permits and land use planning documents in order to coordinate and improve Federal decision-making with respect to the permits. The section directs the Secretary of the Interior to assign such additional personnel to the six BLM offices as necessary to ensure effective implementation of the Pilot Program.
- Energy facility rights-of-way and corridors on Federal land: This section requires the Secretary of the Interior, with respect to public lands, and the Secretary of Agriculture, with respect to National Forest System lands, to designate utility corridors in Western States and to incorporate such corridors into land use and resource management plans within 24 months following enactment of the section. The section also requires the Secretary of Energy to develop a memorandum of understanding with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense to coordinate applicable Federal authorizations and environmental reviews related to a proposed or existing utility facility.
- Oil shale leasing: This section requires the Secretary of the Interior to make lands available, within one year, to lease for the purpose conducting research and development activities that will lead to new technology for producing oil from oil shale. The Secretary is also required to complete a programmatic environmental impact statement within 18 months on leasing public lands for commercial leasing. It also requires a report analyzing a potential program for leasing oil shale for commercial development and to update resource information by conducting a National Oil Shale Assessment.
- Coastal impact assistance program: : Provides \$250 million per year for fiscal years 2007 through 2010 to six energy-producing states in a formula based upon each states' proximity to production. These states: Louisiana, Texas, Mississippi, Alabama, Alaska and California shall use this funding for a specific number of coastal restoration, conservation and other uses.
- Clarifies FERC's exclusive jurisdiction under the Natural Gas Act for siting, construction, expansion and operation of import/export facilities located onshore or in State waters. This section does not provide FERC eminent domain authority over siting LNG facilities.
- Codifies FERC's Hackberry policy. In Hackberry, FERC allowed for sole propriety ownership of an LNG terminal (eliminating open access requirements) as a way to encourage site development.
- Allows FERC to grant new storage capacity market-based rate treatment, notwithstanding the fact the applicant may have market power, if (1) it is in the public interest, (2) it is needed storage capacity, and (3) customers are adequately protected.

- Establishes FERC as the lead agency for NEPA purposes and provides FERC authority to set schedules for required Federal authorizations. Agencies with jurisdiction over natural gas infrastructure are encouraged to coordinate their proceedings with the timeframe established by FERC. If a schedule deadline is not met, the President may issue a decision.
- Directs FERC to maintain a consolidated record all decisions made related to natural gas infrastructure permitting.
- Provides the D.C. Circuit Court exclusive jurisdiction to review allegations of failure to meet the FERC established schedule for natural gas infrastructure.
- Provides exclusive jurisdiction to a Circuit Court of Appeals where a natural gas infrastructure project is proposed to review an order or action by a Federal or State agency acting pursuant to Federal law required to permit natural gas infrastructure.
- Codifies the pre-NEPA filing process to encourage LNG terminal applicants to cooperate with State and local officials. Allows an affected State to file an advisory report on local and safety considerations to the FERC and requires FERC to respond specifically to the issues raised before authorizing an LNG terminal.
- Allows the State Commission where an LNG terminal is located to perform safety inspections and notify the FERC of any violations. The appropriate agency is directed to take action and report that to the State Commission.
- Directs FERC to enter a memorandum of understanding with the Department of Defense regarding LNG siting near an active military installation and requires DoD concurrence for an LNG terminal sited on an active military installation.
- Increases penalties under the Natural Gas Act and Natural Gas Policy Act, parallel to increases in the Federal Power Act (\$5,000 to \$1,000,000). This section also creates a civil penalty under Natural Gas Act.
- Amends the Natural Gas Act to ban any “manipulative or deceptive device or contrivance” (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j (b))), in connection with jurisdictional natural gas transactions, that are in violation of FERC rules.
- Authorizes FERC to establish an electronic information system to provide information about the price or transportation costs of natural gas in interstate commerce. This section requires FERC to exempt from disclosure information the disclosure of which would be detrimental to the operation of an effective market or which would jeopardize system security. This section shall not affect the CFTC’s exclusive jurisdiction with respect to commodities under the Commodity Exchange Act. This section provides that FERC shall not compete with private sector publishers of energy prices.
- Amends the CZMA by establishing a 270-day period in which the Secretary of Commerce must close the decision record. The Secretary may stay the 270-day clock for up to 60 days to acquire supplemental information regarding the consistency determination or clarifying information from a party to the proceeding related to information already in the record. The section provides that the Secretary has 90 days

after the record is closed (90 days after the 270 to 330 days, if stayed 60 days) to issue a decision or explain why it cannot, in which case the Secretary has an additional 45 days to issue a decision. In total, this section allows for 1 year and 100 days for the Secretary to complete action on an appeal of a consistency determination.

- Directs the Secretary of Energy, in cooperation and consultation with Secretary of Transportation, Secretary of Homeland Security, FERC, and Governors of coastal states, to convene at least 3 forums to discuss LNG siting issues such as siting, safety, and emergency response. The purpose of the forums is to identify and develop best practices related to LNG and to foster cooperative efforts.
- Directs the Department of the Interior to perform a comprehensive inventory of oil and gas resources on the Outer Continental Shelf. This inventory shall be done with available technology, except drilling, but including 3-D seismic technology. This inventory will help the nation better understand the extent of the resources on the Outer Continental Shelf.
- Bans traders convicted of market manipulation from serving as directors or officers of utility companies.

Title IV: Coal

- Provides funding for the generation of electricity critical research related to the use of the country's most abundant fossil resource for coal.
- Authorizes a Clean Coal Power Initiative, providing \$200 million annually for clean coal research in coal-based gasification and combustion technologies. The Secretary of Energy is directed to set increasingly restrictive emission targets over the life of the program to develop state-of-the-art technology.
- Creates a program of loan guarantees and direct grants to deploy clean coal generating equipment for greater energy efficiency and environmental performance characteristics than current operating technology.
- Amends several provisions of the Mineral Leasing Act governing the Federal Coal Leasing Program, including those pertaining to: lease modifications to avoid the bypass of coal; mining requirements for logical mining units; payment of advance royalties; and the deadline for submission of a coal lease operation and reclamation plan.

Title V: Indian Energy

- This title, referred to as the Indian Tribal Energy Development and Self Determination Act of 2005, assists Indian Tribes in the development of Indian energy resources by increasing Tribes' internal capacity to develop their own resources.
- Provides grants, low-interest loans, loan guarantees and technical assistance, and streamlines the approval process for Tribal leases, agreements, and rights-of-way so that outside parties have more incentive to partner with Tribes in developing energy resources.

- Included in this title are provisions creating an Office of Indian Energy Policy and Programs within the Department of Energy to support the development of tribal energy resources.
- Makes Dine Power Authority, a Navajo Nation enterprise, eligible for funding under this title.
- Directs the Secretary of Housing and Urban Development to promote energy efficiency for Indian housing.
- The title also provides a complete substitute for title 26 of the Energy Policy Act of 1992.
- Sections 2602 and 2603 instructs the Secretary of Interior to develop an Indian energy resource development program to provide grants and low-interest loans to tribes to develop and utilize their energy resources and to enhance the legal and administrative ability of tribes to manage their resources.
- Section 2602 also directs DOE to develop a program to support and implement research projects that provide tribes with opportunities to participate in carbon sequestration practices.
- Section 2602 creates a DOE loan guarantee program and directs the Energy Secretary to give priority to any project using new technology, such as coal gasification, carbon capture and sequestration or renewable energy-based electricity generation.
- The DOE Secretary shall provide guarantees for no more than \$2 billion at any time.
- Section 2604 establishes a process by which an Indian tribe, upon demonstrating its technical and financial capacity and receiving approval of their Tribal Energy Resource Agreement, could negotiate and execute energy resource development leases, agreements and rights-of-way with third parties without first obtaining the approval of the Secretary of the Interior.
- Section 2604 also requires the Department of Interior to conduct a periodic review of tribal activities under the TERA and requires the tribes to monitor the activities of their business partners.
- Section 2606 authorizes WAPA to make power allocations to meet the firming and reserve needs of Indian-owned energy projects and acquire power generated by Indian tribes for firming and reserve needs, so long as the rates and terms are competitive.
- Section 2607 authorizes a study of wind and hydropower potential along the Missouri River.

Title VI: Nuclear Matters

- Provides for programs to ensure that nuclear energy remains a major component of the Nation's energy supply.

- Price Anderson liability protection is extended through 2025 for both NRC licensees and DOE contractors.
- Coverage is indexed for inflation, and non-profit contractors of the Department are made subject to payment of penalties assessed for nuclear safety violations.
- Nuclear Regulatory Commission scholarship and fellowship programs, including employee retention programs for those individuals with hard to find or critical skills.
- Provides for the export of high enriched uranium to Canada, Belgium, France, Germany or the Netherlands for the sole purpose of producing medical isotopes until a low enriched uranium alternative is commercially viable and available.
- Requires the DOE to propose a permanent disposal facility to Congress for Greater Than Class C waste with one year of enactment.
- Establishes standby support framework through the DOE for new nuclear plant construction against regulatory or judicial delays for six reactors. This standby support would cover the delay before plant is put into operation.
- If NRC determines that a conflict of interest exists when the Commission proposes to enter into an arrangement with a DOE laboratory, NRC will be required to take steps to mitigate the conflict, if feasible.
- A research, development, and construction project is authorized for a new test reactor to be constructed at the Idaho National Laboratory.
- The reactor will serve as a national test bed for advanced reactor technologies that provide improved attributes over existing plants, and for co-generation of hydrogen by nuclear energy.
- Strengthens security of nuclear facilities, including improved federal oversight of plant security and the expansion of federal statutes for sabotage of nuclear facilities.
- The medical isotope provision is narrowly tailored to ensure that the 40,000 procedures a day that are scheduled for patients in the United States who require medical isotopes are not delayed and remain cost effective.

Title VII: Vehicles and Fuels

- Strengthens the requirement that federal vehicle fleets use alternate fuels in those vehicles that are capable of using such fuels and requires the Secretary of Energy report to the congress on the use of alternative fuels.
- Authorizes appropriations for implementation and enforcement of federal fuel economy standards.
- Creates a federal/industry research partnership to improve aircraft engine and locomotive railroad fuel efficiency and environmental performance.

- Directs the Secretary of Energy to develop a program to encourage energy conservation through the use of bicycles as a substitute for vehicular transportation.
- Establishes a program to promote the reduction of engine idling in heavy vehicles (trucks and locomotives) to reduce fuel consumption and air emissions.
- Establishes a program to encourage the purchase of stationary and vehicular hydrogen fuel cell systems.
- Requires “dual-fueled” vehicles acquired under the Energy Policy Act of 1992 (EPAct) to be operated on alternative fuels, includes certain low-speed electric vehicles in EPAct, provides additional credits for medium and heavy duty alternative fuel vehicles, and increases incentives for the purchase and use hybrid vehicles and for investment in alternative fuel infrastructure. Also provides an alternative compliance mechanism based on petroleum displacement and includes new provisions on lease condensates.
- Authorizes \$200 million for an advanced vehicle program. This program, operating under the current Department of Energy “Clean Cities” program, would provide grants to state and local governments to acquire alternative fueled and fuel cell vehicles, hybrids and other vehicles, including ultra-low sulfur diesel vehicles.

Title VIII: Hydrogen

- Directs the Secretary to conduct a broad-based research program supporting private sector efforts in hydrogen and fuel cell development, including production, storage, distribution and use of hydrogen; and fuel cell applications for transportation and stationary uses.
- Sets a goal of enabling the private sector to make a commercialization decision on fuel cell vehicle production hydrogen for transportation by 2015.
- Requires enhanced public education and university research in fundamental sciences, application design and systems concepts, including materials, subsystems, manufacturability, maintenance and safety.
- Directs the Secretary to transfer critical hydrogen and fuel cell technologies to the private sector and to foster the exchange of non-proprietary information.
- Establishes demonstration programs for hydrogen technologies and fuel cell vehicles for light-duty and heavy-duty vehicles.
- Supports the timely development of safety codes and standards related to fuel cell vehicles, hydrogen energy systems, and stationary fuel cells.

Title IX: Research and Development

- Creates the Next Generation Lighting Initiative, a public-private partnership to develop advanced solid-state lighting devices. These devices are longer lasting and more energy efficient and cost-effective than incandescent or fluorescent lighting.
- Establishes the National Building Performance Initiative to integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of buildings to improve energy efficiency.
- Requires the Secretary to conduct research and development efforts to ensure the reliability, efficiency, and environmental integrity of the nation's electrical transmission and distribution systems.
- Requires the Secretary to conduct cutting-edge research and development in renewable energy, including bioenergy from cellulosic feedstocks, concentrating solar power, ocean energy, and cogeneration of hydrogen and electricity from renewable sources.
- Requires the Secretary to support education in nuclear engineering and nuclear-related technologies through grants to university departments for research and support for facilities.
- Requires the Secretary to investigate new techniques to reduce the volume and toxicity of spent fuel from commercial nuclear reactors.
- Creates a program to study measures to improve the safety and security of nuclear facilities from natural disasters and deliberate attacks.
- Directs the Secretary to survey industrial applications of large radioactive sources and to establish a research program aimed at developing alternatives to these sources that would reduce safety, environmental, and proliferation risks associated with these large sources.
- Establishes a program to research and develop technologies to capture carbon dioxide emissions from coal-fired power plants and to safely store these emissions so that they are permanently isolated from the atmosphere.
- Encourages research and development on methane hydrates, an unconventional form of fossil fuel that exists in potentially huge reserves off shore of U.S. coastal areas.

Title X: Department of Energy Management

- Creates a new Assistant Secretary position and expresses the sense of the Congress that the position should be used to improve management of Nuclear Energy at the Department of Energy, and grants the Secretary of Energy authority to enter into other transactions as appropriate to further research, development, or demonstration goals of the Department.
- Creates a new Undersecretary for Science to advise the Secretary on fundamental science research and basic research needed to support the Department's missions

Title XI: Personnel and Training

- Requires establishment of training guidelines for electric energy industry personnel and centers for building technologies and power plant operations training.
- Directs increased activity by the Department of Energy to improve recruitment of under-represented groups into energy professions.
- Establishes research fellowships for energy research to encourage and support outstanding young scientists and engineers and outstanding senior researchers.

Title XII: Electricity

- Improves grid reliability, promotes transmission infrastructure development and security, reduces regulatory uncertainty, and increases consumer protections.
- Establishes mandatory reliability rules for the transmission system.
- Authorizes FERC to exercise limited jurisdiction over unregulated transmitting utilities to ensure open access to the transmission grid; protects transmission access for native load customers; and terminates FERC's proposed rulemaking on Standard Market Design.
- Directs FERC to issue rules on transmission pricing policies and authorizes FERC to approve a participant funding cost allocation plan as long as it results in just and reasonable rates.
- Amends the Public Utility Regulatory Policies Act of 1978 (PURPA). It prospectively repeals the requirement for mandatory purchase from qualifying facilities by electric utilities if a competitive market exists and establishes new criteria for qualifying cogeneration facilities.
- Repeals the Public Utility Holding Company Act of 1935 (PUHCA) to encourage investment in the nation's electricity infrastructure.
- Bans market manipulation; prohibits false statements; addresses market transparency; increases penalties for violations of the Federal Power Act; changes the refund effective date from 60 days after the date of filing to the date of filing; protects consumers against unfair trade practices; protects utility customers affected by the Enron bankruptcy from unfair contract termination fees by authorizing FERC to review the issue.
- Amends Section 203 of the Federal Power Act by expanding FERC's jurisdiction to include acquisition of generation facilities that are subject to FERC jurisdiction for ratemaking purposes. Applies to transactions valued in excess of \$10,000,000 and requires FERC to consider whether a proposed merger would result in cross-subsidizations of non-utility associate companies to the detriment of the utility consumers. Requires FERC to adopt rules for the expeditious consideration of applications.

- Allows courts to ban traders convicted of market manipulate from holding officer or director positions in electric utility companies.

Title XIII: Energy Policy Tax Incentives

Oil and Gas Production and Enhanced Refining

Natural gas distribution lines treated as 15-year property. Gas distribution lines must be depreciated over 20 years under present law. Provision shortens the depreciation period to 15 years for any gas distribution lines the original use of which occurred after April 11, 2004 and before January 1, 2011. The provision does not apply to any property which the taxpayer or a related party had entered into a binding contract for the construction thereof or self-constructed on or before April 11, 2005.

Cost: \$1.019 billion

Amortization of geological and geophysical expenditures. The provision allows geological and geophysical amounts incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, any remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period. The provision is effective for geological and geophysical costs paid or incurred in taxable years beginning after the date of enactment.

Cost: \$974 million

Expensing for refinery investments. Allows taxpayers to expense (depreciate immediately) 50 percent of the cost of refinery investments which increase the capacity of an existing refinery by at least 5 percent or increase the throughput of qualified fuels by at least 25 percent. Qualified fuels include oil from shale and tar sands. As a condition of eligibility, refineries of liquid fuels must report to the IRS on refinery operations (e.g., production and output).

Cost: \$406 million

Determination of small refiner exception to oil depletion deduction. Presently, a producer may qualify as an independent producer for this purpose if its refining operations, runs, do not exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed. The provision increases the current 50,000-barrel-per-day limitation to 75,000. It also changes the refinery limitation on actual daily production to an average daily production for the taxable year.

Cost: \$158 million

Arbitrage rules not to apply to prepayment for natural gas. Arbitrage is the profit that results from investing the proceeds of tax-exempt bonds in higher yielding taxable securities. Tax law generally requires a rebate of arbitrage profits to the U.S. This provision would create a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The exception applies to certain prepaid natural gas contracts, i.e., any contracts to acquire natural gas for resale by a utility owned by a governmental unit where the amount of gas to be purchased under the contract does not exceed the certain limits. The limit is the sum of (1) the average annual natural gas purchased by customers of the utility within the service area during a 5 year testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. This provision would apply to all contracts issued after the date of enactment.

Cost: \$53 million

Natural gas gathering lines treated as 7-year property. Uncertainty in the current law concerning what the appropriate recovery period is for natural gas gathering lines has led to litigation. This provision clarifies the law, establishing a statutory seven-year recovery period and a class life of 14 years for natural gas gathering lines the original use of which commences with the taxpayer after April 11, 2005. In addition, no adjustment will be made to the allowable amount of depreciation with respect to this property for purposes of computing a taxpayer's alternative minimum taxable income.

Cost: \$16 million

Cooperative pass-through of the expensing related to costs to comply with EPA sulfur regulations for small refiners. The American Job Creation Act of 2004 included a provision to allow taxpayers to expense certain costs for investments to comply with EPA low sulfur diesel regulations. Provision allows the deduction to be passed-through to members of a cooperative if the cooperative makes an election on their tax return.

Cost: \$7 million

Electricity Reliability

Transmission property treated as fifteen-year property. Assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period. This provision shortens the recovery period to 15-years for certain assets used in the transmission of electricity for sale and related land improvements. For purposes of the provision, section 1245 property used in the transmission at 69 or more kilovolts of electricity for sale, the original use of which commences with the taxpayer after April 11, 2005, will qualify for the new recovery period. The provision does not apply to any property which the taxpayer or a related party had entered into a binding contract for the construction thereof or self-constructed on or before April 11, 2005.

Cost: \$1.239 billion

Nuclear decommissioning. Modifies the rules for qualified nuclear decommissioning funds, which are funds created by a taxpayer, restricted to certain kinds of investments, and used exclusively for payment of decommissioning costs. The proposal repeals the cost of service requirement for contributions to a qualified fund. The proposal permits the transfer of pre-1984 decommissioning costs to a qualified fund. Finally, it requires that new ruling amount be made in any tax year in which the powerplant is granted a license renewal.

Cost: \$1.293 billion

Treatment of electric cooperative income (85/15 test). The rules for tax-exempt electric cooperatives require that 85 percent of the cooperative's income consists of amounts collected from members of the cooperative to meet losses and expenses of providing service to its members (85/15 test). This test has made it difficult for cooperatives to participate in electricity market deregulation and open access transmission of electricity. In the Jobs Bill, the 85/15 test was modified to exclude certain income related to electricity restructuring from the 85/15 test. Those changes expire on 12/31/06. The provision makes the Jobs Bill changes permanent.

Cost: \$277 million

Sales of electricity transmission property to implement restructuring policy. The Jobs Bill included a provision to allow a longer recognition period for electric utilities that sell their transmission assets to a FERC-approved independent transmission company. Rather than paying tax on any gain from the sale in the year that the sale is completed, utilities will have 8 years to pay the tax on any gain from the sale. The rule expires at the end of 2006. Provision allows sales during 2007 to qualify for the 8-year recognition.

Raises: \$19 million

Production tax credit for nuclear power facilities. No tax credit for electricity produced at nuclear power facilities under present law. Provision establishes a production tax credit for new nuclear power facilities. Credit amount is 1.8 cents per kWh for electricity produced over an 8-year period.

Cost: \$278 million

5-year NOL for electric transmission equipment. A taxpayer may claim a net operating loss carryback to each of the 5 years preceding the taxable year of such loss up to 20 percent of the cost of electric transmission capital expenditures and pollution control capital expenditures. Applies to losses incurred in 2003, 2004 and 2005.

Cost: \$52 million

Renewable and Clean Energy Incentives

Extension and modification of renewable electricity production credit (Section 45). Provision extends placed-in-service date by two years (through December 31, 2007) for qualifying facilities: wind facilities; closed-loop biomass facilities; open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. Placed-in-service dates for solar facilities and refined coal facilities are not altered. Qualifying facilities receive credits per kWh for electricity produced over a 10 year period. Hydropower and Indian coal are added as new qualifying energy resources. Provision is generally effective on date of enactment.

Cost: \$2.747 billion

Pass through to cooperatives. Section 45 allows eligible cooperatives to elect to pass any portion of the renewable electricity production credit to their patrons. An eligible cooperative is defined as a cooperative organization that is owned more than 50 percent by agricultural producers or entities owned by agricultural producers. (included in Section 45 score)

Clean renewable energy bonds. Provision creates new category of tax credit Bonds Clean Renewable Energy Bonds ("CREBs"). CREBs are defined as bond issued by qualified issuer if, in addition to other requirements, 95 percent of proceeds are used to finance capital expenditures incurred for facilities qualifying for tax credit under section 45. Qualified issuers include governmental bodies (including Indian tribal governments) and mutual or cooperative electric companies. Provision is effective for bonds issued after December 31, 2005.

Cost: \$411 million

Clean Coal

Credit for investment in clean coal facilities. No tax credit for clean coal facilities under present law. Provision establishes three investment tax credits for clean coal facilities: a 15 percent and 20 percent investment tax credit for clean coal facilities producing electricity; and a 20 percent credit for industrial gasification projects. Integrated gasification combined cycle (IGCC)

projects get a 20 percent investment tax credit and other advanced coal-based projects that produce electricity get a 15 percent credit. The Secretary may allocate up to \$800 million for IGCC projects and up to \$500 million for other advanced coal-based technologies and up to \$350 million for industrial gasification. Also clarifies that lignite is a qualifying coal.

Cost: \$1.612 billion

84-month amortization for pollution control facilities. This provision provides a 7 year recovery period for the cost of certain certified air pollution control facilities used in connection with an electric generation plant which is primarily coal fired and which was not in operation before January 1, 1976. Under present law, plants that were in operation before January 1, 1976 may amortize these costs over 60 months.

Cost: \$1.147 billion

Modification of credit for producing fuel from a nonconventional source. The provision makes the credit for producing fuel from a non-conventional source part of the general business credit, so that unused credits may be carried back one year and forward 20 years.

Cost: \$88 million

Extension of credit for producing fuel from a nonconventional source for facilities producing coke or coke gas. Coke is a fuel from the residue of coal left after distillation or other feedstock (such as petroleum). The provision also adds a production credit for qualified facilities that produce coke or coke gas. Qualified facilities must have been placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010. The production credit may be claimed beginning on the later of January 1, 2006, or the date such facility is placed in service and ending on the date which is four years after such period began. The credit expires in January 1, 2010 or four years after the facility was placed in service, whichever is later.

Cost: \$101 million

Energy Efficiency and Conservation Measures

Alternative technology vehicle credits.

Fuel cell vehicles: the amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy.

Alternative Fuel Vehicles: The provision permits the credit to offset the excess of the regular tax over the alternative minimum tax

Hybrid vehicles and advanced lean-burn technology vehicles: The amount of credit is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle.

Effective date – The provision applies to vehicles placed in service after December 31, 2005, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles that are automobiles and light trucks and in the case of advanced lean-burn technology vehicles, before January 1, 2011; in the case of qualified hybrid motor vehicles that

are medium and heavy trucks, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

Cost: \$874 million

Termination of code section 179A: Repeals section 179A sunsets after December 31, 2005.

Raises: \$2 million

Small producer biodiesel and ethanol credit. Adds to the biodiesel fuels credit a small agri-biodiesel producer credit of 10-cents-per-gallon for up to 15 million gallons of agri-biodiesel produced by producers with annual capacity not exceeding 60 million gallons. Effective for taxable years after date of enactment and sunsets December 31, 2008. Limit on production capacity for small ethanol producers increased from 30 million to 60 million gallons, effective for taxable years after date of enactment.

Cost: \$181 million

Credit for installing of alternative fuel refueling property. The provision permits taxpayers to claim a 30% credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. Under the provision clean fuels are any fuel at least 85% of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and hydrogen and any mixture of diesel fuel and biodiesel containing at least 20% biodiesel.

Effective date. - The provision is effective for property placed in service December 31, 2005 and before January 1, 2010.

Cost: \$71 million

Diesel-water fuel emulsion. A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel-water fuel emulsion to reflect the reduced Btu content per gallon resulting from the water. The diesel-water emulsion fuels eligible for the special rate must consist of at least 14% water. The person claiming entitlement must be registered with the Secretary. Claims for refunds based on the incentive rate may be filed quarterly if such person can claim at least \$750. If the person cannot claim at least \$750 at the end of quarter, the amount can be carried over to the next quarter to determine if the person can claim at least \$750. If the person cannot claim \$750 at the end of the taxable year, the person must claim a credit on the person's income tax return.

Effective date.-The provision is effective on January 1, 2006

Cost: Negligible

Extend excise tax provisions and income tax credit for biodiesel and create similar incentives for renewable diesel. The conference agreement extends the income tax credit, excise tax credit, and payment provisions through December 31, 2008. The conference agreement also creates a similar income tax credit, excise tax credit and payment system for renewable diesel, however there is no credit for small producers of renewable diesel. Renewable diesel means diesel fuel derived from biomass using thermal depolymerization process.

Effective date. – The extension of incentives is effective on the date of enactment. The renewable diesel provisions are effective for fuel sold or used after December 31, 2005.

Cost: \$194 million

Credit for residential energy efficient property purchases. Provides credit, equal to

30 percent of qualifying expenditures, for purchase for qualified photovoltaic property and solar water heating property used exclusively for purposes other than heating swimming pools and hot tubs. Provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants and applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

Cost: \$31 million

Credit for business installation of qualified fuel cells, stationary microturbine power plants, and solar. Provides a 30 percent business energy credit for purchase of qualified fuel cell power plants for businesses and a 10 percent credit for purchase of qualifying stationary microturbine power plants. Additionally, a 30 percent credit for purchase of qualifying solar energy property is provided. Credits apply to periods after December 31, 2005 and before January 1, 2008.

Cost: \$222 million

Credit for energy efficient existing homes. Provides 10% investment tax credit for expenditures with respect to improvements to building envelope. Allows credits for purchases of advanced main air circulating fans, natural gas, propane, or oil furnaces or hot water boilers, and other qualified energy efficient property. Credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

Cost: \$556 million

Business credit of energy efficient new homes. Provides credit to eligible contractor for construction of a qualified new energy-efficient home.

Credit applies to manufactured homes meeting Energy Star Standards and other homes meeting a 50 percent standard. Credit applies to homes which are purchased after December 31, 2005 and prior to January 1, 2008.

Cost: \$28 million

Energy efficient commercial building deduction. The provision allows a deduction for energy efficient commercial buildings that reduce annual energy and power consumption by 50 percent compared to the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) standard. The deduction would equal the cost of energy efficient property installed during construction, with a maximum deduction of \$1.80 per square foot of the building. In addition, a partial deduction of 60 cents per square foot would be provided for building subsystems.

Cost: \$243 million

Energy efficient appliances. Provision establishes tax credit for the manufacture of efficient dishwashers, clothes washers, and refrigerators. Credits vary depending on the efficiency of the unit. Effective for appliances manufactured in 2006 and 2007.

Cost: \$180 million

Research and development credit for energy research. Provision modifies the 20% research and development tax credit. Taxpayers' expenditures to qualified research consortia with respect to energy-related research would be eligible for the credit. Other modifications to the credit with respect to energy-related research are included.

Cost: \$92 million

NAS study. Provision directs the Treasury Secretary to enter into an agreement with the National Academy of Sciences to conduct a study of the health, environmental, security, and infrastructure costs and benefits associated with production and consumption of energy.

Cost: No score.

Recycling study. Provision directs the Treasury Secretary, in consultation with the Secretary of Energy, to conduct a study to determine and quantify the energy savings, achieved through recycling activities, including electronic waste, and to identify tax incentives to carry out this incentive.

Cost: No score.

Oil Spill Liability Trust Fund. Reinstates the Oil Spill Liability Trust Fund tax. The tax applies on April 1, 2006, or later, if the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust fund will be less than \$2 billion.

Raises: \$2.508 billion

Leaking Underground Storage Tank Trust (LUST) Fund. The LUST Trust Fund tax is extended at the current rate through September 30, 2011. Also, dyed fuel is subject to the LUST tax and without refund.

Raises: \$349 million

Section 197 modification. This provision modifies the recapture rules for amortizable section 197 intangibles. Under the provision, if multiple section 197 intangibles are sold or disposed of in a single transaction or series of transactions, the seller must calculate recapture as if all of the section 197 intangibles were a single asset. Thus, any gain on the sale or disposition of the intangibles is recaptured as ordinary income to the extent of ordinary depreciation deductions previously claimed on any of the section 197 intangibles.

Raises: \$171 million

Tire excise tax modification and tire study. It clarifies that a super single tire is not designed to steer the vehicle, and is made effective as if included in the JOBS Act.

Raises: negligible effect

Title XV: Ethanol and Motor Fuels

- Requires that by 2012, at least 7.5 billion gallons per year of renewable fuel be blended into the nation's gasoline supply.
- Allows production of renewable fuel from such traditional sources as corn and other crops or from plants, grasses, agricultural residues and waste products. The bill includes incentives for the production of renewable fuel from these "non-traditional" sources, allowing greater credits for ethanol derived from cellulosic biomass or waste.

- Authorizes loan guarantees and grants for the construction of facilities to process and convert municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.
- Includes increased funding to \$6 million over five years (2006-2010) for the Department of Transportation to continue its work on improving Corporate Average Fuel Economy (CAFE) standards.
- Includes a study, to be done by the National Highway Traffic Safety Administration (NHTSA), to look into alternatives to the CAFE program and examine the amount of fuel consumed by automobiles.
- Enhances the federal leaking underground storage tank program to improve tank inspection, remediate spills of oxygenated fuels and prevent future releases of gasoline into ground water.
- Gives the EPA administrator, in the event of an extreme and unusual supply emergency, (i.e., a Gulf of Mexico hurricane impacts refinery production and distribution; unexpected pipeline disruption) the ability to temporarily waive certain requirements thereby avoiding potential supply shortages and price spikes.

Title XVI: Climate Change

- Requires the preparation of a national strategy to promote the deployment and commercialization of greenhouse gas intensity reducing technologies and practices within 18 months of the date of enactment.
- Creates a program to assist deployment of technologies that will help reduce the emission of greenhouse gases in developing countries.

Title XVII: Incentives for Innovative Technologies

- Creates a unified, comprehensive loan guarantee program for encouraging the commercialization of a broad spectrum of new technologies that provide clean, renewable energy at no cost to the taxpayers.
- The technologies have to avoid, reduce or sequester air pollutants or man-made greenhouse gasses, and the technology has to be new or significantly improved over what is available in the marketplace.
- The guarantees can only be for 80 percent of the cost of a project – the developers will share in the risk.
- Constructs the program in accordance with the Federal Credit Reform Act.

- Requires the cost of the guarantee to be paid in advance through appropriations or payment from those seeking the loan guarantee in the amount determined by CBO to reflect the risk of default.

Title XVIII: Studies

- Sec.1601. Energy and water saving measures in congressional buildings.
- Sec.1602. Increased hydroelectric generation at existing Federal facilities.
- Sec.1603. Alaska Natural Gas Pipeline.
- Sec.1604. Renewable energy on Federal land.
- Sec.1605. Coal bed methane study.
- Sec.1606. Backup fuel capability study.
- Sec.1607. Indian land rights-of-way.
- Sec.1608. Review of Energy Policy Act of 1992 programs.
- Sec.1609. Study of feasibility and effects of reducing use of fuel for automobiles.
- Sec.1610. Hybrid distributed power systems.
- Sec.1611. Mobility of scientific and technical personnel.
- Sec.1612. National Academy of Sciences report.
- Sec.1613. Report on research and development program evaluation methodologies.
- Sec.1614. Transmission system monitoring study.
- Sec.1615. Interagency review of competition in the wholesale and retail markets for electric energy.
- Sec.1616. Study on the benefits of economic dispatch.
- Sec.1617. Study of rapid electrical grid restoration.
- Sec.1618. Development of cogeneration.
- Sec.1619. Study on inventory of petroleum and natural gas storage.
- Sec.1620. Natural gas supply shortage report.
- Sec.1621. Split-estate Federal oil and gas leasing and development practices.
- Sec.1622. Resolution of Federal resource development conflicts in the Powder River Basin.

- Sec.1623. Study of energy efficiency standards.
- Sec.1624. Telecommuting study.
- Sec.1625. Oil bypass filtration technology.
- Sec.1626. Total integrated thermal systems.
- Sec.1627. University collaboration.
- Sec.1628. Reliability and consumer protection assessment.
- Sec.1801. Study on inventory of petroleum and natural gas storage.
- Sec.1802. Study of energy efficiency standards.
- Sec.1803. Telecommuting study.
- Sec.1804. LIHEAP Report.
- Sec.1805. Oil bypass filtration Technology.
- Sec.1806. Total integrated thermal systems.
- Sec.1807. Report on energy integration with Latin America.
- Sec.1808. Low-volume gas reservoir study.
- Sec.1809. Investigation of gasoline prices.
- Sec.1810. Alaska natural gas pipeline.
- Sec.1811. Coal bed methane study.
- Sec.1812. Backup fuel capability study
- Sec.1813. Indian land rights-of-way.
- Sec.1814. Mobility of scientific and technical personnel.
- Sec.1815. Interagency review of competition in the wholesale and retail markets for electric energy.
- Sec.1816. Study of rapid electrical grid restoration.
- Sec.1817. Study of distributed generation.
- Sec.1818. Natural gas supply shortage report.
- Sec.1819. Hydrogen participation study.

- Sec.1820. Overall employment in a hydrogen economy.
- Sec.1821. Study of best management practices for energy research and development programs.
- Sec.1822. Effect of electrical contaminants on reliability of energy production systems.
- Sec.1823. Alternative fuels reports.
- Sec.1824. Final action on refunds for excessive charges.
- Sec.1825. Fuel cell and hydrogen technology study.
- Sec.1826. Passive solar technologies.
- Sec.1827. Study of link between energy security and increases in vehicle miles traveled.
- Sec.1828. Science study on cumulative impacts of multiple offshore liquefied natural gas facilities.
- Sec.1829. Energy and water saving measures in congressional buildings.
- Sec.1830. Study of availability of skilled workers.
- Sec.1831. Review of Energy Policy Act of 1992 programs.
- Sec.1832. Study on the benefits of economic dispatch.
- Sec.1833. Renewable energy on Federal land.
- Sec.1834. Increased hydroelectric generation at existing Federal facilities.
- Sec.1835. Split estate Federal oil and gas leasing and development practices.
- Sec.1836. Resolution of Federal resource development conflicts in the Powder River Basin.
- Sec.1837. National security review of international energy requirements.
- Sec. 1838. Used oil re-refining study.
- Sec. 1839. Transmission system monitoring.
- Sec. 1840. Report identifying and describing the status of potential hydropower facilities.