



## Summary of the American Energy Act

### *Title I—American Energy*

#### Outer Continental Shelf

- **Background:** Both the Presidential and Congressional moratoriums were lifted last year and the previous Administration published a draft leasing program to lease previously unavailable Outer Continental Shelf (OCS) areas. The current Administration has delayed the draft leasing program. This bill would put the leasing program in place immediately to facilitate the environmentally responsible development of these additional OCS areas.
- **OCS Leasing Program:** Removes any further and unnecessary delay from the implementation of the Draft Proposed OCS Oil and Gas Leasing Program 2010-2015, proposed by the previous Administration.
- **OCS Lease Sales:** Requires the Secretary to conduct a lease sale in each OCS planning region where there is a commercial interest in purchasing Federal oil and gas leases.
- **State Waters:** Extends State territorial waters to 12 nautical miles offshore (most State waters are currently three miles), harmonizing standards and giving States an incentive to allow production in their waters, as they would receive a larger share of royalties.
- **Relinquishing or Exchanging Leases:** Maximizes the energy production potential of each lease by allowing any lessee of a producing lease to relinquish to the Secretary any portion of a lease that the lessee has no interest in producing that the Secretary finds to be geologically prospective. In return, the Secretary would provide to the lessee a royalty incentive for the portion of the lease retained by the lessee,
- **Revenue Sharing:** Provides 75 percent of the revenues to States for new leases within 12 nautical miles of a State's coastline. For new OCS leases beyond 12 nautical miles of a State's coastline, they would immediately receive 50 percent of revenues. (For tracts leased prior to this bill becoming law, revenue sharing is phased-in at different rates).
- **Accounting of Revenue:** Requires the Secretary to deposit into a separate account in the Treasury the portions of OCS receipts for each fiscal year that will be shared between the Treasury, States and coastal political subdivisions. States and coastal political subdivisions would not be required to provide an accounting to the Federal government of how the receipts are spent unless otherwise required by law and would be allowed to use the funds as matching funds for various State programs.
- **Renewable Energy Investment:** Distributes a portion of the revenues not shared with State and localities to the American Renewable and Alternative Energy Trust Fund established in this Act.
- **Available Acreage:** Requires the Secretary to, in each five-year leasing program, include lease sales that offer oil and gas leasing for at least 75 percent of the available unleased acreage within each OCS Planning Area.
- **Lease Exchange Provisions:** Provides the lessee of an existing oil and gas lease within 12 nautical miles of California or the Florida Adjacent Zones with the option of exchanging for a new 5-year lease, within two years.
- **Repeals Additional OCS Restrictions:** Repeals the Gulf of Mexico Energy Security Act of 2006, which contains exclusions and prohibitions on energy exploration in parts of the Gulf of Mexico.
- **Viewscope Protection:** Requires all OCS production within 25 nautical miles of the shoreline to be from subsurface (below water line) production with no permanent surface facilities unless surface production is specifically authorized by the coastal State.

## **Arctic Coastal Plain**

- **Leasing Program:** Directs the Interior Secretary to establish a competitive oil and gas leasing program in the Arctic Coastal Plain to be conducted in an environmentally-sound manner. The bill repeals a prohibition against the production of oil and gas in the Arctic National Wildlife Refuge. Before conducting the first lease sale, the Secretary would prepare a NEPA impact statement with respect to the actions authorized by this subtitle.
- **Designation of Special Areas:** Allows the Secretary to designate up to 45,000 acres of the Coastal Plain as "Special Areas" if their unique character requires special management and regulatory protection. These areas would be managed so as to protect and preserve their character, including fish, wildlife, and subsistence resources.
- **Timing of Lease Sales:** Provides procedures for timely lease sales. The Secretary must conduct the first lease sale within 22 months. The bill establishes lease terms and conditions, including a royalty rate of at least 12.5 percent.
- **Highest Environmental Standards:** Includes several environmental protections, such as: 1) granting the Secretary the authority to close portions of the Coastal Plain on a seasonal basis to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife; 2) stating that the lessee is liable for Federal lands that are adversely affected by activities under this subtitle, 3) setting strict environmental conditions for energy development on these lands under a "no significant adverse effect" standard using "best commercially available technology"; 4) limiting total surface disturbance to 2,000 acres in Coastal Plain; 5) mandating a site-specific analyses be made of the probable effects of development on fish and wildlife, their habitat, subsistence resources and the environment; 6) requiring issuance of regulations, terms, conditions, and prohibitions before implementation of the leasing program; and 7) requiring compliance with all other Federal and State environmental laws. The Secretary would also ensure reasonable access for local residents to the Coastal Plain for traditional uses.
- **Revenue Sharing:** Distributes 50 percent of royalty revenues from the Federal oil and gas leasing to the State of Alaska.
- **Local Assistance:** Creates a Coastal Plain Local Government Impact Aid Assistance Fund, funded from the Federal share of leasing resources, to provide financial assistance to local entities impacted by oil and gas production.
- **Renewable Energy Investment:** Distributes 90 percent of the balance of the revenues to the American Renewable and Alternative Energy Trust Fund established in this Act.

## **Oil Shale**

- **Lease Sale:** Requires the Secretary to hold a lease sale within 180 days of enactment, offering 10 parcels for lease for research, development, and demonstration of oil shale resources, under the terms offered in the solicitation of bids published on January 15, 2009.
- **Management Rules:** Applies the final oil shale management rules published by the previous Administration on November 18, 2008, to all commercial leasing for the management of Federally-owned oil shale, and any associated minerals located on Federal lands.

## **Refinery Permit Process**

- **Funding to review refineries:** Allows the EPA Administrator to authorize financial assistance to facilitate the hiring of personnel with experience in fields relevant to consideration of Federal refinery authorizations. A Federal agency would also be able to provide technical, legal, or other nonfinancial assistance to a State or tribe to facilitate its consideration of Federal refinery authorizations.
- **Coordinator:** Requires the President to appoint a Federal coordinator for refinery authorizations.

- **Designate Military Installations:** Requires the President to designate at least three closed military installations as potentially suitable for the construction of a refinery. At least one facility must be identified as potentially suitable for a biomass refinery.

## *Title II—Conservation and Efficiency*

### **Tax Incentives for Fuel Efficiency**

- **Alternative Fuel Vehicles:** Extends a tax credit for alternative fuel vehicles through 2020. The program was established in the Energy Policy Act of 2005, and provides tax credits for the purchase of a qualified hybrid car.
- **Hydrogen and Alternative Fuel Properties:** Extends tax credits for hydrogen and alternative fuel vehicle refueling properties through 2020. The program provides a tax credit for the cost of putting alternative or hydrogen refueling property into service.
- **Plug-In Vehicles:** Extends the tax credit for new plug-in vehicles through 2020, and repeals a limit on the amount of new cars eligible for the credit.

### **Tapping America's Ingenuity and Creativity**

- **Prizes for Innovative Technologies:** Provides competitively awarded cash prizes to advance the research, development, demonstration, and commercial application of innovative energy technologies and new energy sources. The bill allows funding for the prizes to come from appropriated funds, provided by the administering entity, or funds raised through grants or donations. The bill prohibits the Federal government from being entitled to any intellectual property rights derived as a consequence of awarding a prize. The bill requires that a portion of the funds in the American Renewable and Alternative Energy Trust Fund be available to carry out the prize program. Finally, the bill prohibits any prize money from being taxed by any Federal, State, or local authority.
- **Prize for Fuel Efficient Cars:** Establishes a program to award a \$500 million prize to the first automobile manufacturer incorporated in the U.S. to manufacture and sell in the U.S. 50,000 midsize sedan automobiles, which operate on gasoline and can travel 100 miles per gallon.
- **Advanced Battery Manufacturing:** Requires the Secretary to provide funding to advance battery manufacturers and pay no more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the U.S. The bill requires that the Secretary carry out a program to provide a total of no more than \$100 million in loans to eligible individuals and entities for the cost of such activities.

### **Home and Business Tax Incentives**

- **Energy Efficient Appliances:** Extends the tax credit for energy efficient appliances for three years and correspondingly increases the aggregate credit amount allowed to \$100 million.
- **Non-Business Energy Property:** Extends the tax credit for non-business energy properties which improve their energy efficiency through 2020. The program, established in the Energy Policy Act of 2005, provides a credit for individuals making energy-efficient improvements to their principal residences, such as by installing energy-efficient windows, doors, insulation, or roofing.
- **Residential Energy Efficient Property:** Extends the residential energy efficient property tax credit through 2020. This is a tax credit for qualified solar electric property, qualified solar water heating property and qualified fuel cell property installed by individuals.
- **New Energy Efficient Homes:** Extends the tax credit for new energy efficient homes through 2020. This is a tax credit for individual taxpayers that purchase a new energy-efficient home.
- **Energy Efficient Commercial Buildings:** Extends the energy efficient commercial buildings tax deduction through 2020. This provides a business deduction for energy efficiency improvements to

interior lighting, heating, cooling, ventilation, hot water systems and the building envelope made to a commercial building.

- **Special Rule:** Extends through 2020 the special rule to implement FERC and State electric restructuring policy. Current law provides that a utility could pay taxes on the sale of qualifying electric transmission property ratably over an eight year period, but only if the proceeds of the sale were used to purchase other specified utility assets. This provision allows taxpayers to recognize gains from the sale of certain electric transmissions (rather than as taxable income), if the gain is used to purchase utility property.
- **Home Energy Audits:** Provides a tax credit equal to 50 percent of the cost of a qualified home energy audit, up to \$400. A “qualified energy audit” means an energy audit of the principal residence of the taxpayer that is performed by a qualified energy auditor through a comprehensive site visit.
- **Smart Meters:** Provides for the accelerated depreciation of smart meters (from 10 years under current law to five years).

### ***Title III—New and Expanding Technologies***

#### **Alternative Fuels**

- **Section 526 Repeal:** Repeals Section 526 of the Energy Independence and Security Act of 2007. Section 526 bans Federal agencies from procuring fuels derived from alternative energy such as liquid coal, tar sands, and oil shale.
- **Coal-to-Liquid:** Allows the Secretary of Interior to enter into long term coal-to-liquid fuel purchase contracts (for periods of five, ten, fifteen or twenty years), and to enter into standby loan agreements with up to six qualifying coal-to-liquid projects.

#### **Tax Provisions**

- **Renewable Energy Production Credit:** Makes permanent the tax credit for the production of renewable electricity, as well as electricity derived from Indian coal and refined coal.
- **Solar, Fuel Cell, and Microturbine Property:** Makes the Solar Energy Property and Fuel Cell Property energy tax credits permanent and extends the credit for new Microturbine property placed in service through 2020.
- **Clean Renewable Energy Bonds:** Extends the credit for Clean Renewable Energy Bonds (CREBS) through 2020, and correspondingly increases the national limitation on these bonds. CREBS are a “tax credit bond,” on which the Federal government pays the bond interest in the form of tax credits against the Federal income tax liability of the bondholder.
- **Biodiesel and Renewable Diesel:** Extends the credits for biodiesel and renewable diesel through 2020.

#### **American Renewable and Alternative Energy Trust Fund**

- Establishes an “American Renewable and Alternative Energy Trust Fund” in the U.S. Treasury. The Trust Fund would consist of such amounts as may be transferred to it as provided for in other portions of this Act. Amounts in the Trust Fund would be available to carry out specified provisions of the Energy Policy Act of 2005, and the Energy Independence and Security Act of 2007, as follows:
  - *Biomass—3%*
  - *Hydroelectric—2%*
  - *Oil shale, tar sands, other strategic unconventional fuels—3%*
  - *Clean coal—7%*

- *Solar and wind—7%*
- *Renewable energy—20%*
- *Cellulosic biofuels—2.5%*
- *Coal and related technologies—4%*
- *Methane hydrate research—2.5%*
- *Incentives for Innovative Technologies—7%*
- *Grants for production of advanced biofuels—16%*
- *Photovoltaic demonstration program—2.5%*
- *Geothermal energy—4%*
- *Marine and Hydrokinetic Renewable Energy Technologies—2.5%*
- *Energy storage competitiveness—10%*
- *Smart grid technology—7%*

### ***Title IV—Nuclear***

- **Fast Track Regulatory Process:** Authorizes an accelerated regulatory process for new reactor applicants, which meet certain conditions, in order to cut the time needed to permit new plants by roughly 50 percent. Under the two-year program, eligible applications must:
  - Include a design already certified by the Nuclear Regulatory Commission (NRC);
  - Include a site at a location already licensed for operating reactors,
  - Be submitted by an operator in good standing with the NRC;
  - Have a full and complete Combined Operations and Construction License application; and
  - Demonstrate a financial commitment to secure long-lead components.
- **Health and Safety:** Clarifies that nothing in the Act decreases the NRC's ability to maintain the highest public health and safety standards.
- **National Policy Goal:** States that it is the policy of the United States to attempt to bring online 100 new nuclear reactors by 2030 (or the megawatt equivalent) if there are a sufficient number of applicants. This provision would not *mandate* any new reactors be built.
- **Mandatory Hearings for Uncontested Licenses:** Eliminates mandatory adjudicatory hearings for uncontested license applications.
- **Uranium Supply-Disruption Mitigation Reserve:** Creates a uranium supply-disruption mitigation reserve whereby the Energy Department would audit all unused materials in its system that could be used to power commercial reactors. Some portion of this uranium would be allocated to be a temporary reserve of reactor fuel to protect against a foreign supplier attempt to deny American energy producers access to uranium fuel.
- **Uranium Supply Summit:** Requires a Federal uranium supply summit to report on ways to domestically produce enough uranium to meet 30 percent of demand by 2030.
- **Temporary Spent-Fuel Storage:** Directs the Interior Department to grant all necessary rights of way and land use authorizations needed for proposed spent fuel storage facilities *if* the State and locality reach an agreement with a private entity.
- **Yucca Mountain:** Prohibits the Administration from withdrawing the Yucca Mountain application currently before the NRC, and repeals Yucca Mountain's current 70,000-metric ton limitation, letting science and technology dictate how much the repository can safely hold.
- **Recycling:** Requires the Secretary to use amounts in the Waste Fund to enter into long-term contracts with private sector entities for the recycling of spent fuel, and prohibits Administrations from blocking or hindering recycling spent nuclear fuel.
- **Tariff Suspension:** Suspends import tariffs and duties on imported nuclear components for five years where there is no domestic manufacturer.
- **National Nuclear Energy Council:** Establishes a National Nuclear Energy Council to help nuclear energy related investors navigate the Federal bureaucracy to efficiently bring their products and services into the marketplace. The Council would also identify ongoing barriers to nuclear energy.

- **Investment Tax Credit:** Expands an existing energy investment tax credit for renewable energy equipment to include nuclear and clean-coal equipment. The bill clarifies that no “double benefit” can be received by collecting both the investment tax credit and the existing production credit for nuclear power.

### ***Title V—Environmental Review & the EPA***

- **NEPA Reform:** Eliminates a NEPA requirement to identify and consider alternative locations for renewable energy projects. An environmental review would still be required for the proposed action and no-action alternative.
- **Endangerment Finding:** Amends the Clean Air Act by stating that the term “air pollutant” does not include carbon dioxide and certain other greenhouse gases and shall not be used to regulate climate change.
- **Endangered Species Act:** Prohibits any consideration of the impacts of greenhouse gases on any species of fish or wildlife or plant, ensuring that the Endangered Species Act shall not be used to regulate climate change.

### ***Title VI—Legal Reform***

- **Exclusive Jurisdiction:** Provides that the U.S. District Court for the District of Columbia have exclusive jurisdiction of all claims arising from energy projects under the bill, to prevent forum shopping.
  - **Claims Deadline:** Limits the claims to those filed within 60 days of an action or decision. Any later claims would be barred.
  - **Resolution Deadline:** Requires that any proceeding be resolved within 180 days of the claim being filed and gives precedence over other court proceedings.
  - **Supreme Court Appeal:** Requires that all appeals from the District Court be reviewed by the Supreme Court and that any proceeding before the Supreme Court be resolved within 180 days of the claim being filed.
  - **Legal Fees:** Requires that any person seeking judicial review of any action under this Act shall pay the prevailing party’s legal fees and other expenses, unless the Court finds that the position of the person was substantially justified or that special circumstances make an award unjust.
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