

109TH CONGRESS } <i>1st Session</i>	HOUSE OF REPRESENTATIVES SENATE	{ REPORT 109-_____
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ENERGY POLICY ACT OF 2005

_____, 2005.—Ordered to be printed

_____, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 6]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6), to ensure jobs for our future with secure, affordable, and reliable energy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Energy Policy Act of 2005”.

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

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

1 (1) COVERED LEASE TRACT.—The term “cov-
2 ered lease tract” means a leased tract (or portion of
3 a leased tract)—

4 (A) lying seaward of the zone defined and
5 governed by section 8(g) of the Outer Conti-
6 nental Shelf Lands Act (43 U.S.C. 1337(g)); or

7 (B) lying within such zone but to which
8 such section does not apply.

9 (2) LESSEE.—The term “lessee”—

10 (A) means a person or entity that, on the
11 date of the enactment of the Oil Pollution Act
12 of 1990, was a lessee referred to in section
13 6004(e) of that Act (as in effect on that date
14 of the enactment), but did not hold lease rights
15 in Federal offshore lease OCS-G-5669; and

16 (B) includes successors and affiliates of a
17 person or entity described in subparagraph (A).

18 **SEC. 384. COASTAL IMPACT ASSISTANCE PROGRAM.**

19 Section 31 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1356a) is amended to read as follows:

1 **“SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) COASTAL POLITICAL SUBDIVISION.—The
4 term ‘coastal political subdivision’ means a political
5 subdivision of a coastal State any part of which po-
6 litical subdivision is—

7 “(A) within the coastal zone (as defined in
8 section 304 of the Coastal Zone Management
9 Act of 1972 (16 U.S.C. 1453)) of the coastal
10 State as of the date of enactment of the Energy
11 Policy Act of 2005; and

12 “(B) not more than 200 nautical miles
13 from the geographic center of any leased tract.

14 “(2) COASTAL POPULATION.—The term ‘coastal
15 population’ means the population, as determined by
16 the most recent official data of the Census Bureau,
17 of each political subdivision any part of which lies
18 within the designated coastal boundary of a State
19 (as defined in a State’s coastal zone management
20 program under the Coastal Zone Management Act of
21 1972 (16 U.S.C. 1451 et seq.)).

1 “(3) COASTAL STATE.—The term ‘coastal
2 State’ has the meaning given the term in section
3 304 of the Coastal Zone Management Act of 1972
4 (16 U.S.C. 1453).

5 “(4) COASTLINE.—The term ‘coastline’ has the
6 meaning given the term ‘coast line’ in section 2 of
7 the Submerged Lands Act (43 U.S.C. 1301).

8 “(5) DISTANCE.—The term ‘distance’ means
9 the minimum great circle distance, measured in stat-
10 ute miles.

11 “(6) LEASED TRACT.—The term ‘leased tract’
12 means a tract that is subject to a lease under section
13 6 or 8 for the purpose of drilling for, developing,
14 and producing oil or natural gas resources.

15 “(7) LEASING MORATORIA.—The term ‘leasing
16 moratoria’ means the prohibitions on preleasing,
17 leasing, and related activities on any geographic area
18 of the outer Continental Shelf as contained in sec-
19 tions 107 through 109 of division E of the Consoli-
20 dated Appropriations Act, 2005 (Public Law 108–
21 447; 118 Stat. 3063).

1 “(8) POLITICAL SUBDIVISION.—The term ‘polit-
2 ical subdivision’ means the local political jurisdiction
3 immediately below the level of State government, in-
4 cluding counties, parishes, and boroughs.

5 “(9) PRODUCING STATE.—

6 “(A) IN GENERAL.—The term ‘producing
7 State’ means a coastal State that has a coastal
8 seaward boundary within 200 nautical miles of
9 the geographic center of a leased tract within
10 any area of the outer Continental Shelf.

11 “(B) EXCLUSION.—The term ‘producing
12 State’ does not include a producing State, a
13 majority of the coastline of which is subject to
14 leasing moratoria, unless production was occur-
15 ring on January 1, 2005, from a lease within
16 10 nautical miles of the coastline of that State.

17 “(10) QUALIFIED OUTER CONTINENTAL SHELF
18 REVENUES.—

19 “(A) IN GENERAL.—The term ‘qualified
20 Outer Continental Shelf revenues’ means all

1 amounts received by the United States from
2 each leased tract or portion of a leased tract—

3 “(i) lying—

4 “(I) seaward of the zone covered
5 by section 8(g); or

6 “(II) within that zone, but to
7 which section 8(g) does not apply; and

8 “(ii) the geographic center of which
9 lies within a distance of 200 nautical miles
10 from any part of the coastline of any
11 coastal State.

12 “(B) INCLUSIONS.—The term ‘qualified
13 Outer Continental Shelf revenues’ includes
14 bonus bids, rents, royalties (including payments
15 for royalty taken in kind and sold), net profit
16 share payments, and related late-payment inter-
17 est from natural gas and oil leases issued under
18 this Act.

19 “(C) EXCLUSION.—The term ‘qualified
20 Outer Continental Shelf revenues’ does not in-
21 clude any revenues from a leased tract or por-

1 tion of a leased tract that is located in a geo-
2 graphic area subject to a leasing moratorium on
3 January 1, 2005, unless the lease was in pro-
4 duction on January 1, 2005.

5 “(b) PAYMENTS TO PRODUCING STATES AND COAST-
6 AL POLITICAL SUBDIVISIONS.—

7 “(1) IN GENERAL.—The Secretary shall, with-
8 out further appropriation, disburse to producing
9 States and coastal political subdivisions in accord-
10 ance with this section \$250,000,000 for each of fis-
11 cal years 2007 through 2010.

12 “(2) DISBURSEMENT.—In each fiscal year, the
13 Secretary shall disburse to each producing State for
14 which the Secretary has approved a plan under sub-
15 section (e), and to coastal political subdivisions
16 under paragraph (4), such funds as are allocated to
17 the producing State or coastal political subdivision,
18 respectively, under this section for the fiscal year.

19 “(3) ALLOCATION AMONG PRODUCING
20 STATES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (C) and subject to subparagraph
3 (D), the amounts available under paragraph (1)
4 shall be allocated to each producing State based
5 on the ratio that—

6 “(i) the amount of qualified outer
7 Continental Shelf revenues generated off
8 the coastline of the producing State; bears
9 to

10 “(ii) the amount of qualified outer
11 Continental Shelf revenues generated off
12 the coastline of all producing States.

13 “(B) AMOUNT OF OUTER CONTINENTAL
14 SHELF REVENUES.—For purposes of subpara-
15 graph (A)—

16 “(i) the amount of qualified outer
17 Continental Shelf revenues for each of fis-
18 cal years 2007 and 2008 shall be deter-
19 mined using qualified outer Continental
20 Shelf revenues received for fiscal year
21 2006; and

1 “(ii) the amount of qualified outer
2 Continental Shelf revenues for each of fis-
3 cal years 2009 and 2010 shall be deter-
4 mined using qualified outer Continental
5 Shelf revenues received for fiscal year
6 2008.

7 “(C) MULTIPLE PRODUCING STATES.—In
8 a case in which more than 1 producing State is
9 located within 200 nautical miles of any portion
10 of a leased tract, the amount allocated to each
11 producing State for the leased tract shall be in-
12 versely proportional to the distance between—

13 “(i) the nearest point on the coastline
14 of the producing State; and

15 “(ii) the geographic center of the
16 leased tract.

17 “(D) MINIMUM ALLOCATION.—The
18 amount allocated to a producing State under
19 subparagraph (A) shall be at least 1 percent of
20 the amounts available under paragraph (1).

1 “(4) PAYMENTS TO COASTAL POLITICAL SUB-
2 DIVISIONS.—

3 “(A) IN GENERAL.—The Secretary shall
4 pay 35 percent of the allocable share of each
5 producing State, as determined under para-
6 graph (3) to the coastal political subdivisions in
7 the producing State.

8 “(B) FORMULA.—Of the amount paid by
9 the Secretary to coastal political subdivisions
10 under subparagraph (A)—

11 “(i) 25 percent shall be allocated to
12 each coastal political subdivision in the
13 proportion that—

14 “(I) the coastal population of the
15 coastal political subdivision; bears to

16 “(II) the coastal population of all
17 coastal political subdivisions in the
18 producing State;

19 “(ii) 25 percent shall be allocated to
20 each coastal political subdivision in the
21 proportion that—

1 “(I) the number of miles of
2 coastline of the coastal political sub-
3 division; bears to

4 “(II) the number of miles of
5 coastline of all coastal political sub-
6 divisions in the producing State; and

7 “(iii) 50 percent shall be allocated in
8 amounts that are inversely proportional to
9 the respective distances between the points
10 in each coastal political subdivision that
11 are closest to the geographic center of each
12 leased tract, as determined by the Sec-
13 retary.

14 “(C) EXCEPTION FOR THE STATE OF LOU-
15 ISIANA.—For the purposes of subparagraph
16 (B)(ii), the coastline for coastal political sub-
17 divisions in the State of Louisiana without a
18 coastline shall be considered to be $\frac{1}{3}$ the aver-
19 age length of the coastline of all coastal political
20 subdivisions with a coastline in the State of
21 Louisiana.

1 “(D) EXCEPTION FOR THE STATE OF
2 ALASKA.—For the purposes of carrying out
3 subparagraph (B)(iii) in the State of Alaska,
4 the amounts allocated shall be divided equally
5 among the 2 coastal political subdivisions that
6 are closest to the geographic center of a leased
7 tract.

8 “(E) EXCLUSION OF CERTAIN LEASED
9 TRACTS.—For purposes of subparagraph
10 (B)(iii), a leased tract or portion of a leased
11 tract shall be excluded if the tract or portion of
12 a leased tract is located in a geographic area
13 subject to a leasing moratorium on January 1,
14 2005, unless the lease was in production on
15 that date.

16 “(5) NO APPROVED PLAN.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B) and except as provided in subpara-
19 graph (C), in a case in which any amount allo-
20 cated to a producing State or coastal political
21 subdivision under paragraph (4) or (5) is not

1 disbursed because the producing State does not
2 have in effect a plan that has been approved by
3 the Secretary under subsection (c), the Sec-
4 retary shall allocate the undisbursed amount
5 equally among all other producing States.

6 “(B) RETENTION OF ALLOCATION.—The
7 Secretary shall hold in escrow an undisbursed
8 amount described in subparagraph (A) until
9 such date as the final appeal regarding the dis-
10 approval of a plan submitted under subsection
11 (c) is decided.

12 “(C) WAIVER.—The Secretary may waive
13 subparagraph (A) with respect to an allocated
14 share of a producing State and hold the allo-
15 cable share in escrow if the Secretary deter-
16 mines that the producing State is making a
17 good faith effort to develop and submit, or up-
18 date, a plan in accordance with subsection (c).

19 “(e) COASTAL IMPACT ASSISTANCE PLAN.—

20 “(1) SUBMISSION OF STATE PLANS.—

1 “(A) IN GENERAL.—Not later than July 1,
2 2008, the Governor of a producing State shall
3 submit to the Secretary a coastal impact assist-
4 ance plan.

5 “(B) PUBLIC PARTICIPATION.—In carrying
6 out subparagraph (A), the Governor shall solicit
7 local input and provide for public participation
8 in the development of the plan.

9 “(2) APPROVAL.—

10 “(A) IN GENERAL.—The Secretary shall
11 approve a plan of a producing State submitted
12 under paragraph (1) before disbursing any
13 amount to the producing State, or to a coastal
14 political subdivision located in the producing
15 State, under this section.

16 “(B) COMPONENTS.—The Secretary shall
17 approve a plan submitted under paragraph (1)
18 if—

19 “(i) the Secretary determines that the
20 plan is consistent with the uses described
21 in subsection (d); and

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1 “(ii) the plan contains—

2 “(I) the name of the State agen-
3 cy that will have the authority to rep-
4 resent and act on behalf of the pro-
5 ducing State in dealing with the Sec-
6 retary for purposes of this section;

7 “(II) a program for the imple-
8 mentation of the plan that describes
9 how the amounts provided under this
10 section to the producing State will be
11 used;

12 “(III) for each coastal political
13 subdivision that receives an amount
14 under this section—

15 “(aa) the name of a contact
16 person; and

17 “(bb) a description of how
18 the coastal political subdivision
19 will use amounts provided under
20 this section;

1 “(IV) a certification by the Gov-
2 ernor that ample opportunity has been
3 provided for public participation in
4 the development and revision of the
5 plan; and

6 “(V) a description of measures
7 that will be taken to determine the
8 availability of assistance from other
9 relevant Federal resources and pro-
10 grams.

11 “(3) AMENDMENT.—Any amendment to a plan
12 submitted under paragraph (1) shall be—

13 “(A) developed in accordance with this
14 subsection; and

15 “(B) submitted to the Secretary for ap-
16 proval or disapproval under paragraph (4).

17 “(4) PROCEDURE.—Not later than 90 days
18 after the date on which a plan or amendment to a
19 plan is submitted under paragraph (1) or (3), the
20 Secretary shall approve or disapprove the plan or
21 amendment.

1 “(d) AUTHORIZED USES.—

2 “(1) IN GENERAL.—A producing State or coast-
3 al political subdivision shall use all amounts received
4 under this section, including any amount deposited
5 in a trust fund that is administered by the State or
6 coastal political subdivision and dedicated to uses
7 consistent with this section, in accordance with all
8 applicable Federal and State law, only for 1 or more
9 of the following purposes:

10 “(A) Projects and activities for the con-
11 servation, protection, or restoration of coastal
12 areas, including wetland.

13 “(B) Mitigation of damage to fish, wildlife,
14 or natural resources.

15 “(C) Planning assistance and the adminis-
16 trative costs of complying with this section.

17 “(D) Implementation of a federally-ap-
18 proved marine, coastal, or comprehensive con-
19 servation management plan.

20 “(E) Mitigation of the impact of outer
21 Continental Shelf activities through funding of

1 onshore infrastructure projects and public serv-
2 ice needs.

3 “(2) COMPLIANCE WITH AUTHORIZED USES.—

4 If the Secretary determines that any expenditure
5 made by a producing State or coastal political sub-
6 division is not consistent with this subsection, the
7 Secretary shall not disburse any additional amount
8 under this section to the producing State or the
9 coastal political subdivision until such time as all
10 amounts obligated for unauthorized uses have been
11 repaid or reobligated for authorized uses.

12 “(3) LIMITATION.—Not more than 23 percent
13 of amounts received by a producing State or coastal
14 political subdivision for any 1 fiscal year shall be
15 used for the purposes described subparagraphs (C)
16 and (E) of paragraph (1).”.

17 ~~SEC. 385. STUDY OF AVAILABILITY OF SKILLED WORKERS.~~

18 ~~(a) IN GENERAL.—The Secretary shall enter into an~~
19 ~~arrangement with the National Academy of Sciences~~
20 ~~under which the National Academy of Sciences shall con-~~
21 ~~duct a study of the short-term and long-term availability~~