To stimulate the economy, produce domestic energy, and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2011

Mr. Vitter (for himself, Mr. Barrasso, Mr. Blunt, Mr. Boozman, Mr. Coats, Mr. Coburn, Mr. Cochran, Mr. Cornyn, Mr. Crapo, Mr. DeMint, Mr. Ensign, Mr. Enzi, Mr. Graham, Mr. Hatch, Mrs. Hutchison, Mr. Inhofe, Mr. Isakson, Mr. Johanns, Mr. Johnson of Wisconsin, Mr. Kyl, Mr. Lee, Mr. Moran, Mr. Risch, Mr. Roberts, Mr. Sessions, Mr. Shelby, Mr. Wicker, Mr. Hoeven, and Mr. Rubio) introduced the following bill; which was read the first time

APRIL 4, 2011

Read the second time and placed on the calendar

A BILL

To stimulate the economy, produce domestic energy, and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “3-D, Domestic Jobs, Domestic Energy, and Deficit Reduction Act of 2011”.

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

Sec. 1. Short title; table of contents.

TITLE I—OUTER CONTINENTAL SHELF LEASING

Sec. 101. Leasing program considered approved.
Sec. 102. Lease sales.
Sec. 103. Applications for permits to drill.
Sec. 104. Lease sales for certain areas.

TITLE II—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

Sec. 201. Definitions.
Sec. 202. Leasing program for land within the Coastal Plain.
Sec. 203. Lease sales.
Sec. 204. Grant of leases by the Secretary.
Sec. 205. Lease terms and conditions.
Sec. 206. Coastal plain environmental protection.
Sec. 207. Expedited judicial review.
Sec. 208. Rights-of-way across the Coastal plain.
Sec. 209. Conveyance.

TITLE III—REGULATORY STREAMLINING

Sec. 301. Commercial leasing program for oil shale resources on public land.
Sec. 302. Jurisdiction over covered energy projects.
Sec. 303. Environmental impact statements.
Sec. 304. Clean air regulation.
Sec. 305. Employment effects of actions under Clean Air Act.
Sec. 306. Endangered species.
Sec. 307. Reissuance of permits and leases.
Sec. 308. Central Valley Project.
Sec. 309. Keystone XL pipeline.
Sec. 310. Beaufort Sea oil drilling project.
Sec. 311. Environmental legal fees.
TITLE I—OUTER CONTINENTAL SHELF LEASING

SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.

(a) In General.—The Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010–2015 issued by the Secretary of the Interior (referred to in this section as the “Secretary”) under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is considered to have been approved by the Secretary as a final oil and gas leasing program under that section.

(b) Final Environmental Impact Statement.—The Secretary is considered to have issued a final environmental impact statement for the program described in subsection (a) in accordance with all requirements under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. 102. LEASE SALES.

(a) In General.—Except as otherwise provided in this section, not later than 180 days after the date of enactment of this Act and every 270 days thereafter, the Secretary of the Interior (referred to in this section as the “Secretary”) shall conduct a lease sale in each outer Continental Shelf planning area for which the Secretary determines that there is a commercial interest in pur-
chasing Federal oil and gas leases for production on the outer Continental Shelf.

(b) Subsequent Determinations and Sales.—If the Secretary determines that there is not a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in a planning area under this section, not later than 2 years after the date of enactment of the determination and every 2 years thereafter, the Secretary shall—

(1) determine whether there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in the planning area; and

(2) if the Secretary determines that there is a commercial interest described in subsection (a), conduct a lease sale in the planning area.

(c) Exclusion From 5-Year Lease Program.—If a planning area for which there is a commercial interest described in subsection (a) was not included in a 5-year lease program, the Secretary shall include leasing in the planning area in the subsequent 5-year lease program.

(d) Petitions.—If a person petitions the Secretary to conduct a lease sale for an outer Continental Shelf planning area in which the person has a commercial interest,
not later than 60 days after the date of receipt of the peti-
tion, the Secretary shall conduct a lease sale for the area.

SEC. 103. APPLICATIONS FOR PERMITS TO DRILL.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

“(k) APPLICATIONS FOR PERMITS TO DRILL.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall approve or disapprove an application for a permit to drill submitted under this Act not later than 20 days after the date the application is submitted to the Secretary.

“(2) DISAPPROVAL.—If the Secretary disapproves an application for a permit to drill submitted under paragraph (1), the Secretary shall—

“(A) provide to the applicant a description of the reasons for the disapproval of the appli-
cation;

“(B) allow the applicant to resubmit an application during the 10-day period beginning on the date of the receipt of the description by the applicant; and

“(C) approve or disapprove any resub-
mitted application not later than 10 days after
the date the application is submitted to the Secretary.”.

SEC. 104. LEASE SALES FOR CERTAIN AREAS.

(a) In General.—As soon as practicable but not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall hold—

(1) Lease Sale 216 for areas in the Central Gulf of Mexico;

(2) Lease Sale 218 for areas in the Western Gulf of Mexico;

(3) Lease Sale 220 for areas offshore the State of Virginia; and

(4) Lease Sale 222 for areas in the Central Gulf of Mexico.

(b) Compliance With Other Laws.—For purposes of the Lease Sales described in subsection (a), the Environmental Impact Statement for the 2007-2015-Year OCS Plan and the applicable Multi-Sale Environmental Impact Statement shall be considered to satisfy the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Energy Projects in the Gulf of Mexico.—

(1) Jurisdiction.—The United States Court of Appeals for the Fifth Circuit shall have exclusive jurisdiction over challenges to offshore energy
projects and permits to drill carried out in the Gulf of Mexico.

(2) **FILING DEADLINE.**—Any civil action to challenge a project or permit described in paragraph (1) shall be filed not later than 60 days after the date of approval of the project or the issuance of the permit.

**TITLE II—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN**

**SEC. 201. DEFINITIONS.**

In this title:

(1) **COASTAL PLAIN.**—The term "Coastal Plain" means that area identified as the "1002 Coastal Plain Area" on the map.

(2) **FEDERAL AGREEMENT.**—The term "Federal Agreement" means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) **FINAL STATEMENT.**—The term "Final Statement" means the final legislative environmental impact statement on the Coastal Plain, dated April


(5) Secretary.—The term “Secretary” means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management, in consultation with the Director of the United States Fish and Wildlife Service.

SEC. 202. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) In General.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this title, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and
(2) to administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(A) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(B) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) Repeal.—


(2) Conforming Amendment.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(3) Compliance with NEPA for other actions.—
(A) **IN GENERAL.—** Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this title that are not referred to in paragraph (2).

(B) **IDENTIFICATION AND ANALYSIS.—** Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) **IDENTIFICATION OF PREFERRED ACTION.—** Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this title; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.
(D) **Public Comments.**—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) **Effect of Compliance.**—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(c) **Relationship to State and Local Authority.**—Nothing in this title expands or limits any State or local regulatory authority.

(d) **Special Areas.**—

   (1) **Designation.**—

      (A) **In General.**—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.
(B) Sadlerochit Spring Area.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) Management.—The Secretary shall manage each special area designated under this subsection in a manner that preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) Exclusion from Leasing or Surface Occupancy.—

(A) In general.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) No surface occupancy.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) Directional Drilling.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under
terms that permit the use of horizontal drilling tech-
nology from sites on leases located outside the spe-
cial area.

(e) LIMITATION ON CLOSED AREAS.—The Secretary
may not close land within the Coastal Plain to oil and gas
leasing or to exploration, development, or production ex-
cept in accordance with this title.

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months
after the date of enactment of this Act, the Sec-
retary shall promulgate such regulations as are nec-
essary to carry out this title, including rules and
regulations relating to protection of the fish and
wildlife, fish and wildlife habitat, subsistence re-
sources, and environment of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Sec-
retary shall periodically review and, as appropriate,
revise the rules and regulations issued under para-
graph (1) to reflect any significant biological, envi-
ronmental, scientific or engineering data that come
to the attention of the Secretary.

SEC. 203. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to
this title to any person qualified to obtain a lease for de-
po"sits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(e) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—
(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this title;
(2) not later than 90 days after the date of the completion of the sale, evaluate the bids in the sale and issue leases resulting from the sale; and
(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 204. GRANT OF LEASES BY THE SECRETARY.
(a) IN GENERAL.—On payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 203 a lease for any land on the Coastal Plain.
(b) SUBSEQUENT TRANSFERS.—
(1) IN GENERAL.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.
(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.
SEC. 205. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12 1⁄2 percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases; 

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife; 

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee; 

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;
(5) provide that the standard of reclamation for land required to be reclaimed under this title shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) on application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 202(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this title and the regulations promulgated under this title.
SEC. 206. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) No Significant Adverse Effect Standard To Govern Authorized Coastal Plain Activities.—In accordance with section 202, the Secretary shall admin-
ister this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and pro-
duction activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment; and

(2) require the application of the best commer-
cially available technology for oil and gas explo-
ration, development, and production on all new ex-
ploration, development, and production operations.

(b) Site-Specific Assessment and Mitigation.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific analysis be made of the prob-
able effects, if any, that the drilling or related activi-
ties will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum ex-
tent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the 1 or more agencies having jurisdiction over matters mitigated by the plan.

(c) Regulations To Protect Coastal Plain Fish and Wildlife Resources, Subsistence Users, and the Environment.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) Compliance With Federal and State Environmental Laws and Other Requirements.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—
(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this title for the removal from the Coastal Plain of all oil
and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and
(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements.

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—
(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary determines to be necessary.

(c) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—
(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—
(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) Access to Public Land.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 207. EXPEDITED JUDICIAL REVIEW.

(a) Filing of Complaints.—
(1) **DEADLINE.**—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) **VENUE.**—A complaint seeking judicial review of a provision of this title or an action of the Secretary under this title shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(3) **SCOPE.**—

(A) **IN GENERAL.**—Judicial review of a decision of the Secretary relating to a lease sale under this title (including an environmental analysis of such a lease sale) shall be—
(i) limited to a review of whether the
decision is in accordance with this title;
and
(ii) based on the administrative record
of the decision.

(B) Presumptions.—Any identification
by the Secretary of a preferred course of action
relating to a lease sale, and any analysis by the
Secretary of environmental effects, under this
title shall be presumed to be correct unless
proven otherwise by clear and convincing evi-
dence.

(b) Limitation on Other Review.—Any action of
the Secretary that is subject to judicial review under this
section shall not be subject to judicial review in any civil
or criminal proceeding for enforcement.

SEC. 208. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) In General.—The Secretary shall issue rights-
of-way and easements across the Coastal Plain for the
transportation of oil and gas—

(1) except as provided in paragraph (2), under
section 28 of the Mineral Leasing Act (30 U.S.C.
185), without regard to title XI of the Alaska Na-
tional Interest Lands Conservation Act (16 U.S.C.
3161 et seq.); and

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(e) REGULATIONS.—The Secretary shall include in regulations under section 202(f) provisions granting rights-of-way and easements described in subsection (a).

SEC. 209. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settle-
ment Act (43 U.S.C. 1611, 1613), as determined by
the Secretary, convey to that Corporation the sur-
face estate of the land described in paragraph (1) of
Public Land Order 6959, in accordance with the
terms and conditions of the agreement between the
Secretary, the United States Fish and Wildlife Serv-
vice, the Bureau of Land Management, and the
Kaktovik Inupiat Corporation, dated January 22,
1993; and

(2) convey to the Arctic Slope Regional Cor-
poration the remaining subsurface estate to which
that Corporation is entitled under the agreement be-
tween that corporation and the United States, dated
August 9, 1983.

SEC. 210. ANWR ALTERNATIVE ENERGY TRUST FUND.

(a) Source of Funds.—

(1) In General.—Subject to paragraph (2)
and notwithstanding any other provision of law, of
the amount of adjusted bonus, rental, and royalty
revenues from Federal oil and gas leasing and oper-
ations authorized under this title for each fiscal
year, 50 percent shall be paid to the ANWR Alter-
native Energy Trust Fund established under sub-
section (b).

(2) Transfers.—
(A) IN GENERAL.—A transfer to the ANWR Alternative Energy Trust Fund shall be made for a fiscal year under paragraph (1) only if the total amount of revenues in the Federal budget for the fiscal year exceeds the total amount of expenditures under the budget for the fiscal year.

(B) DEBT REDUCTION.—If the total amount of revenues in the Federal budget for a fiscal year does not exceed the total amount of expenditures under the budget for the fiscal year, all adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title for the fiscal year—

(i) shall be used to reduce the Federal budget deficit; and

(ii) shall not be used to offset any other expenditures.

(b) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “ANWR Alternative Energy Trust Fund”, consisting of such amounts as may be transferred to the ANWR Alternative Energy Trust Fund as provided in subsection (a).
(c) Expenditures from ANWR Alternative Energy Trust Fund.—

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

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<td>Section 1112</td>
<td>1.5 percent</td>
<td></td>
</tr>
<tr>
<td>Section 1304</td>
<td>11.0 percent</td>
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(2) Apportionment of excess amount.—

Notwithstanding paragraph (1), any amounts allo-
cated under paragraph (1) that are in excess of the
amounts authorized in the applicable cited section or
subtitle of EPAct2005 and EISAct2007 shall be re-
allocated to the remaining sections and subtitles
cited in paragraph (1), up to the amounts otherwise
authorized by law to carry out those sections and
subtitles, in proportion to the amounts authorized by
law to be appropriated for those other sections and
subtitles.

**TITLE III—REGULATORY STREAMLINING**

**SEC. 301. COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Subsection (e) of the Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005 (42 U.S.C. 15927(e)) is amended—

(1) in the first sentence, by striking “Not later” and inserting the following:

“(1) IN GENERAL.—Not later”;

(2) in the second sentence—

(A) by striking “If the Secretary” and in-
serting the following:

“(2) LEASE SALES.—

“(A) IN GENERAL.—If the Secretary”; and
(B) by striking “may” and inserting “shall”;

(3) in the last sentence, by striking “Evidence of interest” and inserting the following:

“(B) EVIDENCE OF INTEREST.—Evidence of interest”; and

(4) by adding at the end the following:

“(C) SUBSEQUENT LEASE SALES.—During any period for which the Secretary determines that there is sufficient support and interest in a State in the development of tar sands and oil shale resources, the Secretary shall—

“(i) at least annually, consult with the persons described in paragraph (1) to expedite the commercial leasing program for oil shale resources on public land in the State; and

“(ii) at least once every 270 days, conduct a lease sale in the State under the commercial leasing program regulations.”.

SEC. 302. JURISDICTION OVER COVERED ENERGY PROJECTS.

(a) Definition of Covered Energy Project.—In this section, the term “covered energy project” means any action or decision by a Federal official regarding—
(1) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(2) any action under such a lease, except that this section and Act shall not apply to a dispute between the parties to a lease entered into a provision of law authorizing the lease regarding obligations under the lease or the alleged breach of the lease.

(b) Exclusive Jurisdiction Over Causes and Claims Relating to Covered Energy Projects.—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this section or any other Act that arise from any covered energy project.

(c) Time for Filing Complaint.—

(1) In general.—Each case or claim described in subsection (b) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned.
(2) Prohibition.—Any cause or claim described in subsection (b) that is not filed within the time period described in paragraph (1) shall be barred.

(d) District Court for the District of Columbia Deadline.—

(1) In General.—Each proceeding that is subject to subsection (b) shall—

(A) be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(B) take precedence over all other pending matters before the district court.

(2) Failure to Comply with Deadline.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this section, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(e) Ability To Seek Appellate Review.—An interlocutory or final judgment, decree, or order of the district court under this section may be reviewed by no other court except the Supreme Court.

(f) Deadline for Appeal to the Supreme Court.—If a writ of certiorari has been granted by the
Supreme Court pursuant to subsection (e), the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued.

SEC. 303. ENVIRONMENTAL IMPACT STATEMENTS.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end the following:

“SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL IMPACT STATEMENTS.

“(a) Completion.—

“(1) In general.—Notwithstanding any other provision of law, each review carried out under section 102(2)(C) with respect to any action taken under any provision of law, or for which funds are made available under any provision of law, shall be completed not later than the date that is 270 days after the commencement of the review.

“(2) Failure to complete review.—If a review described in paragraph (1) has not been completed for an action subject to section 102(2)(C) by the date specified in paragraph (1)—
“(A) the action shall be considered to have no significant impact described in section 102(2)(C); and

“(B) that classification shall be considered to be a final agency action.

“(3) **UNEMPLOYMENT RATE.**—If the national unemployment rate is 5 percent or more, the lead agency conducting a review of an action under this section shall use the most expeditious means authorized under this title to conduct the review.

“(b) **LEAD AGENCY.**—The lead agency for a review of an action under this section shall be the Federal agency to which funds are made available for the action.

“(c) **REVIEW.**—

“(1) **ADMINISTRATIVE APPEALS.**—There shall be a single administrative appeal for each review carried out pursuant to section 102(2)(C).

“(2) **JUDICIAL REVIEW.**—

“(A) **IN GENERAL.**—On resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.
“(B) Administrative record.—An appeal to the court described in subparagraph (A) shall be based only on the administrative record.

“(C) Pendency of judicial review.—After an agency has made a final decision with respect to a review carried out under this subsection, the decision shall be effective during the course of any subsequent appeal to a court described in subparagraph (A).

“(3) Civil action.—Each civil action covered by this section shall be considered to arise under the laws of the United States.”.

SEC. 304. CLEAN AIR REGULATION.

(a) Regulation of greenhouse gases.—Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended—

(1) by striking “(g) The term” and inserting the following:

“(g) Air pollutant.—

“(1) In general.—The term’’;

(2) by striking “Such term” and inserting the following:

“(2) Inclusions.—The term ‘air pollutant’”;

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

“(3) EXCLUSIONS.—The term ‘air pollutant’ does not include carbon dioxide, methane from agriculture or livestock, or water vapor.”.

(b) EMISSION WAIVERS.—The Administrator of the Environmental Protection Agency shall not grant to any State any waiver of Federal preemption of motor vehicle standards under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)) for preemption under that Act for any regulation of the State to control greenhouse gas emissions from motor vehicles.

SEC. 305. EMPLOYMENT EFFECTS OF ACTIONS UNDER CLEAN AIR ACT.

Section 321(b) of the Clean Air Act (42 U.S.C. 7621(b)) is amended—

(1) by designating the first through eighth sentences as paragraphs (1) through (8), respectively; and

(2) by adding at the end the following:

“(9) ECONOMIC ANALYSIS.—Not later than 30 days before conducting a public hearing or providing notice of a determination that a hearing is not necessary with respect to a requirement described in paragraph (1), the Administrator shall—
“(A) conduct a full economic analysis of the requirement; and

“(B) make the results of the analysis available to the public.

“(10) ECONOMIC REVIEW BOARD.—

“(A) In general.—Not later than 30 days after the date on which the Administrator makes the results of an economic analysis of a requirement available to the public under paragraph (9)(B), the Secretary of Commerce shall establish an economic review board consisting of a representative from each Federal agency with jurisdiction over affected industries to assess—

“(i) the cumulative economic impact of the requirement, including the direct, indirect, quantifiable, and qualitative effects;

“(ii) the cost of compliance with the requirement;

“(iii) the effect of the requirement on the retirement or closure of domestic businesses;

“(iv) the direct and indirect adverse impacts on the economies of local communities that are projected to result from the requirement;
“(v) energy sectors that could be expected to retire units as a result of the requirement;

“(vi) the impact of the requirement on the price of electricity, oil, gas, coal, and renewable resources;

“(vii) the economic harm to consumers resulting from the requirement;

“(viii) the impact of the requirement on the ability of industries and businesses in the United States to compete with industries and businesses in other countries, with respect to competitiveness in both domestic and foreign markets;

“(ix) the regions of the United States that are forecasted to be—

“(I) most affected from the direct and indirect adverse impacts of the requirement from the retirement of impacted units and increased prices for retail electricity, transportation fuels, heating oil, and petrochemicals;

and

“(II) least affected from adverse impacts described in subclause (I) due
to the creation of new jobs and economic growth that are expected to result directly and indirectly from energy construction projects;

“(x) the adverse impacts of the requirement on electric reliability that are expected to result from the retirement of electric generation;

“(xi) the geographical distribution of the projected adverse electric reliability impacts of the requirement;

“(xii) Federal, State, and local policies that have been or will be implemented to support energy infrastructure in the United States, including policies that promote fuel diversity, affordable and reliable electricity, and energy security; and

“(xiii) other direct and indirect impacts that are expected to result from the cumulative obligation to comply with the requirement.

“(B) REPORT.—Not later than 30 days after the date on which the economic review board completes the assessment of a requirement under subparagraph (A), the economic re-
view board shall submit to Congress, the President, and the Secretary a report that describes
the results of the assessment.

“(C) REGULATIONS.—The Administrator
shall not promulgate regulations to implement a
requirement described in paragraph (1) until at
least 60 days after the date of submission of
the report on the requirement under subpara-
graph (B).”.

SEC. 306. ENDANGERED SPECIES.

(a) EMERGENCIES.—Section 10 of the Endangered
Species Act of 1973 (16 U.S.C. 1539) is amended by add-
ing at the end the following:

“(k) EMERGENCIES.—On the declaration of an emer-
gency by the Governor of a State, the Secretary shall, for
the duration of the emergency, temporarily exempt from
the prohibition against taking, and the prohibition against
the adverse modification of critical habitat, under this Act
any action that is reasonably necessary to avoid or amelio-
rate the impact of the emergency, including the operation
of any water supply or flood control project by a Federal
agency.”.

(b) PROHIBITION OF CONSIDERATION OF IMPACT OF
GREENHOUSE GAS.—
(1) IN GENERAL.—The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end the following:

“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.

“(a) Definition of greenhouse. — In this section, the term ‘greenhouse gas’ means any of—

“(1) carbon dioxide;
“(2) methane;
“(3) nitrous oxide;
“(4) sulfur hexafluoride;
“(5) a hydrofluorocarbon;
“(6) a perfluorocarbon; or
“(7) any other anthropogenic gas designated by the Secretary for purposes of this section.

“(b) Impact of greenhouse gas. — The impact of greenhouse gas on any species of fish or wildlife or plant shall not be considered for any purpose in the implementation of this Act.”.

(2) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by adding at the end the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.
“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.
SEC. 307. REISSUANCE OF PERMITS AND LEASES.

(a) ENVIRONMENTAL PROTECTION AGENCY.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environment Protection Agency shall approve the specification of the areas described in the notice entitled “Final Determination of the Assistant Administrator for Water Pursuant to Section 404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, WV” (76 Fed. Reg. 3126; January 19, 2011), with no further review or analysis.

(b) DEPARTMENT OF THE INTERIOR.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall issue or reissue, with no further review or analysis, each lease for the production of oil or gas in the State of Utah was cancelled during any of calendar years 2009 through 2011.

SEC. 308. CENTRAL VALLEY PROJECT.

The Act of August 27, 1954 (68 Stat. 879, chapter 1012; 16 U.S.C. 695d et seq.) is amended by adding at the end the following:

“SEC. 9. EFFECT OF BIOLOGICAL OPINIONS.

“Notwithstanding any other provision of law, in connection with the Central Valley Project, the Bureau of Reclamation and an agency of the State of California operating a water project in connection with the Project shall not restrict operations of an applicable project pursuant

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to any biological opinion issued under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), if the restriction would result in a level of allocation of water that is less than the historical maximum level of allocation of water under the project.”.

SEC. 309. KEYSTONE XL PIPELINE.

(a) **In General.**—The Secretary of State (referred to in this section as the “Secretary”) shall take such actions as are necessary to expedite the permit request for the Keystone XL pipeline that is pending on the date of enactment of this Act (referred to in this section as the “pipeline”) in accordance with this section.

(b) **Greenhouse Gas Impacts.**—The Secretary shall not consider greenhouse gas impacts during the permit review process for the pipeline.

(e) **NEPA Compliance.**—Effective beginning on the date that is 120 days after the date of enactment of this Act, the pipeline project shall be considered in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) **Additional Routes.**—In conducting the permit review process, the Secretary shall consider additional routes for the pipeline, including routes that are parallel to the United States portions of Keystone 1.
(e) PERMIT REVIEW.—Not later than 120 days after the date of enactment of this Act, the Secretary shall complete the permit review for the pipeline.

(f) DECISION.—Not later than 125 days after the date of enactment of this Act, the Secretary shall issue a decision on the permit for the pipeline.

SEC. 310. BEAUFORT SEA OIL DRILLING PROJECT.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall issue a permit under the Clean Air Act (42 U.S.C. 7401 et seq.) to Shell Oil Company to permit the Company to drill for oil in the Beaufort Sea, with no further review or analysis.

SEC. 311. ENVIRONMENTAL LEGAL FEES.

Section 504 of title 5, United States Code, is amended by adding at the end the following:

“(g) ENVIRONMENTAL LEGAL FEES.—Notwithstanding section 1304 of title 31, no award may be made under this section and no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay any legal fees of an environmental nongovernmental organization related to an action that (with respect to the United States)—

“(1) prevents, terminates, or reduces access to or the production of—
“(A) energy;

“(B) a mineral resource;

“(C) water by agricultural producers;

“(D) a resource by commercial or recreational fishermen; or

“(E) grazing or timber production on Federal land;

“(2) diminishes the private property value of a property owner; or

“(3) eliminates or prevents 1 or more jobs.”.
A BILL

To stimulate the economy, produce domestic energy, and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

APRIL 4, 2011

Read the second time and placed on the calendar.