

109TH CONGRESS
1ST SESSION

S. 733

To amend the Outer Continental Shelf Lands Act to provide a domestic offshore energy reinvestment program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Outer Continental Shelf Lands Act to provide a domestic offshore energy reinvestment program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Domestic Offshore En-
5 ergy Reinvestment Act of 2005”.

6 **SEC. 2. DOMESTIC OFFSHORE ENERGY REINVESTMENT.**

7 (a) IN GENERAL.—The Outer Continental Shelf
8 Lands Act (43 U.S.C. 1331 et seq.) is amended by adding
9 at the end the following:

1 **“SEC. 32. DOMESTIC OFFSHORE ENERGY REINVESTMENT**
2 **PROGRAM.**

3 “(a) In this section:

4 “(1) The term ‘approved plan’ means a secure
5 energy reinvestment plan approved by the Secretary
6 under this section.

7 “(2) The term ‘coastal energy State’ means a
8 coastal State off the coastline of which, within the
9 seaward lateral boundary, an outer Continental
10 Shelf bonus bid or royalty is generated (excluding a
11 bonus bid or royalty from a leased tract within an
12 area of the outer Continental Shelf for which a mor-
13 atorium on new leasing was in effect as of January
14 1, 2002, unless the lease was issued before the es-
15 tablishment of the moratorium and was in produc-
16 tion on that date).

17 “(3) The term ‘coastal political subdivision’
18 means a county, parish, or other equivalent subdivi-
19 sion of a coastal energy State, all or part of which,
20 on the date of the enactment of this section, lies
21 within the boundaries of the coastal zone of the
22 State, as identified in the coastal zone management
23 program of the State approved under the Coastal
24 Zone Management Act of 1972 (16 U.S.C. 1451 et
25 seq.).

1 “(4) The term ‘coastal population’ means the
2 population of a coastal political subdivision, as deter-
3 mined by the most recent official data of the Census
4 Bureau.

5 “(5) The term ‘coastline’ has the meaning given
6 the term ‘coast line’ in section 2(c) of the Sub-
7 merged Lands Act (43 U.S.C. 1301(c)).

8 “(6) The term ‘Fund’ means the Secure Energy
9 Reinvestment Fund established by subsection (b)(1).

10 “(7) The term ‘leased tract’ means a tract
11 maintained under section 6 or leased under section
12 8 for the purpose of drilling for, developing, and pro-
13 ducing oil and natural gas resources.

14 “(8)(A) Except as provided in subparagraph
15 (B), the term ‘qualified outer Continental Shelf reve-
16 nues’ means all amounts received by the United
17 States on or after October 1, 2005, from each leased
18 tract or portion of a leased tract lying seaward of
19 the zone defined and governed by section 8(g) (or
20 lying within that zone but to which section 8(g) does
21 not apply), including bonus bids, rents, royalties (in-
22 cluding payments for royalties taken in kind and
23 sold), net profit share payments, and related inter-
24 est.

1 “(B) The term ‘qualified outer Continental
2 Shelf revenues’ does not include any revenue from a
3 leased tract or portion of a leased tract that is in-
4 cluded within any area of the outer Continental
5 Shelf for which a moratorium on new leasing was in
6 effect as of January 1, 2002, unless the lease was
7 issued before the establishment of the moratorium
8 and was in production on that date.

9 “(9) The term ‘Secretary’ means the Secretary
10 of the Interior.

11 “(b)(1)(A) There is established in the Treasury of the
12 United States a separate account to be known as the ‘Se-
13 cure Energy Reinvestment Fund’.

14 “(B) The Fund shall consist of—

15 “(i) any amount deposited under paragraph (2);
16 and

17 “(ii) any other amounts that are appropriated
18 to the Fund.

19 “(2) For each fiscal year after fiscal year 2006, the
20 Secretary of the Treasury shall deposit into the Fund the
21 following:

22 “(A) Notwithstanding section 9, all qualified
23 outer Continental Shelf revenues attributable to roy-
24 alties received by the United States during the fiscal
25 year in excess of—

1 “(i) in the case of royalties received in fis-
2 cal year 2006, \$7,000,000,000;

3 “(ii) in the case of royalties received in fis-
4 cal year 2007, \$7,100,000,000;

5 “(iii) in the case of royalties received in
6 fiscal year 2008, \$7,300,000,000;

7 “(iv) in the case of royalties received in fis-
8 cal year 2009, \$6,900,000,000;

9 “(v) in the case of royalties received in fis-
10 cal year 2010, \$7,200,000,000;

11 “(vi) in the case of royalties received in fis-
12 cal year 2011, \$7,250,000,000;

13 “(vii) in the case of royalties received in
14 fiscal year 2012, \$8,125,000,000;

15 “(viii) in the case of royalties received in
16 fiscal year 2013, \$8,100,000,000;

17 “(ix) in the case of royalties received in fis-
18 cal year 2014, \$9,000,000,000; and

19 “(x) in the case of royalties received in fis-
20 cal year 2015, \$7,500,000,000.

21 “(B) Notwithstanding section 9, any qualified
22 outer Continental shelf revenues that are attrib-
23 utable to bonus bids received by the United States
24 during each of fiscal years 2006 through 2015 in ex-
25 cess of \$880,000,000.

1 “(C) Notwithstanding section 9, in addition to
2 amounts deposited under subparagraphs (A), (B),
3 and (F), \$150,000,000 of the amounts received by
4 the United States during each of fiscal years 2006
5 through 2015 as royalties for oil or gas production
6 on the outer Continental Shelf.

7 “(D) All interest earned under paragraph (4).

8 “(E) All repayments made under subsection (f).

9 “(F) Notwithstanding section 9—

10 “(i) for fiscal year 2016, an amount equal
11 to 8 percent of the qualified outer Continental
12 Shelf revenues received by the United States
13 during fiscal year 2015;

14 “(ii) for fiscal year 2017, an amount equal
15 to 10 percent of the qualified outer Continental
16 Shelf revenues received by the United States
17 during fiscal year 2016;

18 “(iii) for fiscal year 2018, an amount equal
19 to 12 percent of the qualified outer Continental
20 Shelf revenues received by the United States
21 during fiscal year 2017;

22 “(iv) for fiscal year 2019, an amount equal
23 to 14 percent of the qualified outer Continental
24 Shelf revenues received by the United States
25 during fiscal year 2018;

1 “(v) for fiscal year 2020, an amount equal
2 to 16 percent of the qualified outer Continental
3 Shelf revenues received by the United States
4 during fiscal year 2019;

5 “(vi) for fiscal year 2021, an amount equal
6 to 18 percent of the qualified outer Continental
7 Shelf revenues received by the United States
8 during fiscal year 2020;

9 “(vii) for fiscal year 2022, an amount
10 equal to 20 percent of the qualified outer Conti-
11 nental Shelf revenues received by the United
12 States during fiscal year 2021;

13 “(viii) for fiscal year 2023, an amount
14 equal to 22 percent of the qualified outer Conti-
15 nental Shelf revenues received by the United
16 States during fiscal year 2022;

17 “(ix) for fiscal year 2024, an amount equal
18 to 24 percent of the qualified outer Continental
19 Shelf revenues received by the United States
20 during fiscal year 2023;

21 “(x) for fiscal year 2025, an amount equal
22 to 26 percent of the qualified outer Continental
23 Shelf revenues received by the United States
24 during fiscal year 2024; and

1 “(xi) for fiscal year 2026 and each subse-
2 quent fiscal year, an amount equal to 27 per-
3 cent of the qualified outer Continental Shelf
4 revenues received by the United States during
5 the preceding fiscal year.

6 “(3)(A) For each fiscal year after fiscal year 2015
7 during which amounts received by the United States as
8 royalties for oil or gas production on the outer Continental
9 Shelf are less than the sum of the amounts described in
10 subparagraph (B) and paragraph (2)(F), the Secretary of
11 the Treasury shall reduce each of the amounts described
12 in subparagraph (B) proportionately.

13 “(B) The amounts referred to in subparagraph (A)
14 are—

15 “(i) the amount required to be covered into the
16 Historic Preservation Fund under section 108 of the
17 National Historic Preservation Act (16 U.S.C. 470h)
18 on the date of the enactment of this section;

19 “(ii) the amount required to be credited to the
20 Land and Water Conservation Fund under section
21 2(c)(2) of the Land and Water Conservation Fund
22 Act of 1965 (16 U.S.C. 460l-5(c)(2)) on the date of
23 enactment of this section; and

24 “(iii) the amount required to be deposited
25 under paragraph (2)(C).

1 “(4)(A) The Secretary of the Treasury shall invest
2 money in the Fund (including interest) in public debt se-
3 curities—

4 “(i) with maturities suitable to the needs of the
5 Fund, as determined by the Secretary of the Treas-
6 ury; and

7 “(ii) bearing interest at rates determined by the
8 Secretary of the Treasury, taking into consideration
9 current market yields on outstanding marketable ob-
10 ligations of the United States of comparable matu-
11 rity.

12 “(B) Money invested pursuant to subparagraph (A)
13 shall remain invested until the money is needed to meet
14 a requirement for disbursement under this section.

15 “(5) Not later than December 31, 2010, the Sec-
16 retary, in consultation with the Secretary of the Treasury,
17 shall—

18 “(A) determine the amount and composition of
19 outer Continental Shelf revenues that were received
20 by the United States during each of fiscal years
21 2006 through 2010;

22 “(B) project the amount and composition of
23 outer Continental Shelf revenues that will be re-
24 ceived by the United States during each of fiscal
25 years 2011 through 2015; and

1 “(C) submit to Congress a report regarding
2 whether any amount described in clauses (vi)
3 through (x) of paragraph (2)(A), or paragraph
4 (2)(B), should be modified to reflect a projection
5 under subparagraph (B).

6 “(6) For each of fiscal years 2006 through 2015, in
7 addition to the amounts deposited into the Fund under
8 paragraph (2), there are authorized to be appropriated to
9 the Fund an amount equal to 8 percent of the qualified
10 outer Continental Shelf revenues received by the United
11 States during the preceding fiscal year.

12 “(c)(1)(A) The Secretary shall use any amount re-
13 maining in the Fund after the application of subsections
14 (h) and (i) to pay to each coastal energy State, and any
15 coastal political subdivision of a State, the secure energy
16 reinvestment plan of which is approved by the Secretary
17 under this section, the amount allocated to the State or
18 coastal political subdivision, respectively, under this sub-
19 section.

20 “(B) During December 2006, and each December
21 thereafter, the Secretary shall make any payment under
22 this paragraph from revenues received by the United
23 States during the preceding fiscal year.

24 “(2) The Secretary shall allocate any amount depos-
25 ited into the Fund for a fiscal year, and any other amount

1 determined by the Secretary to be available, among coastal
2 energy States, and coastal political subdivisions of those
3 States, that have a plan approved by the Secretary under
4 this section as follows:

5 “(A)(i) Of the amounts made available for each
6 of the first 10 fiscal years for which amounts are
7 available for allocation under this paragraph, the al-
8 location for each coastal energy State shall be cal-
9 culated based on the ratio that—

10 “(I) the qualified outer Continental Shelf
11 revenues generated off the coastline of the
12 coastal energy State; bears to

13 “(II) the qualified outer Continental Shelf
14 revenues generated off the coastlines of all
15 coastal energy States for the period beginning
16 January 1, 1992, and ending December 31,
17 2001.

18 “(ii) Of the amounts made available for a fiscal
19 year after the fiscal years described in clause (i), the
20 allocation for each coastal energy State shall be cal-
21 culated based on a ratio determined by the Secretary
22 with respect to the qualified outer Continental Shelf
23 revenues generated in the corresponding 10-year pe-
24 riod.

1 “(iii) For the purposes of this subparagraph,
2 qualified outer Continental Shelf revenues shall be
3 considered to be generated off the coastline of a
4 coastal energy State if the geographic center of the
5 lease tract from which the revenues are generated is
6 located within the area formed by the extension of
7 the seaward lateral boundaries of the State, cal-
8 culated using the conventions established to delimit
9 international lateral boundaries under the Law of
10 the Sea.

11 “(B) 35 percent of the allocable share of each
12 coastal energy State, as determined under subpara-
13 graph (A), shall be allocated among and paid di-
14 rectly to the coastal political subdivisions of the
15 State by the Secretary based on the following for-
16 mula:

17 “(i) 25 percent shall be allocated based on
18 the ratio that—

19 “(I) the coastal population of each
20 coastal political subdivision; bears to

21 “(II) the coastal population of all
22 coastal political subdivisions of the coastal
23 energy State.

24 “(ii)(I) 25 percent shall be allocated based
25 on the ratio that—

1 “(aa) the length, in miles, of the
2 coastline of each coastal political subdivi-
3 sion; bears to

4 “(bb) the length, in miles, of the
5 coastline of all coastal political subdivisions
6 of the State.

7 “(II) For purposes of this clause, in the
8 case of a coastal political subdivision without a
9 coastline, the coastline of the political subdivi-
10 sion shall be $\frac{1}{3}$ the average length of the coast-
11 line of the other coastal political subdivisions of
12 the State.

13 “(iii) 50 percent shall be allocated based
14 on a formula that allocates—

15 “(I) 75 percent of the funds based on
16 the relative distance of the coastal political
17 subdivision from any leased tract used to
18 calculate the allocation to that State; and

19 “(II) 25 percent of the funds based on
20 the relative level of outer Continental Shelf
21 oil and gas activities in a coastal political
22 subdivision to the level of outer Conti-
23 nental Shelf oil and gas activities in all
24 coastal political subdivisions in the State,
25 as determined by the Secretary.

1 “(3) Any amount allocated to a coastal energy State
2 or coastal political subdivision that is not disbursed be-
3 cause of a failure of a coastal energy State to have an
4 approved plan shall be reallocated by the Secretary among
5 all other coastal energy States in a manner consistent with
6 this subsection, except that the Secretary—

7 “(A) shall hold the amount in escrow within the
8 Fund until the earlier of—

9 “(i) the end of the next fiscal year during
10 which the allocation is made; or

11 “(ii) the date on which a final resolution of
12 an appeal regarding the disapproval of a plan
13 submitted by the State under this section is
14 filed; and

15 “(B) shall continue to hold the amount in es-
16 crow until the end of the subsequent fiscal year, if
17 the Secretary determines that a State is making a
18 good faith effort to develop and submit, or update,
19 a secure energy reinvestment plan under subsection
20 (d).

21 “(4) Notwithstanding any other provision of this sub-
22 section, the amount allocated under this subsection to each
23 coastal energy State during a fiscal year shall be not less
24 than 5 percent of the total amount available for that fiscal

1 year for allocation under this subsection to coastal energy
2 States.

3 “(5) If the allocation to 1 or more coastal energy
4 States under paragraph (4) during any fiscal year is
5 greater than the amount that would be allocated to those
6 States under this subsection if paragraph (4) did not
7 apply, the allocations under this subsection to all other
8 coastal energy States shall be—

9 “(A) paid from the amount remaining after the
10 amounts allocated under paragraph (4) are de-
11 ducted; and

12 “(B) reduced on a pro rata basis by the sum
13 of the allocations under paragraph (4) so that not
14 more than 100 percent of the funds available in the
15 Fund for allocation with respect to that fiscal year
16 is allocated.

17 “(d)(1)(A) The Governor of a State seeking to receive
18 funds under this section shall prepare, and submit to the
19 Secretary, a secure energy reinvestment plan describing
20 planned expenditures of funds received under this section.

21 “(B) The Governor shall include in the State plan
22 any plan prepared by a coastal political subdivision of the
23 State.

24 “(C) In the development of the State plan, the Gov-
25 ernor and the coastal political subdivision shall—

1 “(i) solicit local input;

2 “(ii) provide for public participation; and

3 “(iii) in describing the planned expenditures, in-
4 clude only uses of funds described in subsection (e).

5 “(2)(A)(i) The Secretary shall not disburse funds to
6 a State or coastal political subdivision under this section
7 before the date on which the plan of the State is approved
8 under this subsection.

9 “(ii) The Secretary shall approve a plan submitted
10 by a State under paragraph (1) if the Secretary deter-
11 mines that—

12 “(I) each expenditures provided for in the plan
13 is an authorized use under subsection (e); and

14 “(II) the plan contains—

15 “(aa) the name of the State agency that
16 will have the authority to represent and act for
17 the State in dealing with the Secretary for pur-
18 poses of this section;

19 “(bb) goals including improving the envi-
20 ronment and addressing the impacts of oil and
21 gas production from the outer Continental
22 Shelf;

23 “(cc) a description of how the State and
24 coastal political subdivisions of the State will
25 evaluate the effectiveness of the plan;

1 “(dd) a certification by the Governor that
2 ample opportunity has been accorded for public
3 participation in the development and revision of
4 the plan;

5 “(ee) measures for taking into account
6 other relevant Federal resources and programs;

7 “(ff) assurance that the plan is correlated
8 as much as practicable with other State, re-
9 gional, and local plans;

10 “(gg) for any State for which the ratio de-
11 termined under clause (i) or (ii) of subsection
12 (c)(2)(A), expressed as a percentage, exceeds 25
13 percent, a plan to spend not less than 30 per-
14 cent of the total funds provided to that State
15 and appropriate coastal political subdivisions
16 under this section during any fiscal year to ad-
17 dress the socioeconomic or environmental im-
18 pacts identified in the plan that remain signifi-
19 cant or progressive after implementation of
20 mitigation measures identified in the most cur-
21 rent environmental impact statement as of the
22 date of enactment of this section required under
23 the National Environmental Policy Act of 1969
24 (42 U.S.C. 4321 et seq.) for lease sales under
25 this Act; and

1 “(hh) a plan to use at least 1/2 of the funds
2 provided pursuant to subsection (c)(2)(B), and
3 a portion of other funds provided to a State
4 under this section, on programs or projects that
5 are coordinated and conducted by a partnership
6 between the State and a coastal political sub-
7 division.

8 “(B) Not later than 90 days after a plan of a State
9 is submitted under this subsection, the Secretary shall ap-
10 prove or disapprove the plan.

11 “(3) Any amendment to or revision of a plan ap-
12 proved under this section shall be—

13 “(A) prepared and submitted in accordance
14 with the requirements of this paragraph; and

15 “(B) approved or disapproved by the Secretary
16 in accordance with paragraph (2)(B).

17 “(e) A coastal energy State, and a coastal political
18 subdivision, shall use any amount paid under this section
19 (including any amounts deposited into a trust fund admin-
20 istered by the State or coastal political subdivision con-
21 sistent with this subsection), consistent with Federal and
22 State law and the approved plan of the State—

23 “(1) to carry out a project or activity, including
24 an educational activity, for the conservation, protec-

1 tion, or restoration of coastal areas including wet-
2 lands;

3 “(2) to mitigate damage to, or protect, fish,
4 wildlife, or natural resources;

5 “(3) to the extent considered reasonable by the
6 Secretary, to carry out planning assistance and pay
7 the administrative costs of complying with this sec-
8 tion;

9 “(4) to implement a federally approved plan or
10 program for—

11 “(A) marine, coastal, subsidence, or con-
12 servation management; or

13 “(B) protection of resources from natural
14 disasters; and

15 “(5) to mitigate the effect of an outer Conti-
16 nental Shelf activity by providing onshore infrastruc-
17 ture or public service.

18 “(f) If the Secretary determines that an expenditure
19 made by a coastal energy State or coastal political subdivi-
20 sion is not in accordance with the approved plan of the
21 State (including any plan of a coastal political subdivision
22 included in the plan of the State), the Secretary shall not
23 disburse any additional amount under this section to that
24 coastal energy State or coastal political subdivision until—

1 “(1) the amount of the expenditure is repaid to
2 the Secretary; or

3 “(2) the Secretary approves an amendment to
4 the plan that authorizes the expenditure.

5 “(g) The Secretary may require, as a condition of any
6 payment under this section, that a State or coastal polit-
7 ical subdivision shall submit to arbitration—

8 “(1) any dispute between the State or coastal
9 political subdivision and the Secretary regarding im-
10 plementation of this section; and

11 “(2) any dispute between the State and political
12 subdivision regarding implementation of this section,
13 including any failure to include in the plan sub-
14 mitted by the State under subsection (d) any spend-
15 ing plan of the coastal political subdivision.

16 “(h) The Secretary may use not more than $\frac{1}{2}$ of 1
17 percent of the amount in the Fund during a fiscal year
18 to pay the administrative costs of implementing this sec-
19 tion.

20 “(i)(1) An amount equal to 2 percent of an amount
21 deposited into the Fund during each of fiscal years 2006
22 through 2015 shall be available to the Secretary to provide
23 funding for the Coastal Restoration and Enhancement
24 through Science and Technology program.

1 “(2) For purposes of determining the amount appro-
2 priated under any other provision of law that authorizes
3 appropriations to carry out the Coastal Restoration and
4 Enhancement through Science and Technology program,
5 any amount made available under paragraph (1) during
6 a fiscal year shall be treated as appropriated under that
7 other provision.

8 “(j) Subject to subsection (e), a coastal energy State
9 or coastal political subdivision may use funds provided to
10 that State or coastal political subdivision under this sec-
11 tion for any payment that is eligible to be made with funds
12 provided to States under section 35 of the Mineral Leasing
13 Act (30 U.S.C. 191).

14 “(k)(1) The Governor of a coastal energy State, in
15 coordination with the coastal political subdivisions of that
16 State, shall account for all funds received under this sec-
17 tion during the previous fiscal year in a written report to
18 the Secretary.

19 “(2) The report shall include, in accordance with reg-
20 ulations prescribed by the Secretary, a description of all
21 projects and activities that received funds under this sec-
22 tion.

23 “(3) The report may incorporate by reference any
24 other report required to be submitted under another provi-
25 sion of law.

1 “(l) The Secretary shall require, as a condition of any
 2 allocation of funds provided under this section, that a
 3 State or coastal political subdivision shall include on any
 4 sign installed at a site at or near an entrance or public
 5 use area for which funds provided under this section are
 6 used a statement that the existence or development of the
 7 site is a product of those funds.”.

8 (b) CONFORMING AMENDMENTS.—Section 31 of the
 9 Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is
 10 amended—

11 (1) by striking subsection (a);

12 (2) in subsection (c), by striking “For fiscal
 13 year 2001, \$150,000,000 is” and inserting “Such
 14 sums as may be necessary to carry out this section
 15 are”;

16 (3) in subsection (d)(1)(B), by striking “, ex-
 17 cept” and all that follows through the end of the
 18 sentence and inserting a period;

19 (4) by redesignating subsections (b) through (g)
 20 as subsections (a) through (f), respectively; and

21 (5) by striking “subsection (f)” each place it
 22 appears and inserting “subsection (e)”.

23 (c) USE OF COASTAL RESTORATION AND ENHANCE-
 24 MENT THROUGH SCIENCE AND TECHNOLOGY PRO-
 25 GRAM.—

1 (1) AUTHORIZATION.—The Secretary of the In-
2 terior and the Secretary of Commerce may use the
3 Coastal Restoration and Enhancement through
4 Science and Technology program for the purposes
5 of—

6 (A) assessing the effects of a coastal habi-
7 tat restoration technique;

8 (B) developing improved ecosystem mod-
9 eling capabilities to improve predictions of
10 coastal conditions and habitat change;

11 (C) developing a new technology for a res-
12 toration activity; and

13 (D) identifying economic options to ad-
14 dress socioeconomic consequences of coastal
15 degradation.

16 (2) CONDITION.—The Secretary of the Interior,
17 in consultation with the Secretary of Commerce,
18 shall ensure that the program—

19 (A) establishes procedures designed to
20 avoid duplicative activities among Federal agen-
21 cies and entities receiving Federal funds;

22 (B) coordinates with any person involved
23 in a similar activity; and

1 (C) establishes a mechanism to collect, or-
2 ganize, and make available information and
3 findings on coastal restoration.

4 (3) REPORT.—Not later than September 30,
5 2010, the Secretary of the Interior, in consultation
6 with the Secretary of Commerce, shall submit to
7 Congress a report that—

8 (A) describes the effectiveness of any Fed-
9 eral or State restoration effort pursuant to this
10 subsection; and

11 (B) makes recommendations to improve co-
12 ordinated coastal restoration efforts.

13 (4) FUNDING.—There is authorized to be ap-
14 propriated to the Secretary to carry out this sub-
15 section \$10,000,000 for each of fiscal years 2006
16 through 2015.

○