

112TH CONGRESS
2D SESSION

S. 2199

To spur economic growth and create jobs.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2012

Mr. LEE introduced the following bill; which was read twice and referred to
the Committee on Finance

A BILL

To spur economic growth and create jobs.

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Grow America Act of 2012”.

6 (b) TABLE OF CONTENTS.—

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Small Businesses

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Sec. 111. Indexing of certain assets for purposes of determining gain or loss.

Subtitle C—Pro-Growth, Pro-Business Tax Reform for Corporations and Other Businesses

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1 **TITLE I—PRO-GROWTH TAX**
2 **REFORM**
3 **Subtitle A—Pro-Growth, Pro-Fam-**
4 **ily Tax Reform for Families,**
5 **Seniors, and Small Businesses**

6 **SEC. 101. TAX REFORM FOR FAMILIES, SENIORS, AND**
7 **SMALL BUSINESSES.**

8 (a) IN GENERAL.—The Committee on Finance of the
9 Senate and the Committee on Ways and Means of the
10 House of Representatives shall report legislation that will
11 lower, consolidate, and simplify the individual income tax
12 system, with not more than 2 tax rates, the highest being
13 25 percent. Such legislation shall be reported not later
14 than 60 days after the date of the enactment of this Act

1 and shall be revenue neutral as scored by the Joint Com-
2 mittee on Taxation using a current policy baseline.

3 (b) LEGISLATION GOALS.—Such reported legislation
4 shall be required to achieve the following:

5 (1) REDUCED TAX LIABILITY.—Lower the over-
6 all tax burden for the majority of American indi-
7 vidual taxpayers.

8 (2) SIMPLIFICATION.—Eliminate all tax credits
9 and deductions. Add deductions and credits for the
10 following items:

11 (A) Home mortgage.

12 (B) Charitable contributions.

13 (C) Tuition and direct expenses for higher
14 education and qualified trade schools.

15 (D) Health insurance costs.

16 (E) \$10,000 deduction for working seniors
17 as defined by the Social Security Administra-
18 tion.

19 (F) Earned income credit.

20 (3) CONSOLIDATION.—Provide necessary
21 changes in order to consolidate the individual income
22 tax system consistent with the tax rates specified in
23 subsection (a).

24 (c) ADDITIONAL CHANGES.—Such Committees shall
25 include in such legislation any further changes to the indi-

vidual income tax system in order to ensure tax reductions
and simplifications consistent with the goals of this Act.

Subtitle B—Capital Gains Inflation Relief

SEC. 111. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

“SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

“(a) GENERAL RULE.—

“(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain or loss on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

“(2) EXCEPTION FOR DEPRECIATION, ETC.—

The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

1 “(3) WRITTEN DOCUMENTATION REQUIRE-
 2 MENT.—Paragraph (1) shall apply only with respect
 3 to indexed assets for which the taxpayer has written
 4 documentation of the original purchase price paid or
 5 incurred by the taxpayer to acquire such asset.

6 “(b) INDEXED ASSET.—

7 “(1) IN GENERAL.—For purposes of this sec-
 8 tion, the term ‘indexed asset’ means—

9 “(A) common stock in a C corporation
 10 (other than a foreign corporation), or

11 “(B) tangible property,
 12 which is a capital asset or property used in the trade
 13 or business (as defined in section 1231(b)).

14 “(2) STOCK IN CERTAIN FOREIGN CORPORA-
 15 TIONS INCLUDED.—For purposes of this section—

16 “(A) IN GENERAL.—The term ‘indexed
 17 asset’ includes common stock in a foreign cor-
 18 poration which is regularly traded on an estab-
 19 lished securities market.

20 “(B) EXCEPTION.—Subparagraph (A)
 21 shall not apply to—

22 “(i) stock of a foreign investment
 23 company,

1 “(ii) stock in a passive foreign invest-
 2 ment company (as defined in section
 3 1296),

4 “(iii) stock in a foreign corporation
 5 held by a United States person who meets
 6 the requirements of section 1248(a)(2),
 7 and

8 “(iv) stock in a foreign personal hold-
 9 ing company.

10 “(C) TREATMENT OF AMERICAN DEPOSI-
 11 TORY RECEIPTS.—An American depository re-
 12 ceipt for common stock in a foreign corporation
 13 shall be treated as common stock in such cor-
 14 poration.

15 “(c) INDEXED BASIS.—For purposes of this sec-
 16 tion—

17 “(1) GENERAL RULE.—The indexed basis for
 18 any asset is—

19 “(A) the adjusted basis of the asset, in-
 20 creased by

21 “(B) the applicable inflation adjustment.

22 “(2) APPLICABLE INFLATION ADJUSTMENT.—
 23 The applicable inflation adjustment for any asset is
 24 an amount equal to—

1 “(A) the adjusted basis of the asset, multi-
2 plied by

3 “(B) the percentage (if any) by which—

4 “(i) the gross domestic product
5 deflator for the last calendar quarter end-
6 ing before the asset is disposed of, exceeds

7 “(ii) the gross domestic product
8 deflator for the last calendar quarter end-
9 ing before the asset was acquired by the
10 taxpayer.

11 The percentage under subparagraph (B) shall be
12 rounded to the nearest $\frac{1}{10}$ of 1 percentage point.

13 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—

14 The gross domestic product deflator for any cal-
15 endar quarter is the implicit price deflator for the
16 gross domestic product for such quarter (as shown
17 in the last revision thereof released by the Secretary
18 of Commerce before the close of the following cal-
19 endar quarter).

20 “(d) SUSPENSION OF HOLDING PERIOD WHERE DI-
21 MINISHED RISK OF LOSS; TREATMENT OF SHORT
22 SALES.—

23 “(1) IN GENERAL.—If the taxpayer (or a re-
24 lated person) enters into any transaction which sub-
25 stantially reduces the risk of loss from holding any

1 asset, such asset shall not be treated as an indexed
2 asset for the period of such reduced risk.

3 “(2) SHORT SALES.—

4 “(A) IN GENERAL.—In the case of a short
5 sale of an indexed asset with a short sale period
6 in excess of 3 years, for purposes of this title,
7 the amount realized shall be an amount equal
8 to the amount realized (determined without re-
9 gard to this paragraph) increased by the appli-
10 cable inflation adjustment. In applying sub-
11 section (c)(2) for purposes of the preceding sen-
12 tence, the date on which the property is sold
13 short shall be treated as the date of acquisition
14 and the closing date for the sale shall be treat-
15 ed as the date of disposition.

16 “(B) SHORT SALE PERIOD.—For purposes
17 of subparagraph (A), the short sale period be-
18 gins on the day that the property is sold and
19 ends on the closing date for the sale.

20 “(e) TREATMENT OF REGULATED INVESTMENT
21 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

22 “(1) ADJUSTMENTS AT ENTITY LEVEL.—

23 “(A) IN GENERAL.—Except as otherwise
24 provided in this paragraph, the adjustment
25 under subsection (a) shall be allowed to any

1 qualified investment entity (including for pur-
2 poses of determining the earnings and profits of
3 such entity).

4 “(B) EXCEPTION FOR CORPORATE SHARE-
5 HOLDERS.—Under regulations—

6 “(i) in the case of a distribution by a
7 qualified investment entity (directly or in-
8 directly) to a corporation—

9 “(I) the determination of whether
10 such distribution is a dividend shall be
11 made without regard to this section,
12 and

13 “(II) the amount treated as gain
14 by reason of the receipt of any capital
15 gain dividend shall be increased by the
16 percentage by which the entity’s net
17 capital gain for the taxable year (de-
18 termined without regard to this sec-
19 tion) exceeds the entity’s net capital
20 gain for such year determined with re-
21 gard to this section, and

22 “(ii) there shall be other appropriate
23 adjustments (including deemed distribu-
24 tions) so as to ensure that the benefits of
25 this section are not allowed (directly or in-

1 directly) to corporate shareholders of quali-
 2 fied investment entities.

3 For purposes of the preceding sentence, any
 4 amount includible in gross income under section
 5 852(b)(3)(D) shall be treated as a capital gain
 6 dividend and an S corporation shall not be
 7 treated as a corporation.

8 “(C) EXCEPTION FOR QUALIFICATION
 9 PURPOSES.—This section shall not apply for
 10 purposes of sections 851(b) and 856(c).

11 “(D) EXCEPTION FOR CERTAIN TAXES IM-
 12 POSED AT ENTITY LEVEL.—

13 “(i) TAX ON FAILURE TO DISTRIBUTE
 14 ENTIRE GAIN.—If any amount is subject to
 15 tax under section 852(b)(3)(A) for any
 16 taxable year, the amount on which tax is
 17 imposed under such section shall be in-
 18 creased by the percentage determined
 19 under subparagraph (B)(i)(II). A similar
 20 rule shall apply in the case of any amount
 21 subject to tax under paragraph (2) or (3)
 22 of section 857(b) to the extent attributable
 23 to the excess of the net capital gain over
 24 the deduction for dividends paid deter-
 25 mined with reference to capital gain divi-

dends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

“(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

“(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

“(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

“(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

“(ii) the average of the fair market values of all assets held by such company at the close of each such month.

“(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment

1 trust (within the meaning of section 856) shall
2 be an indexed asset for any calendar quarter in
3 the same ratio as—

4 “(i) the fair market value of the in-
5 dexed assets held by such trust at the close
6 of such quarter, bears to

7 “(ii) the fair market value of all as-
8 sets held by such trust at the close of such
9 quarter.

10 “(C) RATIO OF 80 PERCENT OR MORE.—If
11 the ratio for any calendar quarter determined
12 under subparagraph (A) or (B) would (but for
13 this subparagraph) be 80 percent or more, such
14 ratio for such quarter shall be 100 percent.

15 “(D) RATIO OF 20 PERCENT OR LESS.—If
16 the ratio for any calendar quarter determined
17 under subparagraph (A) or (B) would (but for
18 this subparagraph) be 20 percent or less, such
19 ratio for such quarter shall be zero.

20 “(E) LOOK-THRU OF PARTNERSHIPS.—For
21 purposes of this paragraph, a qualified invest-
22 ment entity which holds a partnership interest
23 shall be treated (in lieu of holding a partnership
24 interest) as holding its proportionate share of
25 the assets held by the partnership.

1 “(3) TREATMENT OF RETURN OF CAPITAL DIS-
 2 TRIBUTIONS.—Except as otherwise provided by the
 3 Secretary, a distribution with respect to stock in a
 4 qualified investment entity which is not a dividend
 5 and which results in a reduction in the adjusted
 6 basis of such stock shall be treated as allocable to
 7 stock acquired by the taxpayer in the order in which
 8 such stock was acquired.

9 “(4) QUALIFIED INVESTMENT ENTITY.—For
 10 purposes of this subsection, the term ‘qualified in-
 11 vestment entity’ means—

12 “(A) a regulated investment company
 13 (within the meaning of section 851), and

14 “(B) a real estate investment trust (within
 15 the meaning of section 856).

16 “(f) OTHER PASS-THRU ENTITIES.—

17 “(1) PARTNERSHIPS.—

18 “(A) IN GENERAL.—In the case of a part-
 19 nership, the adjustment made under subsection
 20 (a) at the partnership level shall be passed
 21 through to the partners.

22 “(B) SPECIAL RULE IN THE CASE OF SEC-
 23 TION 754 ELECTIONS.—In the case of a transfer
 24 of an interest in a partnership with respect to

1 which the election provided in section 754 is in
2 effect—

3 “(i) the adjustment under section
4 743(b)(1) shall, with respect to the trans-
5 feror partner, be treated as a sale of the
6 partnership assets for purposes of applying
7 this section, and

8 “(ii) with respect to the transferee
9 partner, the partnership’s holding period
10 for purposes of this section in such assets
11 shall be treated as beginning on the date
12 of such adjustment.

13 “(2) S CORPORATIONS.—In the case of an S
14 corporation, the adjustment made under subsection
15 (a) at the corporate level shall be passed through to
16 the shareholders. This section shall not apply for
17 purposes of determining the amount of any tax im-
18 posed by section 1374 or 1375.

19 “(3) COMMON TRUST FUNDS.—In the case of a
20 common trust fund, the adjustment made under sub-
21 section (a) at the trust level shall be passed through
22 to the participants.

23 “(4) INDEXING ADJUSTMENT DISREGARDED IN
24 DETERMINING LOSS ON SALE OF INTEREST IN ENTI-
25 TY.—Notwithstanding the preceding provisions of

1 this subsection, for purposes of determining the
 2 amount of any loss on a sale or exchange of an in-
 3 terest in a partnership, S corporation, or common
 4 trust fund, the adjustment made under subsection
 5 (a) shall not be taken into account in determining
 6 the adjusted basis of such interest.

7 “(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

8 “(1) IN GENERAL.—This section shall not apply
 9 to any sale or other disposition of property between
 10 related persons except to the extent that the basis
 11 of such property in the hands of the transferee is a
 12 substituted basis.

13 “(2) RELATED PERSONS DEFINED.—For pur-
 14 poses of this section, the term ‘related persons’
 15 means—

16 “(A) persons bearing a relationship set
 17 forth in section 267(b), and

18 “(B) persons treated as single employer
 19 under subsection (b) or (c) of section 414.

20 “(h) TRANSFERS TO INCREASE INDEXING ADJUST-
 21 MENT.—If any person transfers cash, debt, or any other
 22 property to another person and the principal purpose of
 23 such transfer is to secure or increase an adjustment under
 24 subsection (a), the Secretary may disallow part or all of
 25 such adjustment or increase.

1 “(i) SPECIAL RULES.—For purposes of this section—

2 “(1) TREATMENT OF IMPROVEMENTS, ETC.—If
3 there is an addition to the adjusted basis of any tan-
4 gible property or of any stock in a corporation dur-
5 ing the taxable year by reason of an improvement to
6 such property or a contribution to capital of such
7 corporation—

8 “(A) such addition shall never be taken
9 into account under subsection (c)(1)(A) if the
10 aggregate amount thereof during the taxable
11 year with respect to such property or stock is
12 less than \$1,000, and

13 “(B) such addition shall be treated as a
14 separate asset acquired at the close of such tax-
15 able year if the aggregate amount thereof dur-
16 ing the taxable year with respect to such prop-
17 erty or stock is \$1,000 or more.

18 A rule similar to the rule of the preceding sentence
19 shall apply to any other portion of an asset to the
20 extent that separate treatment of such portion is ap-
21 propriate to carry out the purposes of this section.

22 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
23 THROUGHOUT HOLDING PERIOD.—The applicable in-
24 flation adjustment shall be appropriately reduced for

1 periods during which the asset was not an indexed
2 asset.

3 “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a
4 corporation which is not a dividend shall be treated
5 as a disposition.
6

7 “(4) SECTION CANNOT INCREASE ORDINARY
8 LOSS.—To the extent that (but for this paragraph)
9 this section would create or increase a net ordinary
10 loss to which section 1231(a)(2) applies or an ordi-
11 nary loss to which any other provision of this title
12 applies, such provision shall not apply. The taxpayer
13 shall be treated as having a long-term capital loss in
14 an amount equal to the amount of the ordinary loss
15 to which the preceding sentence applies.

16 “(5) ACQUISITION DATE WHERE THERE HAS
17 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
18 WITH RESPECT TO THE TAXPAYER.—If there has
19 been a prior application of subsection (a)(1) to an
20 asset while such asset was held by the taxpayer, the
21 date of acquisition of such asset by the taxpayer
22 shall be treated as not earlier than the date of the
23 most recent such prior application.

1 “(j) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part II of subchapter O of chapter 1 of the Internal
6 Revenue Code of 1986 is amended by striking the item
7 relating to section 1023 and by inserting after the item
8 relating to section 1022 the following new item:

“Sec. 1023. Indexing of certain assets for purposes of determining gain or loss.
“Sec. 1024. Cross references.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to indexed assets acquired by the
11 taxpayer after December 31, 2011, in taxable years ending
12 after such date.

13 **Subtitle C—Pro-Growth, Pro-Busi-**
14 **ness Tax Reform for Corpora-**
15 **tions and Other Businesses**

16 **SEC. 121. REDUCTION IN CORPORATE INCOME TAX RATES**
17 **AND REFORM OF BUSINESS TAX.**

18 (a) IN GENERAL.—The Committee on Finance of the
19 Senate and the Committee on Ways and Means of the
20 House of Representatives shall report legislation that will
21 lower, consolidate, and simplify the corporate income tax
22 system, with a top tax rate of 25 percent and a consolida-
23 tion of the system into not more than 2 tax rates. Such
24 legislation shall be reported not later than 60 days after

1 the date of the enactment of this Act and shall be revenue
2 neutral as scored by the Joint Committee on Taxation
3 using a current policy baseline.

4 (b) LEGISLATION GOALS.—Such reported legislation
5 shall be required to achieve the following:

6 (1) REDUCED TAX LIABILITY.—Lower the over-
7 all tax rates for American corporations and busi-
8 nesses and broaden the tax base for the corporate
9 income tax.

10 (2) SIMPLIFICATION.—Close tax loopholes and
11 eliminate industry specific deductions and certain
12 tax credits, including the elimination of industry
13 specific taxes, at the discretion of each Committee,
14 in order to reduce tax expenditures and simplify the
15 tax code.

16 (3) EXPENSING.—Replace the current deprecia-
17 tion schedules with 100 percent expensing in the
18 same year that the capital expenditure occurs.

19 (4) TERRITORIAL TAX SYSTEM.—Establishment
20 of a territorial tax system, including strong incen-
21 tives to repatriate overseas capital, in lieu of the cur-
22 rent worldwide tax system.

23 (5) CONSOLIDATION.—Provide necessary
24 changes in order to consolidate the corporate income
25 tax system with a total of not more than 2 tax rates,

1 the top tax rate of 25 percent and a lower tax rate
 2 as determined by the Committees as specified in
 3 subsection (a).

4 (c) ADDITIONAL CHANGES.—Such Committees shall
 5 include in such legislation any further changes to the cor-
 6 porate income tax system in order to ensure tax reductions
 7 and simplifications consistent with the goals of this Act.

8 **Subtitle D—Rebuilding America**

9 **SEC. 131. MODIFICATION AND TEMPORARY EXTENSION OF** 10 **THE INCENTIVES TO REINVEST FOREIGN** 11 **EARNINGS IN THE UNITED STATES.**

12 (a) REPATRIATION SUBJECT TO 5 PERCENT TAX
 13 RATE.—Subsection (a)(1) of section 965 of the Internal
 14 Revenue Code of 1986 is amended by striking “85 per-
 15 cent” and inserting “85.7 percent”.

16 (b) ELECTION.—Subsection (f) of section 965 of the
 17 Internal Revenue Code of 1986 is amended to read as fol-
 18 lows:

19 “(f) ELECTION.—The taxpayer may elect to apply
 20 this section to—

21 “(1) the taxpayer’s last taxable year which be-
 22 gins before the date of the enactment of this sub-
 23 section, or

1 “(2) the taxpayer’s first taxable year which be-
 2 gins during the 1-year period beginning on such
 3 date.

4 Such election may be made for a taxable year only if made
 5 on or before the due date (including extensions) for filing
 6 the return of tax for such taxable year.”.

7 (c) LIMITATION.—Paragraph (1) of section 965(b) of
 8 the Internal Revenue Code of 1986 is amended to read
 9 as follows:

10 “(1) IN GENERAL.—The amount of dividends
 11 taken into account under subsection (a) shall not ex-
 12 ceed the sum of the current and accumulated earn-
 13 ings and profits described in section 959(c)(3) for
 14 the year a deduction is claimed under subsection (a),
 15 without diminution by reason of any distributions
 16 made during the election year, for all controlled for-
 17 eign corporations of the United States shareholder.”.

18 (d) ELIMINATION OF OTHER LIMITATIONS.—Section
 19 965(b) of the Internal Revenue Code of 1986 is amended
 20 by striking paragraphs (2) and (4) and by redesignating
 21 paragraph (3) as paragraph (2).

22 (e) CONFORMING AMENDMENTS.—

23 (1) Subparagraph (B) of section 965(b)(2) of
 24 the Internal Revenue Code of 1986, as redesignated

1 by subsection (d), is amended by striking “October
2 3, 2004” and inserting “February 15, 2012”.

3 (2) Section 965(c) of such Code is amended by
4 striking paragraphs (1) and (2) and by redesignig-
5 nating paragraphs (3), (4), and (5) as paragraphs
6 (1), (2), and (3), respectively.

7 (3) Paragraph (3) of section 965(c) of such
8 Code, as redesignated by paragraph (2), is amended
9 to read as follows:

10 “(3) CONTROLLED GROUPS.—All United States
11 shareholders which are members of an affiliated
12 group filing a consolidated return under section
13 1501 shall be treated as one United States share-
14 holder.”.

15 (f) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years ending on or after
17 the date of the enactment of this Act.

18 **Subtitle E—Saving the Family** 19 **Farm**

20 **SEC. 141. EXCLUSION FROM GROSS ESTATE OF CERTAIN** 21 **FARMLAND SO LONG AS FARMLAND USE** 22 **CONTINUES.**

23 (a) IN GENERAL.—Part III of subchapter A of chap-
24 ter 11 of the Internal Revenue Code of 1986 is amended
25 by inserting after section 2033 the following new section:

1 **“SEC. 2033A. EXCLUSION OF CERTAIN FAMILY-OWNED**
 2 **FARMS AND BUSINESSES.**

3 “(a) IN GENERAL.—In the case of an estate of a de-
 4 cedent to which this section applies, the value of the gross
 5 estate shall not include the adjusted value of any qualified
 6 family-owned farm or business included in the estate.

7 “(b) ESTATES TO WHICH SECTION APPLIES.—This
 8 section shall apply to an estate if—

9 “(1) the decedent was (at the date of the dece-
 10 dent’s death) a citizen or resident of the United
 11 States, and

12 “(2) during the 8-year period ending on the
 13 date of the decedent’s death there have been periods
 14 aggregating 5 years or more during which—

15 “(A) not less than 60 percent of the quali-
 16 fied family-owned farm or business was owned
 17 by the decedent and members of the decedent’s
 18 family, and

19 “(B) there was material participation
 20 (within the meaning of section 2032A(e)(6)) by
 21 the decedent or the qualified heir in the oper-
 22 ation of such farm or business.

23 Rules similar to the rules of paragraphs (4) and (5)
 24 of section 2032A(b) shall apply for purposes of sub-
 25 paragraph (B).

26 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFIED FAMILY-OWNED FARM OR
2 BUSINESS.—The term ‘qualified family-owned farm
3 or business’ means—

4 “(A) any qualified farmland, or

5 “(B) any qualified trade or business.

6 “(2) QUALIFIED FARMLAND.—The term ‘quali-
7 fied farmland’ means any real property—

8 “(A) which is located in the United States,

9 “(B) which is used as a farm for farming
10 purposes (within the meaning of section
11 2032A(e)), and

12 “(C) which was acquired from or passed
13 from the decedent to a qualified heir of the de-
14 cedent and which, on the date of the decedent’s
15 death, was being so used by the decedent or a
16 member of the decedent’s family.

17 “(3) QUALIFIED TRADE OR BUSINESS.—The
18 term ‘qualified trade or business’ means any interest
19 in a trade or business of the taxpayer—

20 “(A) which is not an interest in a C cor-
21 poration, and

22 “(B) which was acquired from or passed
23 from the decedent to a qualified heir of the de-
24 cedent.

1 “(4) ADJUSTED VALUE.—The term ‘adjusted
2 value’ means the value of the qualified family-owned
3 farm or business for purposes of this chapter (deter-
4 mined without regard to this section), reduced by
5 the amount deductible under paragraph (3) or (4) of
6 section 2053(a).

7 “(5) OTHER TERMS.—Any other term used in
8 this section which is also used in section 2032A shall
9 have the same meaning given such term by section
10 2032A.

11 “(d) TAX TREATMENT OF DISPOSITIONS AND FAIL-
12 URES TO USE FOR FARMING PURPOSES.—

13 “(1) IMPOSITION OF RECAPTURE TAX.—If, at
14 any time after the decedent’s death and before the
15 death of the qualified heir—

16 “(A) the qualified heir disposes of any in-
17 terest in qualified family-owned farm or busi-
18 ness (other than by a disposition to a member
19 of his family), or

20 “(B) in the case of qualified farmland, the
21 qualified heir ceases to use the real property
22 which was acquired (or passed) from the dece-
23 dent as a farm for farming purposes,
24 then, there is hereby imposed a recapture tax.

1 “(2) AMOUNT OF RECAPTURE TAX, ETC.—
 2 Rules similar to the rules of section 2032A(c) with
 3 respect to the additional estate tax shall apply for
 4 purposes of this subsection with respect to the re-
 5 capture tax.

6 “(e) APPLICATION OF OTHER RULES.—To the extent
 7 provided by the Secretary in regulations, rules similar to
 8 the rules of subsections (e), (f), (g), (h), and (i) of section
 9 2032A shall apply for purposes of this section.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for part III of subchapter A of chapter 11 of the Internal
 12 Revenue Code of 1986 is amended by inserting after the
 13 item relating to section 2033 the following new item:

 “Sec. 2033A. Exclusion of certain family-owned farms and businesses.”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to estates of decedents dying after
 16 the date of the enactment of this Act.

17 **TITLE II—RED TAPE REDUCTION**

18 **Subtitle A—Regulatory**

19 **Moratorium**

20 **SEC. 201. DEFINITIONS.**

21 In this subtitle—

22 (1) the term “agency” has the meaning given
 23 under section 3502(1) of title 44, United States
 24 Code;

1 (2) the term “regulatory action” means any
2 substantive action by an agency that promulgates or
3 is expected to lead to the promulgation of a final
4 regulation, including notices of inquiry, advance no-
5 tices of proposed rulemaking, and notices of pro-
6 posed rulemaking;

7 (3) the term “significant regulatory action”
8 means any regulatory action that is likely to result
9 in a rule or guidance that may—

10 (A) have an annual effect on the economy
11 of \$100,000,000 or more or adversely affect in
12 a material way the economy, a sector of the
13 economy, productivity, competition, jobs, the
14 environment, public health or safety, small enti-
15 ties, or State, local, or tribal governments or
16 communities;

17 (B) create a serious inconsistency or other-
18 wise interfere with an action taken or planned
19 by another agency;

20 (C) materially alter the budgetary impact
21 of entitlements, grants, user fees, or loan pro-
22 grams or the rights and obligations of recipi-
23 ents thereof; or

24 (D) raise novel legal or policy issues; and

1 (4) the term “small entities” has the meaning
2 given under section 601(6) of title 5, United States
3 Code.

4 **SEC. 202. SIGNIFICANT REGULATORY ACTIONS.**

5 (a) IN GENERAL.—No agency may take any signifi-
6 cant regulatory action, until the Bureau of Labor Statis-
7 tics average of monthly unemployment rates for any quar-
8 ter beginning after the date of enactment of this Act is
9 equal to or less than 7.7 percent.

10 (b) DETERMINATION.—The Secretary of Labor shall
11 submit a report to the Director of the Office of Manage-
12 ment and Budget whenever the Secretary determines that
13 the Bureau of Labor Statistics average of monthly unem-
14 ployment rates for any quarter beginning after the date
15 of enactment of this Act is equal to or less than 7.7 per-
16 cent.

17 **SEC. 203. WAIVERS.**

18 (a) NATIONAL SECURITY OR NATIONAL EMER-
19 GENCY.—The President may waive the application of sec-
20 tion 202 to any significant regulatory action, if the Presi-
21 dent—

22 (1) determines that the waiver is necessary on
23 the basis of national security or a national emer-
24 gency; and

1 (2) submits notification to Congress of that
2 waiver and the reasons for that waiver.

3 (b) ADDITIONAL WAIVERS.—

4 (1) SUBMISSION.—The President may submit a
5 request to Congress for a waiver of the application
6 of section 202 to any significant regulatory action.

7 (2) CONTENTS.—A submission under this sub-
8 section shall include—

9 (A) an identification of the significant reg-
10 ulatory action; and

11 (B) the reasons which necessitate a waiver
12 for that significant regulatory action.

13 (3) CONGRESSIONAL ACTION.—Congress shall
14 give expeditious consideration and take appropriate
15 legislative action with respect to any waiver request
16 submitted under this subsection.

17 **SEC. 204. JUDICIAL REVIEW.**

18 (a) DEFINITION.—In this section, the term “small
19 business” means any business, including an unincor-
20 porated business or a sole proprietorship, that employs not
21 more than 500 employees or that has a net worth of less
22 than \$7,000,000 on the date a civil action arising under
23 this subtitle is filed.

24 (b) REVIEW.—Any person that is adversely affected
25 or aggrieved by any significant regulatory action in viola-

tion of this subtitle is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(c) JURISDICTION.—Each court having jurisdiction to review any significant regulatory action for compliance with any other provision of law shall have jurisdiction to review all claims under this subtitle.

(d) RELIEF.—In granting any relief in any civil action under this section, the court shall order the agency to take corrective action consistent with this subtitle and chapter 7 of title 5, United States Code, including remanding the significant regulatory action to the agency and enjoining the application or enforcement of that significant regulatory action, unless the court finds by a preponderance of the evidence that application or enforcement is required to protect against an imminent and serious threat to the national security from persons or states engaged in hostile or military activities against the United States.

(e) REASONABLE ATTORNEY FEES FOR SMALL BUSINESSES.—The court shall award reasonable attorney fees and costs to a substantially prevailing small business in any civil action arising under this subtitle. A party qualifies as substantially prevailing even without obtaining a final judgment in its favor if the agency changes its position as a result of the civil action.

1 (f) LIMITATION ON COMMENCING CIVIL ACTION.—
 2 A person may seek and obtain judicial review during the
 3 1-year period beginning on the date of the challenged
 4 agency action or within 90 days after an enforcement ac-
 5 tion or notice thereof, except that where another provision
 6 of law requires that a civil action be commenced before
 7 the expiration of that 1-year period, such lesser period
 8 shall apply.

9 **Subtitle B—Increase of Size of**
 10 **Small Businesses Exempt From**
 11 **Federal Laws and Regulations**

12 **SEC. 211. INCREASE OF SIZE OF SMALL BUSINESSES EX-**
 13 **EMPT FROM FEDERAL LAWS AND REGULA-**
 14 **TIONS.**

15 Notwithstanding any other provision of law, every ex-
 16 emption from, or special benefit under, any Federal law
 17 or regulation which is available to any business with 200
 18 or fewer employees shall be available to every comparable
 19 business with 200 or fewer employees. The preceding sen-
 20 tence shall not apply in any context in which its applica-
 21 tion would result in increased eligibility for tax deductions
 22 or credits, or an increase in Federal expenditures.

1 **Subtitle C—The REINS Act**

2 **SEC. 221. PURPOSE.**

3 The purpose of this subtitle is to increase account-
 4 ability for and transparency in the federal regulatory proc-
 5 ess. Section 1 of article I of the United States Constitution
 6 grants all legislative powers to Congress. Over time, Con-
 7 gress has excessively delegated its constitutional charge
 8 while failing to conduct appropriate oversight and retain
 9 accountability for the content of the laws it passes. By
 10 requiring a vote in Congress, this subtitle will result in
 11 more carefully drafted and detailed legislation, an im-
 12 proved regulatory process, and a legislative branch that
 13 is truly accountable to the American people for the laws
 14 imposed upon them.

15 **SEC. 222. CONGRESSIONAL REVIEW OF AGENCY RULE-** 16 **MAKING.**

17 Chapter 8 of title 5, United States Code, is amended
 18 to read as follows:

19 **“CHAPTER 8—CONGRESSIONAL REVIEW** 20 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

1 **“§ 801. Congressional review**

2 “(a)(1)(A) Before a rule may take effect, the Federal
3 agency promulgating such rule shall submit to each House
4 of the Congress and to the Comptroller General a report
5 containing—

6 “(i) a copy of the rule;

7 “(ii) a concise general statement relating to the
8 rule;

9 “(iii) a classification of the rule as a major or
10 nonmajor rule, including an explanation of the clas-
11 sification specifically addressing each criteria for a
12 major rule contained within sections 804(2)(A),
13 804(2)(B), and 804(2)(C);

14 “(iv) a list of any other related regulatory ac-
15 tions intended to implement the same statutory pro-
16 vision or regulatory objective as well as the indi-
17 vidual and aggregate economic effects of those ac-
18 tions; and

19 “(v) the proposed effective date of the rule.

20 “(B) On the date of the submission of the report
21 under subparagraph (A), the Federal agency promulgating
22 the rule shall submit to the Comptroller General and make
23 available to each House of Congress—

24 “(i) a complete copy of the cost-benefit analysis
25 of the rule, if any;

1 “(ii) the agency’s actions pursuant to title 5 of
2 the United States Code, sections 603, 604, 605,
3 607, and 609;

4 “(iii) the agency’s actions pursuant to title 2 of
5 the United States Code, sections 1532, 1533, 1534,
6 and 1535; and

7 “(iv) any other relevant information or require-
8 ments under any other Act and any relevant Execu-
9 tive orders.

10 “(C) Upon receipt of a report submitted under sub-
11 paragraph (A), each House shall provide copies of the re-
12 port to the chairman and ranking member of each stand-
13 ing committee with jurisdiction under the rules of the
14 House of Representatives or the Senate to report a bill
15 to amend the provision of law under which the rule is
16 issued.

17 “(2)(A) The Comptroller General shall provide a re-
18 port on each major rule to the committees of jurisdiction
19 by the end of 15 calendar days after the submission or
20 publication date as provided in section 802(b)(2). The re-
21 port of the Comptroller General shall include an assess-
22 ment of the agency’s compliance with procedural steps re-
23 quired by paragraph (1)(B).

1 “(B) Federal agencies shall cooperate with the Comp-
2 troller General by providing information relevant to the
3 Comptroller General’s report under subparagraph (A).

4 “(3) A major rule relating to a report submitted
5 under paragraph (1) shall take effect upon enactment of
6 a joint resolution of approval described in section 802 or
7 as provided for in the rule following enactment of a joint
8 resolution of approval described in section 802, whichever
9 is later.

10 “(4) A nonmajor rule shall take effect as provided
11 by section 803 after submission to Congress under para-
12 graph (1).

13 “(5) If a joint resolution of approval relating to a
14 major rule is not enacted within the period provided in
15 subsection (b)(2), then a joint resolution of approval relat-
16 ing to the same rule may not be considered under this
17 chapter in the same Congress by either the House of Rep-
18 resentatives or the Senate.

19 “(b)(1) A major rule shall not take effect unless the
20 Congress enacts a joint resolution of approval described
21 under section 802.

22 “(2) If a joint resolution described in subsection (a)
23 is not enacted into law by the end of 70 session days or
24 legislative days, as applicable, beginning on the date on
25 which the report referred to in section 801(a)(1)(A) is re-

1 ceived by Congress (excluding days either House of Con-
 2 gress is adjourned for more than 3 days during a session
 3 of Congress), then the rule described in that resolution
 4 shall be deemed not to be approved and such rule shall
 5 not take effect.

6 “(c)(1) Notwithstanding any other provision of this
 7 section (except subject to paragraph (3)), a major rule
 8 may take effect for one 90-calendar-day period if the
 9 President makes a determination under paragraph (2) and
 10 submits written notice of such determination to the Con-
 11 gress.

12 “(2) Paragraph (1) applies to a determination made
 13 by the President by Executive order that the major rule
 14 should take effect because such rule is—

15 “(A) necessary because of an imminent threat
 16 to health or safety or other emergency;

17 “(B) necessary for the enforcement of criminal
 18 laws;

19 “(C) necessary for national security; or

20 “(D) issued pursuant to any statute imple-
 21 menting an international trade agreement.

22 “(3) An exercise by the President of the authority
 23 under this subsection shall have no effect on the proce-
 24 dures under section 802.

1 “(d)(1) In addition to the opportunity for review oth-
 2 erwise provided under this chapter, in the case of any rule
 3 for which a report was submitted in accordance with sub-
 4 section (a)(1)(A) during the period beginning on the date
 5 occurring—

6 “(A) in the case of the Senate, 60 session days,
 7 or

8 “(B) in the case of the House of Representa-
 9 tives, 60 legislative days,
 10 before the date the Congress is scheduled to adjourn a
 11 session of Congress through the date on which the same
 12 or succeeding Congress first convenes its next session, sec-
 13 tions 802 and 803 shall apply to such rule in the suc-
 14 ceeding session of Congress.

15 “(2)(A) In applying sections 802 and 803 for pur-
 16 poses of such additional review, a rule described under
 17 paragraph (1) shall be treated as though—

18 “(i) such rule were published in the Federal
 19 Register on—

20 “(I) in the case of the Senate, the 15th
 21 session day, or

22 “(II) in the case of the House of Rep-
 23 resentatives, the 15th legislative day,
 24 after the succeeding session of Congress first con-
 25 venes; and

1 “(ii) a report on such rule were submitted to
2 Congress under subsection (a)(1) on such date.

3 “(B) Nothing in this paragraph shall be construed
4 to affect the requirement under subsection (a)(1) that a
5 report shall be submitted to Congress before a rule can
6 take effect.

7 “(3) A rule described under paragraph (1) shall take
8 effect as otherwise provided by law (including other sub-
9 sections of this section).

10 **“§ 802. Congressional approval procedure for major**
11 **rules**

12 “(a) For purposes of this section, the term ‘joint res-
13 olution’ means only a joint resolution introduced on or
14 after the date on which the report referred to in section
15 801(a)(1)(A) is received by Congress (excluding days ei-
16 ther House of Congress is adjourned for more than 3 days
17 during a session of Congress), the matter after the resolv-
18 ing clause of which is as follows: ‘That Congress approves
19 the rule submitted by the __ __ relating to __ __.’ (The
20 blank spaces being appropriately filled in).

21 “(1) In the House, the majority leader of the
22 House of Representatives (or his designee) and the
23 minority leader of the House of Representatives (or
24 his designee) shall introduce such joint resolution
25 described in subsection (a) (by request), within 3

1 legislative days after Congress receives the report re-
2 ferred to in section 801(a)(1)(A).

3 “(2) In the Senate, the majority leader of the
4 Senate (or his designee) and the minority leader of
5 the Senate (or his designee) shall introduce such
6 joint resolution described in subsection (a) (by re-
7 quest), within 3 session days after Congress receives
8 the report referred to in section 801(a)(1)(A).

9 “(b)(1) A joint resolution described in subsection (a)
10 shall be referred to the committees in each House of Con-
11 gress with jurisdiction under the rules of the House of
12 Representatives or the Senate to report a bill to amend
13 the provision of law under which the rule is issued.

14 “(2) For purposes of this section, the term ‘submis-
15 sion date’ means the date on which the Congress receives
16 the report submitted under section 801(a)(1).

17 “(c) In the Senate, if the committee or committees
18 to which a joint resolution described in subsection (a) has
19 been referred have not reported it at the end of 15 session
20 days after its introduction, such committee or committees
21 shall be automatically discharged from further consider-
22 ation of the resolution and it shall be placed on the cal-
23 endar. A vote on final passage of the resolution shall be
24 taken on or before the close of the 15th session day after
25 the resolution is reported by the committee or committees

1 to which it was referred, or after such committee or com-
2 mittees have been discharged from further consideration
3 of the resolution.

4 “(d)(1) In the Senate, when the committee or com-
5 mittees to which a joint resolution is referred have re-
6 ported, or when a committee or committees are discharged
7 (under subsection (c)) from further consideration of a
8 joint resolution described in subsection (a), it is at any
9 time thereafter in order (even though a previous motion
10 to the same effect has been disagreed to) for a motion
11 to proceed to the consideration of the joint resolution, and
12 all points of order against the joint resolution (and against
13 consideration of the joint resolution) are waived. The mo-
14 tion is not subject to amendment, or to a motion to post-
15 pone, or to a motion to proceed to the consideration of
16 other business. A motion to reconsider the vote by which
17 the motion is agreed to or disagreed to shall not be in
18 order. If a motion to proceed to the consideration of the
19 joint resolution is agreed to, the joint resolution shall re-
20 main the unfinished business of the Senate until disposed
21 of.

22 “(2) In the Senate, debate on the joint resolution,
23 and on all debatable motions and appeals in connection
24 therewith, shall be limited to not more than 2 hours, which
25 shall be divided equally between those favoring and those

1 opposing the joint resolution. A motion to further limit
2 debate is in order and not debatable. An amendment to,
3 or a motion to postpone, or a motion to proceed to the
4 consideration of other business, or a motion to recommit
5 the joint resolution is not in order.

6 “(3) In the Senate, immediately following the conclu-
7 sion of the debate on a joint resolution described in sub-
8 section (a), and a single quorum call at the conclusion of
9 the debate if requested in accordance with the rules of the
10 Senate, the vote on final passage of the joint resolution
11 shall occur.

12 “(4) Appeals from the decisions of the Chair relating
13 to the application of the rules of the Senate to the proce-
14 dure relating to a joint resolution described in subsection
15 (a) shall be decided without debate.

16 “(e)(1) In the House of Representatives, if the com-
17 mittee or committees to which a joint resolution described
18 in subsection (a) has been referred have not reported it
19 at the end of 15 legislative days after its introduction,
20 such committee or committees shall be automatically dis-
21 charged from further consideration of the resolution and
22 it shall be placed on the appropriate calendar. A vote on
23 final passage of the resolution shall be taken on or before
24 the close of the 15th legislative day after the resolution
25 is reported by the committee or committees to which it

1 was referred, or after such committee or committees have
2 been discharged from further consideration of the resolu-
3 tion.

4 “(2)(A) A motion in the House of Representatives to
5 proceed to the consideration of a resolution shall be privi-
6 leged and not debatable. An amendment to the motion
7 shall not be in order, nor shall it be in order to move to
8 reconsider the vote by which the motion is agreed to or
9 disagreed to.

10 “(B) Debate in the House of Representatives on a
11 resolution shall be limited to not more than two hours,
12 which shall be divided equally between those favoring and
13 those opposing the resolution. A motion to further limit
14 debate shall not be debatable. No amendment to, or mo-
15 tion to recommit, the resolution shall be in order. It shall
16 not be in order to reconsider the vote by which a resolution
17 is agreed to or disagreed to.

18 “(C) Motions to postpone, made in the House of Rep-
19 resentatives with respect to the consideration of a resolu-
20 tion, and motions to proceed to the consideration of other
21 business, shall be decided without debate.

22 “(D) All appeals from the decisions of the Chair re-
23 lating to the application of the Rules of the House of Rep-
24 resentatives to the procedure relating to a resolution shall
25 be decided without debate.

1 “(f) If, before the passage by one House of a joint
2 resolution of that House described in subsection (a), that
3 House receives from the other House a joint resolution
4 described in subsection (a), then the following procedures
5 shall apply with respect to a joint resolution described in
6 subsection (a) of the House receiving the joint resolu-
7 tion—

8 “(1) the procedure in that House shall be the
9 same as if no joint resolution had been received from
10 the other House; but

11 “(2) the vote on final passage shall be on the
12 joint resolution of the other House.

13 “(g) The enactment of a resolution of approval does
14 not serve as a grant or modification of statutory authority
15 by Congress for the promulgation of a rule, does not extin-
16 guish or affect any claim, whether substantive or proce-
17 dural, against any alleged defect in a rule, and shall not
18 form part of the record before the court in any judicial
19 proceeding concerning a rule.

20 “(h) This section and section 803 are enacted by
21 Congress—

22 “(1) as an exercise of the rulemaking power of
23 the Senate and House of Representatives, respec-
24 tively, and as such it is deemed a part of the rules
25 of each House, respectively, but applicable only with

1 respect to the procedure to be followed in that
 2 House in the case of a joint resolution described in
 3 subsection (a), and it supersedes other rules only to
 4 the extent that it is inconsistent with such rules; and
 5 “(2) with full recognition of the constitutional
 6 right of either House to change the rules (so far as
 7 relating to the procedure of that House) at any time,
 8 in the same manner, and to the same extent as in
 9 the case of any other rule of that House.

10 **“§ 803. Congressional disapproval procedure for**
 11 **nonmajor rules**

12 “(a) For purposes of this section, the term ‘joint res-
 13 olution’ means only a joint resolution introduced in the
 14 period beginning on the date on which the report referred
 15 to in section 801(a)(1)(A) is received by Congress and
 16 ending 60 days thereafter (excluding days either House
 17 of Congress is adjourned for more than 3 days during a
 18 session of Congress), the matter after the resolving clause
 19 of which is as follows: ‘That Congress disapproves the
 20 nonmajor rule submitted by the ___ ___ relating to ___ ___,
 21 and such rule shall have no force or effect.’ (The blank
 22 spaces being appropriately filled in).

23 “(b)(1) A joint resolution described in subsection (a)
 24 shall be referred to the committees in each House of Con-
 25 gress with jurisdiction.

1 “(2) For purposes of this section, the term submis-
2 sion or publication date means the later of the date on
3 which—

4 “(A) the Congress receives the report submitted
5 under section 801(a)(1); or

6 “(B) the nonmajor rule is published in the Fed-
7 eral Register, if so published.

8 “(c) In the Senate, if the committee to which is re-
9 ferred a joint resolution described in subsection (a) has
10 not reported such joint resolution (or an identical joint
11 resolution) at the end of 15 session days after the date
12 of introduction of the joint resolution, such committee may
13 be discharged from further consideration of such joint res-
14 olution upon a petition supported in writing by 30 Mem-
15 bers of the Senate, and such joint resolution shall be
16 placed on the calendar.

17 “(d)(1) In the Senate, when the committee to which
18 a joint resolution is referred has reported, or when a com-
19 mittee is discharged (under subsection (c)) from further
20 consideration of a joint resolution described in subsection
21 (a), it is at any time thereafter in order (even though a
22 previous motion to the same effect has been disagreed to)
23 for a motion to proceed to the consideration of the joint
24 resolution, and all points of order against the joint resolu-
25 tion (and against consideration of the joint resolution) are

1 waived. The motion is not subject to amendment, or to
2 a motion to postpone, or to a motion to proceed to the
3 consideration of other business. A motion to reconsider the
4 vote by which the motion is agreed to or disagreed to shall
5 not be in order. If a motion to proceed to the consideration
6 of the joint resolution is agreed to, the joint resolution
7 shall remain the unfinished business of the Senate until
8 disposed of.

9 “(2) In the Senate, debate on the joint resolution,
10 and on all debatable motions and appeals in connection
11 therewith, shall be limited to not more than 10 hours,
12 which shall be divided equally between those favoring and
13 those opposing the joint resolution. A motion to further
14 limit debate is in order and not debatable. An amendment
15 to, or a motion to postpone, or a motion to proceed to
16 the consideration of other business, or a motion to recom-
17 mit the joint resolution is not in order.

18 “(3) In the Senate, immediately following the conclu-
19 sion of the debate on a joint resolution described in sub-
20 section (a), and a single quorum call at the conclusion of
21 the debate if requested in accordance with the rules of the
22 Senate, the vote on final passage of the joint resolution
23 shall occur.

24 “(4) Appeals from the decisions of the Chair relating
25 to the application of the rules of the Senate to the proce-

1 dure relating to a joint resolution described in subsection
 2 (a) shall be decided without debate.

3 “(e) In the Senate the procedure specified in sub-
 4 section (c) or (d) shall not apply to the consideration of
 5 a joint resolution respecting a nonmajor rule—

6 “(1) after the expiration of the 60 session days
 7 beginning with the applicable submission or publica-
 8 tion date, or

9 “(2) if the report under section 801(a)(1)(A)
 10 was submitted during the period referred to in sec-
 11 tion 801(d)(1), after the expiration of the 60 session
 12 days beginning on the 15th session day after the
 13 succeeding session of Congress first convenes.

14 “(f) If, before the passage by one House of a joint
 15 resolution of that House described in subsection (a), that
 16 House receives from the other House a joint resolution
 17 described in subsection (a), then the following procedures
 18 shall apply:

19 “(1) The joint resolution of the other House
 20 shall not be referred to a committee.

21 “(2) With respect to a joint resolution described
 22 in subsection (a) of the House receiving the joint
 23 resolution—

1 “(A) the procedure in that House shall be
2 the same as if no joint resolution had been re-
3 ceived from the other House; but

4 “(B) the vote on final passage shall be on
5 the joint resolution of the other House.

6 **“§ 804. Definitions**

7 “For purposes of this chapter—

8 “(1) The term ‘Federal agency’ means any
9 agency as that term is defined in section 551(1).

10 “(2) The term ‘major rule’ means any rule, in-
11 cluding an interim final rule, that the Administrator
12 of the Office of Information and Regulatory Affairs
13 of the Office of Management and Budget finds has
14 resulted in or is likely to result in—

15 “(A) an annual effect on the economy of
16 \$100,000,000 or more;

17 “(B) a major increase in costs or prices for
18 consumers, individual industries, Federal,
19 State, or local government agencies, or geo-
20 graphic regions; or

21 “(C) significant adverse effects on competi-
22 tion, employment, investment, productivity, in-
23 novation, or on the ability of United States-
24 based enterprises to compete with foreign-based
25 enterprises in domestic and export markets.

1 “(3) The term ‘nonmajor rule’ means any rule
2 that is not a major rule.

3 “(4) The term ‘rule’ has the meaning given
4 such term in section 551, except that such term does
5 not include—

6 “(A) any rule of particular applicability,
7 including a rule that approves or prescribes for
8 the future rates, wages, prices, services, or al-
9 lowances therefore, corporate or financial struc-
10 tures, reorganizations, mergers, or acquisitions
11 thereof, or accounting practices or disclosures
12 bearing on any of the foregoing;

13 “(B) any rule relating to agency manage-
14 ment or personnel; or

15 “(C) any rule of agency organization, pro-
16 cedure, or practice that does not substantially
17 affect the rights or obligations of non-agency
18 parties.

19 **“§ 805. Judicial review**

20 “(a) No determination, finding, action, or omission
21 under this chapter shall be subject to judicial review.

22 “(b) Notwithstanding subsection (a), a court may de-
23 termine whether a Federal agency has completed the nec-
24 essary requirements under this chapter for a rule to take
25 effect.

1 **“§ 806. Exemption for monetary policy**

2 “Nothing in this chapter shall apply to rules that con-
 3 cern monetary policy proposed or implemented by the
 4 Board of Governors of the Federal Reserve System or the
 5 Federal Open Market Committee.

6 **“§ 807. Effective date of certain rules**

7 “Notwithstanding section 801—

8 “(1) any rule that establishes, modifies, opens,
 9 closes, or conducts a regulatory program for a com-
 10 mercial, recreational, or subsistence activity related
 11 to hunting, fishing, or camping; or

12 “(2) any rule other than a major rule which an
 13 agency for good cause finds (and incorporates the
 14 finding and a brief statement of reasons therefore in
 15 the rule issued) that notice and public procedure
 16 thereon are impracticable, unnecessary, or contrary
 17 to the public interest,

18 shall take effect at such time as the Federal agency pro-
 19 mulgating the rule determines.”.

20 **Subtitle D—Small Business**
 21 **Regulatory Freedom**

22 **SEC. 231. FINDINGS.**

23 Congress finds the following:

24 (1) A vibrant and growing small business sector
 25 is critical to the recovery of the economy of the
 26 United States.

1 (2) Regulations designed for application to
2 large-scale entities have been applied uniformly to
3 small businesses and other small entities, sometimes
4 inhibiting the ability of small entities to create new
5 jobs.

6 (3) Uniform Federal regulatory and reporting
7 requirements in many instances have imposed on
8 small businesses and other small entities unneces-
9 sary and disproportionately burdensome demands,
10 including legal, accounting, and consulting costs,
11 thereby threatening the viability of small entities
12 and the ability of small entities to compete and cre-
13 ate new jobs in a global marketplace.

14 (4) Since 1980, Federal agencies have been re-
15 quired to recognize and take account of the dif-
16 ferences in the scale and resources of regulated enti-
17 ties, but in many instances have failed to do so.

18 (5) In 2009, there were nearly 70,000 pages in
19 the Federal Register, and, according to research by
20 the Office of Advocacy of the Small Business Admin-
21 istration, the annual cost of Federal regulations to-
22 tals \$1,750,000,000,000. Small firms bear a dis-
23 proportionate burden, paying approximately 36 per-
24 cent more per employee than larger firms in annual
25 regulatory compliance costs.

1 (6) All agencies in the Federal Government
 2 should fully consider the costs, including indirect
 3 economic impacts and the potential for job creation
 4 and job loss, of proposed rules, periodically review
 5 existing regulations to determine their impact on
 6 small entities, and repeal regulations that are unnec-
 7 essarily duplicative or have outlived their stated pur-
 8 pose.

9 (7) It is the intention of Congress to amend
 10 chapter 6 of title 5, United States Code, to ensure
 11 that all impacts, including foreseeable indirect ef-
 12 fects, of proposed and final rules are considered by
 13 agencies during the rulemaking process and that the
 14 agencies assess a full range of alternatives that will
 15 limit adverse economic consequences, enhance eco-
 16 nomic benefits, and fully address potential job cre-
 17 ation or job loss.

18 **SEC. 232. INCLUDING INDIRECT ECONOMIC IMPACT IN**
 19 **SMALL ENTITY ANALYSES.**

20 Section 601 of title 5, United States Code, is amend-
 21 ed by adding at the end the following:

22 “(9) the term ‘economic impact’ means, with
 23 respect to a proposed or final rule—

24 “(A) any direct economic effect of the rule
 25 on small entities; and

1 “(B) any indirect economic effect on small
 2 entities, including potential job creation or job
 3 loss, that is reasonably foreseeable and that re-
 4 sults from the rule, without regard to whether
 5 small entities are directly regulated by the
 6 rule.”.

7 **SEC. 233. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO**
 8 **CHALLENGE PROPOSED REGULATIONS.**

9 Section 611(a) of title 5, United States Code, is
 10 amended—

11 (1) in paragraph (1), by inserting “603,” after
 12 “601,”;

13 (2) in paragraph (2), by inserting “603,” after
 14 “601,”;

15 (3) by striking paragraph (3) and inserting the
 16 following:

17 “(3) A small entity may seek such review during the
 18 1-year period beginning on the date of final agency action,
 19 except that—

20 “(A) if a provision of law requires that an ac-
 21 tion challenging a final agency action be commenced
 22 before the expiration of 1 year, the lesser period
 23 shall apply to an action for judicial review under this
 24 section; and

1 “(B) in the case of noncompliance with section
 2 603 or 605(b), a small entity may seek judicial re-
 3 view of agency compliance with such section before
 4 the close of the public comment period.”; and

5 (4) in paragraph (4)—

6 (A) in subparagraph (A), by striking “,
 7 and” and inserting a semicolon;

8 (B) in subparagraph (B), by striking the
 9 period and inserting “; or”; and

10 (C) by adding at the end the following:

11 “(C) issuing an injunction prohibiting an agen-
 12 cy from taking any agency action with respect to a
 13 rulemaking until that agency is in compliance with
 14 the requirements of section 603 or 605.”.

15 **SEC. 234. PERIODIC REVIEW AND SUNSET OF EXISTING**
 16 **RULES.**

17 Section 610 of title 5, United States Code, is amend-
 18 ed to read as follows:

19 **“§ 610. Periodic review of rules**

20 “(a)(1) Not later than 180 days after the date of en-
 21 actment of the Grow America Act of 2012, each agency
 22 shall establish a plan for the periodic review of—

23 “(A) each rule issued by the agency that the
 24 head of the agency determines has a significant eco-
 25 nomic impact on a substantial number of small enti-

1 ties, without regard to whether the agency per-
2 formed an analysis under section 604 with respect to
3 the rule; and

4 “(B) any small entity compliance guide required
5 to be published by the agency under section 212 of
6 the Small Business Regulatory Enforcement Fair-
7 ness Act of 1996 (5 U.S.C. 601 note).

8 “(2) In reviewing rules and small entity compliance
9 guides under paragraph (1), the agency shall determine
10 whether the rules and guides should—

11 “(A) be amended or rescinded, consistent with
12 the stated objectives of applicable statutes, to mini-
13 mize any significant adverse economic impacts on a
14 substantial number of small entities (including an
15 estimate of any adverse impacts on job creation and
16 employment by small entities); or

17 “(B) continue in effect without change.

18 “(3) Each agency shall publish the plan established
19 under paragraph (1) in the Federal Register and on the
20 Web site of the agency.

21 “(4) An agency may amend the plan established
22 under paragraph (1) at any time by publishing the amend-
23 ment in the Federal Register and on the Web site of the
24 agency.

1 “(b)(1) Each plan established under subsection (a)
2 shall provide for—

3 “(A) the review of each rule and small entity
4 compliance guide described in subsection (a)(1) in
5 effect on the date of enactment of the Grow America
6 Act of 2012—

7 “(i) not later than 8 years after the date
8 of publication of the plan in the Federal Reg-
9 ister; and

10 “(ii) every 8 years thereafter; and

11 “(B) the review of each rule adopted and small
12 entity compliance guide described in subsection
13 (a)(1) that is published after the date of enactment
14 of the Grow America Act of 2012—

15 “(i) not later than 8 years after the publi-
16 cation of the final rule in the Federal Register;
17 and

18 “(ii) every 8 years thereafter.

19 “(2)(A) If an agency determines that the review of
20 the rules and guides described in paragraph (1)(A) cannot
21 be completed before the date described in paragraph
22 (1)(A)(i), the agency—

23 “(i) shall publish a statement in the Federal
24 Register certifying that the review cannot be com-
25 pleted; and

1 “(ii) may extend the period for the review of
2 the rules and guides described in paragraph (1)(A)
3 for a period of not more than 2 years, if the agency
4 publishes notice of the extension in the Federal Reg-
5 ister.

6 “(B) An agency shall transmit to the Chief Counsel
7 for Advocacy of the Small Business Administration and
8 Congress notice of any statement or notice described in
9 subparagraph (A).

10 “(c) In reviewing rules under the plan required under
11 subsection (a), the agency shall consider—

12 “(1) the continued need for the rule;

13 “(2) the nature of complaints received by the
14 agency from small entities concerning the rule;

15 “(3) comments by the Regulatory Enforcement
16 Ombudsman and the Chief Counsel for Advocacy of
17 the Small Business Administration;

18 “(4) the complexity of the rule;

19 “(5) the extent to which the rule overlaps, du-
20 plicates, or conflicts with other Federal rules and,
21 unless the head of the agency determines it to be in-
22 feasible, State and local rules;

23 “(6) the contribution of the rule to the cumu-
24 lative economic impact of all Federal rules on the
25 class of small entities affected by the rule, unless the

1 head of the agency determines that such a calcula-
2 tion cannot be made;

3 “(7) the length of time since the rule has been
4 evaluated, or the degree to which technology, eco-
5 nomic conditions, or other factors have changed in
6 the area affected by the rule; and

7 “(8) the impact of the rule, including—

8 “(A) the estimated number of small enti-
9 ties to which the rule will apply;

10 “(B) the estimated number of small entity
11 jobs that will be lost or created due to the rule;
12 and

13 “(C) the projected reporting, record-
14 keeping, and other compliance requirements of
15 the proposed rule, including—

16 “(i) an estimate of the classes of small
17 entities that will be subject to the require-
18 ment; and

19 “(ii) the type of professional skills
20 necessary for preparation of the report or
21 record.

22 “(d)(1) Each agency shall submit an annual report
23 regarding the results of the review required under sub-
24 section (a) to—

25 “(A) Congress; and

1 “(B) in the case of an agency that is not an
2 independent regulatory agency (as defined in section
3 3502(5) of title 44), the Administrator of the Office
4 of Information and Regulatory Affairs of the Office
5 of Management and Budget.

6 “(2) Each report required under paragraph (1) shall
7 include a description of any rule or guide with respect to
8 which the agency made a determination of infeasibility
9 under paragraph (5) or (6) of subsection (c), together with
10 a detailed explanation of the reasons for the determina-
11 tion.

12 “(e) Each agency shall publish in the Federal Reg-
13 ister and on the Web site of the agency a list of the rules
14 and small entity compliance guides to be reviewed under
15 the plan required under subsection (a) that includes—

16 “(1) a brief description of each rule or guide;

17 “(2) for each rule, the reason why the head of
18 the agency determined that the rule has a significant
19 economic impact on a substantial number of small
20 entities (without regard to whether the agency had
21 prepared a final regulatory flexibility analysis for the
22 rule); and

23 “(3) a request for comments from the public,
24 the Chief Counsel for Advocacy of the Small Busi-
25 ness Administration, and the Regulatory Enforce-

1 ment Ombudsman concerning the enforcement of the
2 rules or publication of the guides.

3 “(f)(1) With respect to each agency, not later than
4 6 months after each date described in subsection (b)(1),
5 the Chief Counsel for Advocacy of the Small Business Ad-
6 ministration shall determine whether the agency has com-
7 pleted the review required under subsection (b).

8 “(2) If, after a review under paragraph (1), the Chief
9 Counsel for Advocacy of the Small Business Administra-
10 tion determines that an agency has failed to complete the
11 review required under subsection (b), each rule issued by
12 the agency that the head of the agency determined under
13 subsection (a) has a significant economic impact on a sub-
14 stantial number of small entities shall immediately cease
15 to have effect.”.

16 **SEC. 235. REQUIRING SMALL BUSINESS REVIEW PANELS**
17 **FOR ALL AGENCIES.**

18 (a) AGENCIES.—Section 609 of title 5, United States
19 Code, is amended—

20 (1) in subsection (b), by striking “a covered
21 agency” each place it appears and inserting “an
22 agency”; and

23 (2) in subsection (e)(1), by striking “the cov-
24 ered agency” and inserting “the agency”.

25 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) SECTION 609.—Section 609 of title 5,
2 United States Code, is amended—

3 (A) by striking subsection (d), as amended
4 by section 1100G(a) of Public Law 111–203
5 (124 Stat. 2112); and

6 (B) by redesignating subsection (e) as sub-
7 section (d).

8 (2) SECTION 603.—Section 603(d) of title 5,
9 United States Code, as added by section 1100G(b)
10 of Public Law 111–203 (124 Stat. 2112), is amend-
11 ed—

12 (A) in paragraph (1), by striking “a cov-
13 ered agency, as defined in section 609(d)(2)”
14 and inserting “the Bureau of Consumer Finan-
15 cial Protection”; and

16 (B) in paragraph (2), by striking “A cov-
17 ered agency, as defined in section 609(d)(2),”
18 and inserting “The Bureau of Consumer Finan-
19 cial Protection”.

20 (3) SECTION 604.—Section 604(a) of title 5,
21 United States Code, is amended—

22 (A) by redesignating the second paragraph
23 designated as paragraph (6) (relating to cov-
24 ered agencies), as added by section 1100G(c)(3)

1 of Public Law 111–203 (124 Stat. 2113), as
 2 paragraph (7); and

3 (B) in paragraph (7), as so redesignated—

4 (i) by striking “a covered agency, as
 5 defined in section 609(d)(2)” and inserting
 6 “the Bureau of Consumer Financial Pro-
 7 tection”; and

8 (ii) by striking “the agency” and in-
 9 serting “the Bureau”.

10 (4) EFFECTIVE DATE.—The amendments made
 11 by this subsection shall take effect on the date of en-
 12 actment of this Act and apply on and after the des-
 13 ignated transfer date established under section 1062
 14 of Public Law 111–203 (12 U.S.C. 5582).

15 **SEC. 236. EXPANDING THE REGULATORY FLEXIBILITY ACT**
 16 **TO AGENCY GUIDANCE DOCUMENTS.**

17 Section 601(2) of title 5, United States Code, is
 18 amended by inserting after “public comment” the fol-
 19 lowing: “and any significant guidance document, as de-
 20 fined in the Office of Management and Budget Final Bul-
 21 letin for Agency Good Guidance Procedures (72 Fed. Reg.
 22 3432; January 25, 2007)”.

1 **SEC. 237. REQUIRING THE INTERNAL REVENUE SERVICE**
2 **TO CONSIDER SMALL ENTITY IMPACT.**

3 (a) IN GENERAL.—Section 603(a) of title 5, United
4 States Code, is amended, in the fifth sentence, by striking
5 “but only” and all that follows through the period at the
6 end and inserting “but only to the extent that such inter-
7 pretative rules, or the statutes upon which such rules are
8 based, impose on small entities a collection of information
9 requirement or a recordkeeping requirement.”.

10 (b) DEFINITIONS.—Section 601 of title 5, United
11 States Code, as amended by section 332 of this title, is
12 amended—

13 (1) in paragraph (6), by striking “and” at the
14 end; and

15 (2) by striking paragraphs (7) and (8) and in-
16 serting the following:

17 “(7) the term ‘collection of information’ has the
18 meaning given that term in section 3502(3) of title
19 44;

20 “(8) the term ‘recordkeeping requirement’ has
21 the meaning given that term in section 3502(13) of
22 title 44; and”.

23 **SEC. 238. MITIGATING PENALTIES ON SMALL ENTITIES.**

24 Section 223 of the Small Business Regulatory En-
25 forcement Fairness Act of 1996 (Public Law 104–121;

1 110 Stat. 862) is amended by adding at the end the fol-
 2 lowing:

3 “(d) REVIEW OF POLICIES AND PROGRAMS.—

4 “(1) REVIEW REQUIRED.—Not later than 6
 5 months after the date of enactment of this sub-
 6 section, and every 2 years thereafter, each agency
 7 regulating the activities of small entities shall review
 8 the policy or program established by the agency
 9 under subsection (a) and make any modifications to
 10 the policy or program necessary to comply with the
 11 requirements under this section.

12 “(2) REPORT.—Not later than 6 months after
 13 the date of enactment of this subsection, and every
 14 2 years thereafter, each agency described in para-
 15 graph (1) shall submit a report on the review and
 16 modifications required under paragraph (1) to—

17 “(A) the Committee on Small Business
 18 and Entrepreneurship and the Committee on
 19 Homeland Security and Governmental Affairs
 20 of the Senate; and

21 “(B) the Committee on Small Business
 22 and the Committee on the Judiciary of the
 23 House of Representatives.”.

1 **SEC. 239. REQUIRING MORE DETAILED SMALL ENTITY**
2 **ANALYSES.**

3 (a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—
4 Section 603 of title 5, United States Code, as amended
5 by section 1100G(b) of Public Law 111–203 (124 Stat.
6 2112), is amended—

7 (1) by striking subsection (b) and inserting the
8 following:

9 “(b) Each initial regulatory flexibility analysis re-
10 quired under this section shall contain a detailed state-
11 ment—

12 “(1) describing the reasons why action by the
13 agency is being considered;

14 “(2) describing the objectives of, and legal basis
15 for, the proposed rule;

16 “(3) estimating the number and type of small
17 entities to which the proposed rule will apply;

18 “(4) describing the projected reporting, record-
19 keeping, and other compliance requirements of the
20 proposed rule, including an estimate of the classes of
21 small entities which will be subject to the require-
22 ment and the type of professional skills necessary
23 for preparation of the report and record;

24 “(5) describing all relevant Federal rules which
25 may duplicate, overlap, or conflict with the proposed

1 rule, or the reasons why such a description could not
2 be provided; and

3 “(6) estimating the additional cumulative eco-
4 nomic impact of the proposed rule on small entities,
5 including job creation and employment by small enti-
6 ties, beyond that already imposed on the class of
7 small entities by the agency, or the reasons why
8 such an estimate is not available.”; and

9 (2) by adding at the end the following:

10 “(e) An agency shall notify the Chief Counsel for Ad-
11 vocacy of the Small Business Administration of any draft
12 rules that may have a significant economic impact on a
13 substantial number of small entities—

14 “(1) when the agency submits a draft rule to
15 the Office of Information and Regulatory Affairs of
16 the Office of Management and Budget under Execu-
17 tive Order 12866, if that order requires the submis-
18 sion; or

19 “(2) if no submission to the Office of Informa-
20 tion and Regulatory Affairs is required—

21 “(A) a reasonable period before publication
22 of the rule by the agency; and

23 “(B) in any event, not later than 3 months
24 before the date on which the agency publishes
25 the rule.”.

1 (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

2 (1) IN GENERAL.—Section 604(a) of title 5,
3 United States Code, is amended—

4 (A) by inserting “detailed” before “de-
5 scription” each place it appears;

6 (B) in paragraph (2)—

7 (i) by inserting “detailed” before
8 “statement” each place it appears; and

9 (ii) by inserting “(or certification of
10 the proposed rule under section 605(b))”
11 after “initial regulatory flexibility anal-
12 ysis”;

13 (C) in paragraph (4), by striking “an ex-
14 planation” and inserting “a detailed expla-
15 nation”; and

16 (D) in paragraph (6) (relating to a de-
17 scription of steps taken to minimize significant
18 economic impact), as added by section 1601 of
19 the Small Business Jobs Act of 2010 (Public
20 Law 111–240; 124 Stat. 2251), by inserting
21 “detailed” before “statement”.

22 (2) PUBLICATION OF ANALYSIS ON WEB SITE,
23 ETC.—Section 604(b) of title 5, United States Code,
24 is amended to read as follows:

25 “(b) The agency shall—

1 “(1) make copies of the final regulatory flexi-
2 bility analysis available to the public, including by
3 publishing the entire final regulatory flexibility anal-
4 ysis on the Web site of the agency; and

5 “(2) publish in the Federal Register the final
6 regulatory flexibility analysis, or a summary of the
7 analysis that includes the telephone number, mailing
8 address, and address of the Web site where the com-
9 plete final regulatory flexibility analysis may be ob-
10 tained.”.

11 (c) CROSS-REFERENCES TO OTHER ANALYSES.—
12 Section 605(a) of title 5, United States Code, is amended
13 to read as follows:

14 “(a) A Federal agency shall be deemed to have satis-
15 fied a requirement regarding the content of a regulatory
16 flexibility agenda or regulatory flexibility analysis under
17 section 602, 603, or 604, if the Federal agency provides
18 in the agenda or regulatory flexibility analysis a cross-ref-
19 erence to the specific portion of an agenda or analysis that
20 is required by another law and that satisfies the require-
21 ment under section 602, 603, or 604.”.

22 (d) CERTIFICATIONS.—Section 605(b) of title 5,
23 United States Code, is amended, in the second sentence,
24 by striking “statement providing the factual” and insert-
25 ing “detailed statement providing the factual and legal”.

1 (e) QUANTIFICATION REQUIREMENTS.—Section 607
 2 of title 5, United States Code, is amended to read as fol-
 3 lows:

4 **“§ 607. Quantification requirements**

5 “In complying with sections 603 and 604, an agency
 6 shall provide—

7 “(1) a quantifiable or numerical description of
 8 the effects of the proposed or final rule, including an
 9 estimate of the potential for job creation or job loss,
 10 and alternatives to the proposed or final rule; or

11 “(2) a more general descriptive statement re-
 12 garding the potential for job creation or job loss and
 13 a detailed statement explaining why quantification
 14 under paragraph (1) is not practicable or reliable.”.

15 **SEC. 240. ENSURING THAT AGENCIES CONSIDER SMALL EN-**
 16 **TITY IMPACT DURING THE RULEMAKING**
 17 **PROCESS.**

18 Section 605(b) of title 5, United States Code, is
 19 amended—

20 (1) by inserting “(1)” after “(b)”; and

21 (2) by adding at the end the following:

22 “(2) If, after publication of the certification required
 23 under paragraph (1), the head of the agency determines
 24 that there will be a significant economic impact on a sub-
 25 stantial number of small entities, the agency shall comply

1 with the requirements of section 603 before the publica-
2 tion of the final rule, by—

3 “(A) publishing an initial regulatory flexibility
4 analysis for public comment; or

5 “(B) re-proposing the rule with an initial regu-
6 latory flexibility analysis.

7 “(3) The head of an agency may not make a certifi-
8 cation relating to a rule under this subsection, unless the
9 head of the agency has determined—

10 “(A) the average cost of the rule for small enti-
11 ties affected or reasonably presumed to be affected
12 by the rule;

13 “(B) the number of small entities affected or
14 reasonably presumed to be affected by the rule; and

15 “(C) the number of affected small entities for
16 which that cost will be significant.

17 “(4) Before publishing a certification and a state-
18 ment providing the factual basis for the certification under
19 paragraph (1), the head of an agency shall—

20 “(A) transmit a copy of the certification and
21 statement to the Chief Counsel for Advocacy of the
22 Small Business Administration; and

23 “(B) consult with the Chief Counsel for Advo-
24 cacy of the Small Business Administration on the
25 accuracy of the certification and statement.”.

1 **SEC. 241. QUALIFICATIONS OF THE CHIEF COUNSEL FOR**
2 **ADVOCACY AND AUTHORITY FOR THE OFFICE**
3 **OF ADVOCACY.**

4 (a) QUALIFICATIONS OF CHIEF COUNSEL FOR ADVO-
5 CACY.—Section 201 of Public Law 94–305 (15 U.S.C.
6 634a) is amended by adding at the end the following:
7 “The Chief Counsel for Advocacy shall be an attorney with
8 business experience and expertise in or knowledge of the
9 regulatory process.”.

10 (b) ADDITIONAL POWERS OF OFFICE OF ADVO-
11 CACY.—Section 203 of Public Law 94–305 (15 U.S.C.
12 634c) is amended—

13 (1) in paragraph (5), by striking “and” at the
14 end;

15 (2) in paragraph (6), by striking the period at
16 the end and inserting “; and”; and

17 (3) by inserting after paragraph (6) the fol-
18 lowing:

19 “(7) at the discretion of the Chief Counsel for
20 Advocacy, comment on regulatory action by an agen-
21 cy that affects small businesses, without regard to
22 whether the agency is required to file a notice of
23 proposed rulemaking under section 553 of title 5,
24 United States Code, with respect to the action.”.

1 **SEC. 242. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) **HEADING.**—Section 605 of title 5, United States
 3 Code, is amended in the section heading by striking
 4 “**Avoidance**” and all that follows and inserting the fol-
 5 lowing: “**Incorporations by reference and cer-**
 6 **tification.**”.

7 (b) **TABLE OF SECTIONS.**—The table of sections for
 8 chapter 6 of title 5, United States Code, is amended—
 9 (1) by striking the item relating to section 605
 10 and inserting the following:

“605. Incorporations by reference and certification.”;

11 and

12 (2) by striking the item relating to section 607
 13 and inserting the following:

“607. Quantification requirements.”.

14 **Subtitle E—Small Business**
 15 **Freedom of Commerce Act**

16 **SEC. 251. SMALL BUSINESS EXEMPTIONS.**

17 (a) **ELECTION.**—Notwithstanding any other provision
 18 of law, a small business concern operating in the United
 19 States may elect to be exempt from any Federal rule or
 20 regulation issued on or after January 1, 2008.

21 (b) **PROCESS FOR EXEMPTION.**—

22 (1) **NOTIFICATION OF FEDERAL AGENCY.**—To
 23 be exempt from a rule or regulation under this sec-
 24 tion, the highest ranking official of a small business

1 concern shall provide to the Federal agency that
2 issued such rule or regulation written notice that the
3 small business concern has elected to be exempt
4 from such rule or regulation.

5 (2) TIMING.—A small business concern shall be
6 exempt from a rule or regulation beginning on the
7 date that is 30 days after the date that written no-
8 tice provided by such concern under paragraph (1),
9 with respect to such rule or regulation, is received
10 by the applicable Federal agency.

11 (3) CONFIRMATION OF WRITTEN NOTICE.—Not
12 later than 7 days after receiving a written notice
13 under paragraph (1), the head of the Federal agency
14 that received such notice shall provide to the appli-
15 cable small business concern written confirmation
16 that such notice has been received.

17 (c) NOTIFICATION OF PUBLIC.—A small business
18 concern that is exempt from a Federal rule or regulation
19 under this section shall—

20 (1) label any product of the concern affected by
21 such exemption in a manner that provides notice
22 that the product is no longer subject to such rule or
23 regulation; and

24 (2) include in any communication of the con-
25 cern relating to a product or activity affected by

1 such exemption notice that the product or activity is
2 no longer subject to such rule or regulation.

3 (d) PENALTIES.—A small business concern that fails
4 to satisfy any requirement under this section shall be sub-
5 ject to penalties for noncompliance with an applicable Fed-
6 eral rule or regulation without regard to any election of
7 the small business concern to be exempt from such rule
8 or regulation.

9 (e) LIMITATIONS.—A small business concern may not
10 elect to be exempt under this section from a rule or regula-
11 tion issued by the Department of Defense or the Depart-
12 ment of Homeland Security, if the Secretary of Defense
13 or the Secretary of Homeland Security has determined
14 that such rule or regulation is necessary for the security
15 of the United States.

16 (f) DEFINITIONS.—In this section, the following defi-
17 nitions apply:

18 (1) FEDERAL AGENCY.—The term “Federal
19 agency” means any department, agency, or inde-
20 pendent establishment of the Federal Government.

21 (2) SMALL BUSINESS CONCERN.—The term
22 “small business concern” has the meaning given
23 such term in section 3(a) of the Small Business Act
24 (15 U.S.C. 632(a)).

1 **TITLE III—AMERICAN ENERGY**
2 **PRODUCTION**
3 **Subtitle A—End of Presidential**
4 **Permatorium on America’s**
5 **Outer Continental Shelf Re-**
6 **sources**

7 **SEC. 301. DEADLINE FOR CERTAIN PERMIT APPLICATIONS**
8 **UNDER EXISTING LEASES.**

9 (a) IN GENERAL.—A lease under which a covered ap-
10 plication is submitted to the Secretary of the Interior shall
11 be considered to be in directed suspension during the pe-
12 riod beginning May 27, 2010, and ending on the date the
13 Secretary issues a final decision on the application, if the
14 Secretary does not issue a final decision on the applica-
15 tion—

16 (1) before the end of the 30-day period begin-
17 ning on the date of enactment of this Act, in the
18 case of a covered application submitted before such
19 date of enactment; or

20 (2) before the end of the 30-day period begin-
21 ning on the date the application is received by the
22 Secretary, in the case of a covered application sub-
23 mitted on or after such date of enactment.

24 (b) COVERED APPLICATION.—In this section the
25 term “covered application” means an application for a

1 permit to drill under an oil and gas lease under the Outer
 2 Continental Shelf Lands Act in effect on the date of enact-
 3 ment of this Act, that—

4 (1) represents a resubmission of an approved
 5 permit to drill (including an application for a permit
 6 to sidetrack) that was approved by the Secretary be-
 7 fore May 27, 2010; and

8 (2) is received by the Secretary after October
 9 12, 2010, and before the end of the 30-day period
 10 beginning on the date of enactment of this Act.

11 **CHAPTER 1—OUTER CONTINENTAL SHELF**

12 **SEC. 311. END MORATORIUM OF OIL AND GAS LEASING IN** 13 **CERTAIN AREAS OF THE GULF OF MEXICO.**

14 (a) REPEAL OF MORATORIUM.—

15 (1) REPEAL.—Subsection (a) of section 104 of
 16 the Gulf of Mexico Energy Security Act of 2006 (43
 17 U.S.C. 1331 note; Public Law 109–432) is repealed.

18 (2) NATIONAL DEFENSE AREA.—Section 12(d)
 19 of the Outer Continental Shelf Lands Act (43
 20 U.S.C. 1341(d)) is amended—

21 (A) by striking “(d) The United States”
 22 and inserting the following:

23 “(d) RESTRICTION OF AREAS FOR NATIONAL DE-
 24 FENSE.—

25 “(1) IN GENERAL.—The United States”; and

1 (B) by adding at the end the following:

2 “(2) REVIEW.—Annually, the Secretary of De-
3 fense shall review the areas of the outer Continental
4 Shelf that have been designated as restricted from
5 exploration and operation to determine whether the
6 areas should remain under restriction.”.

7 (b) LEASING OF MORATORIUM AREAS.—

8 (1) IN GENERAL.—As soon as practicable, but
9 not later than 1 year, after the date of enactment
10 of this Act, the Secretary of the Interior shall offer
11 for leasing under the Outer Continental Shelf Lands
12 Act (43 U.S.C. 1331 et seq.), any areas made avail-
13 able for leasing as a result of the enactment of sub-
14 section (a).

15 (2) LEASING PLAN.—Any areas made available
16 for leasing under paragraph (1) shall be offered for
17 lease under this section notwithstanding the omis-
18 sion of any of these respective areas from the appli-
19 cable 5-year plan developed by the Secretary pursu-
20 ant to section 18 of the Outer Continental Shelf
21 Lands Act (43 U.S.C. 1344).

22 (c) MILITARY MISSION.—Section 104 of the Gulf of
23 Mexico Energy Security Act of 2006 (43 U.S.C. 1331
24 note; Public Law 109–432) is further amended—

1 (1) by striking “(b) MILITARY MISSION
2 LINE.—Notwithstanding subsection (a), the” and in-
3 serting “(a) MILITARY MISSION.—The”;

4 (2) by redesignating subsection (c) as sub-
5 section (b);

6 (3) in subsection (b)(1), as so redesignated, by
7 striking “paragraph (2) or (3) of subsection (a)”
8 and inserting “paragraph (5)”; and

9 (4) in subsection (b), as so redesignated, by
10 adding at the end the following:

11 “(5) AREAS DESCRIBED.—The areas referred to
12 in paragraph (1) are—

13 “(A) any area in the Eastern Planning
14 Area that is within 125 miles of the coastline
15 of the State of Florida; and

16 “(B) any area in the Central Planning
17 Area that is—

18 “(i) within—

19 “(I) the 181 Area; and

20 “(II) 100 miles of the coastline
21 of the State of Florida; or

22 “(ii)(I) outside the 181 Area;

23 “(II) east of the western edge of
24 the Pensacola Official Protraction

1 Diagram (UTM X coordinate
2 1,393,920 (NAD 27 feet)); and
3 “(III) within 100 miles of the
4 coastline of the State of Florida.”.

5 **SEC. 312. OUTER CONTINENTAL SHELF DIRECTED LEASE**
6 **SALES.**

7 (a) 209 LEASE SALE.—The Secretary of the Interior
8 (referred to in this section as the “Secretary”) shall offer
9 the Beaufort Sea Program Area for oil and gas leasing
10 pursuant to the Outer Continental Shelf Lands Act (43
11 U.S.C. 1331 et seq.) in 2011 as established in the 2007–
12 2012 Lease Sale Schedule.

13 (b) 210 LEASE SALE.—The Secretary shall offer the
14 Western Gulf of Mexico Program Area for oil and gas leas-
15 ing pursuant to the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1331 et seq.) in 2011 as established in the
17 2007–2012 Lease Sale Schedule.

18 (c) 212 LEASE SALE.—The Secretary shall offer the
19 Chukchi Sea Program Area for oil and gas leasing pursu-
20 ant to the Outer Continental Shelf Lands Act (43 U.S.C.
21 1331 et seq.) in 2011 as established in the 2007–2012
22 Lease Sale Schedule.

23 (d) 213 LEASE SALE.—The Secretary shall offer the
24 Central Gulf of Mexico Program Area for oil and gas leas-
25 ing pursuant to the Outer Continental Shelf Lands Act

1 (43 U.S.C. 1331 et seq.) in 2011 as established in the
2 2007–2012 Lease Sale Schedule.

3 (e) 215 LEASE SALE.—The Secretary shall offer the
4 Western Gulf of Mexico Program Area for oil and gas leas-
5 ing pursuant to the Outer Continental Shelf Lands Act
6 (43 U.S.C. 1331 et seq.) in 2011 as established in the
7 2007–2012 Lease Sale Schedule.

8 (f) 216 LEASE SALE.—The Secretary shall offer the
9 Central Gulf of Mexico Program Area for oil and gas leas-
10 ing pursuant to the Outer Continental Shelf Lands Act
11 (43 U.S.C. 1331 et seq.) in 2011 as established in the
12 2007–2012 Lease Sale Schedule.

13 (g) 217 LEASE SALE.—The Secretary shall offer the
14 Beaufort Sea Program Area for oil and gas leasing pursu-
15 ant to the Outer Continental Shelf Lands Act (43 U.S.C.
16 1331 et seq.) in 2011 as established in the 2007–2012
17 Lease Sale Schedule.

18 (h) 214 LEASE SALE.—The Secretary shall offer the
19 North Aleutian Basin Program Area for oil and gas leas-
20 ing pursuant to the Outer Continental Shelf Lands Act
21 (43 U.S.C. 1331 et seq.) in 2011 as established in the
22 2007–2012 Lease Sale Schedule.

23 (i) 218 LEASE SALE.—The Secretary shall offer the
24 Western Gulf of Mexico Program Area for oil and gas leas-
25 ing pursuant to the Outer Continental Shelf Lands Act

1 (43 U.S.C. 1331 et seq.) in 2011 as established in the
 2 2007–2012 Lease Sale Schedule.

3 (j) 219 LEASE SALE.—The Secretary shall offer the
 4 Cook Inlet Program Area for oil and gas leasing pursuant
 5 to the Outer Continental Shelf Lands Act (43 U.S.C. 1331
 6 et seq.) in 2011 as established in the 2007–2012 Lease
 7 Sale Schedule.

8 (k) 220 LEASE SALE.—The Secretary shall offer the
 9 Mid-Atlantic Program Area for oil and gas leasing pursu-
 10 ant to the Outer Continental Shelf Lands Act (43 U.S.C.
 11 1331 et seq.) in 2011 as established in the 2007–2012
 12 Lease Sale Schedule.

13 (l) 221 LEASE SALE.—The Secretary shall offer the
 14 Chukchi Sea Program Area for oil and gas leasing pursu-
 15 ant to the Outer Continental Shelf Lands Act (43 U.S.C.
 16 1331 et seq.) in 2012 as established in the 2007–2012
 17 Lease Sale Schedule.

18 (m) 222 LEASE SALE.—The Secretary shall offer the
 19 Central Gulf of Mexico Program Area for oil and gas leas-
 20 ing pursuant to the Outer Continental Shelf Lands Act
 21 (43 U.S.C. 1331 et seq.) in 2012 as established in the
 22 2007–2012 Lease Sale Schedule.

23 **SEC. 313. LEASING PROGRAM CONSIDERED APPROVED.**

24 (a) IN GENERAL.—The Draft Proposed Outer Conti-
 25 nental Shelf Oil and Gas Leasing Program 2010–2015

1 issued by the Secretary of the Interior (referred to in this
 2 section as the “Secretary”) under section 18 of the Outer
 3 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
 4 ered to have been approved by the Secretary as a final
 5 oil and gas leasing program under that section.

6 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
 7 The Secretary is considered to have issued a final environ-
 8 mental impact statement for the program described in
 9 subsection (a) in accordance with all of the requirements
 10 of sections 18, 19, and 20 of the Outer Continental Shelf
 11 Lands Act (43 U.S.C. 1344, 1345, and 1346), in accord-
 12 ance with all requirements under section 102(2)(C) of the
 13 National Environmental Policy Act of 1969 (42 U.S.C.
 14 4332(2)(C)), and in accordance with all requirements of
 15 the Coastal Zone Management Act of 1972 (16 U.S.C.
 16 1451 et seq.).

17 **SEC. 314. OUTER CONTINENTAL SHELF LEASE SALES.**

18 (a) REQUIREMENT TO CONDUCT LEASE SALES.—

19 (1) IN GENERAL.—Except as provided in para-
 20 graph (2), not later than one year after the date of
 21 enactment of this Act and annually thereafter, the
 22 Secretary of the Interior (referred to in this section
 23 as the “Secretary”) shall conduct at a minimum one
 24 lease sale in an Atlantic Planning Area, one lease
 25 sale in the Pacific Planning Area, one lease sale in

1 the Alaska Planning Area, and three lease sales in
 2 a Gulf of Mexico Planning Area for which the Sec-
 3 retary determines that there is a commercial interest
 4 in purchasing Federal oil and gas leases for produc-
 5 tion on the outer Continental Shelf.

6 (2) SUBSEQUENT DETERMINATIONS AND
 7 SALES.—If the Secretary determines that there is
 8 not a commercial interest in purchasing Federal oil
 9 and gas leases for production on the outer Conti-
 10 nental Shelf in a planning area under this sub-
 11 section, not later than 2 years after the date of en-
 12 actment of the determination and every 2 years
 13 thereafter, the Secretary shall—

14 (A) determine whether there is a commer-
 15 cial interest in purchasing Federal oil and gas
 16 leases for production on the outer Continental
 17 Shelf in the planning area; and

18 (B) if the Secretary determines that there
 19 is a commercial interest described in subpara-
 20 graph (A), conduct a lease sale in the planning
 21 area.

22 (b) LEASING PLAN.—Any areas made available for
 23 leasing under subsection (a) shall be offered for lease
 24 under this section notwithstanding the omission of any of
 25 these respective areas from the applicable 5-year plan de-

1 veloped by the Secretary pursuant to section 18 of the
 2 Outer Continental Shelf Lands Act (43 U.S.C. 1344).

3 **SEC. 315. RESTRICTIONS ON LEASING OF THE OUTER CON-**
 4 **TINENTAL SHELF.**

5 (a) STATE OPT-OUT.—No lease authorizing a perma-
 6 nent surface energy project for the exploration, develop-
 7 ment, or production of oil or gas may be issued for any
 8 area of the Outer Continental Shelf located within 10
 9 miles of the coastline of a State if the State has notified
 10 the Secretary of the Interior that the State does not want
 11 to participate in such leasing.

12 (b) EXISTING LEASES NOT AFFECTED.—This sec-
 13 tion shall not affect any lease issued before the date of
 14 enactment of this Act.

15 **SEC. 316. SHARING OF OCS RECEIPTS WITH STATES AND**
 16 **LOCAL GOVERNMENTS.**

17 Section 9 of the Outer Continental Shelf Lands Act
 18 (43 U.S.C. 1338) is amended as follows:

19 (1) By designating the existing text as sub-
 20 section (a).

21 (2) In subsection (a) (as so designated) by in-
 22 serting “, if not paid as otherwise provided in this
 23 title” after “receipts”.

24 (3) By adding the following:

25 “(b) TREATMENT OF OCS RECEIPTS.—

1 “(1) DEPOSIT.—The Secretary shall deposit
2 into a separate account in the Treasury the portion
3 of OCS Receipts for each fiscal year that will be
4 shared under paragraph (2).

5 “(2) IMMEDIATE RECEIPTS SHARING.—Begin-
6 ning October 1, 2012, the Secretary shall share 50
7 percent of OCS Receipts derived from all leases, ex-
8 cept that the Secretary shall only share 25 percent
9 of such OCS Receipts derived from all such leases
10 within a State’s Adjacent Zone if leasing is not al-
11 lowed within at least 25 percent of that State’s Ad-
12 jacent Zone located completely within 75 miles of
13 any coastline.

14 “(3) ALLOCATIONS.—The Secretary shall allo-
15 cate the OCS Receipts deposited into the separate
16 account established by paragraph (1) that are
17 shared under paragraph (2) as follows:

18 “(A) BONUS BIDS.—Deposits derived from
19 bonus bids from a leased tract, including inter-
20 est thereon, shall be allocated at the end of
21 each fiscal year to the Adjacent State.

22 “(B) ROYALTIES.—Deposits derived from
23 royalties and net profit shares from a leased
24 tract, including interest thereon, shall be allo-
25 cated at the end of each fiscal year as follows:

1 “(i) Fifty percent to the Adjacent
2 State.

3 “(ii) Fifty percent to all States, in-
4 cluding the Adjacent State, having a coast-
5 line point within 300 miles of the leased
6 tract, divided equally, if such State allows
7 leasing within at least 25 percent of its
8 Adjacent Zone within 75 miles of the
9 coastline.

10 “(C) LIMITATION IF NOT ADMITTED TO
11 THE UNION AS A STATE.—Any entity defined as
12 a ‘State’ under section 2(r), that has not been
13 admitted to the Union as a State shall only be
14 entitled to one-half of a State share under this
15 paragraph.

16 “(c) TRANSMISSION OF ALLOCATIONS.—

17 “(1) IN GENERAL.—Not later than 90 days
18 after the end of each fiscal year, the Secretary shall
19 transmit—

20 “(A) to each State 60 percent of such
21 State’s allocations under subsections (b)(2),
22 (b)(3)(A), and (b)(3)(B) (i) and (ii) for the im-
23 mediate prior fiscal year; and

24 “(B) to each coastal county-equivalent and
25 municipal political subdivisions of such State a

1 total of 40 percent of such State's allocations
2 under subsections (b)(2), (b)(3)(A), and
3 (b)(3)(B) (i) and (ii), for the immediate prior
4 fiscal year, together with all accrued interest
5 thereon.

6 “(2) ALLOCATIONS TO COASTAL COUNTY-
7 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
8 retary shall make an initial allocation of the OCS
9 Receipts to be shared under paragraph (1)(B) as fol-
10 lows:

11 “(A) Twenty-five percent shall be allocated
12 to coastal county-equivalent political subdivi-
13 sions that are completely more than 25 miles
14 landward of the coastline and at least a part of
15 which lies not more than 75 miles landward
16 from the coastline, with the allocation among
17 such coastal county-equivalent political subdivi-
18 sions based on population.

19 “(B) Seventy-five percent shall be allocated
20 to coastal county-equivalent political subdivi-
21 sions that are completely or partially less than
22 25 miles landward of the coastline, with the al-
23 location among such coastal county-equivalent
24 political subdivisions to be further allocated as
25 follows:

1 “(i) Twenty-five percent shall be allo-
 2 cated based on the ratio of such coastal
 3 county-equivalent political subdivision’s
 4 population to the coastal population of all
 5 coastal county-equivalent political subdivi-
 6 sions in the State.

7 “(ii) Twenty-five percent shall be allo-
 8 cated based on the ratio of such coastal
 9 county-equivalent political subdivision’s
 10 coastline miles to the coastline miles of all
 11 coastal county-equivalent political subdivi-
 12 sions in the State as calculated by the Sec-
 13 retary. In such calculations, coastal coun-
 14 ty-equivalent political subdivisions without
 15 a coastline shall be considered to have 50
 16 percent of the average coastline miles of
 17 the coastal county-equivalent political sub-
 18 divisions that do have coastlines.

19 “(iii) Fifty percent shall be allocated
 20 equally to all coastal county-equivalent po-
 21 litical subdivisions having a coastline point
 22 within 300 miles of the leased tract for
 23 which OCS Receipts are being shared.

24 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
 25 LITICAL SUBDIVISIONS.—The initial allocation to

1 each coastal county-equivalent political subdivision
2 under paragraph (2) shall be further allocated to the
3 coastal county-equivalent political subdivision and
4 any coastal municipal political subdivisions located
5 partially or wholly within the boundaries of the
6 coastal county-equivalent political subdivision as fol-
7 lows:

8 “(A) One-third shall be allocated to the
9 coastal county-equivalent political subdivision.

10 “(B) Two-thirds shall be allocated on a per
11 capita basis to the municipal political subdivi-
12 sions and the county-equivalent political sub-
13 division, with the allocation to the latter based
14 upon its population not included within the
15 boundaries of a municipal political subdivision.

16 “(d) INVESTMENT OF DEPOSITS.—Amounts depos-
17 ited under this section shall be invested by the Secretary
18 of the Treasury in securities backed by the full faith and
19 credit of the United States having maturities suitable to
20 the needs of the account in which they are deposited and
21 yielding the highest reasonably available interest rates as
22 determined by the Secretary of the Treasury.

23 “(e) USE OF FUNDS.—A recipient of funds under
24 this section may use the funds for one or more of the fol-
25 lowing:

1 “(1) To reduce in-State college tuition at public
2 institutions of higher learning and otherwise support
3 public education, including career technical edu-
4 cation.

5 “(2) To make transportation infrastructure im-
6 provements.

7 “(3) To reduce taxes.

8 “(4) To promote, fund, and provide for—

9 “(A) coastal or environmental restoration;

10 “(B) fish, wildlife, and marine life habitat
11 enhancement;

12 “(C) waterways construction and mainte-
13 nance;

14 “(D) levee construction and maintenance
15 and shore protection; and

16 “(E) marine and oceanographic education
17 and research.

18 “(5) To promote, fund, and provide for—

19 “(A) infrastructure associated with energy
20 production activities conducted on the outer
21 Continental Shelf;

22 “(B) energy demonstration projects;

23 “(C) supporting infrastructure for shore-
24 based energy projects;

1 “(D) State geologic programs, including
 2 geologic mapping and data storage programs,
 3 and State geophysical data acquisition;

4 “(E) State seismic monitoring programs,
 5 including operation of monitoring stations;

6 “(F) development of oil and gas resources
 7 through enhanced recovery techniques;

8 “(G) energy efficiency and conservation
 9 programs; and

10 “(H) front-end engineering and design for
 11 facilities that produce liquid fuels from hydro-
 12 carbons and other biological matter.

13 “(6) To promote, fund, and provide for—

14 “(A) historic preservation programs and
 15 projects;

16 “(B) natural disaster planning and re-
 17 sponse; and

18 “(C) hurricane and natural disaster insur-
 19 ance programs.

20 “(7) For any other purpose as determined by
 21 State law.

22 “(f) NO ACCOUNTING REQUIRED.—No recipient of
 23 funds under this section shall be required to account to
 24 the Federal Government for the expenditure of such
 25 funds, except as otherwise may be required by law. How-

1 ever, States may enact legislation providing for accounting
 2 for and auditing of such expenditures. Further, funds allo-
 3 cated under this section to States and political subdivi-
 4 sions may be used as matching funds for other Federal
 5 programs.

6 “(g) EFFECT OF FUTURE LAWS.—Enactment of any
 7 future Federal statute that has the effect, as determined
 8 by the Secretary, of restricting any Federal agency from
 9 spending appropriated funds, or otherwise preventing it
 10 from fulfilling its pre-existing responsibilities as of the
 11 date of enactment of the statute, unless such responsibil-
 12 ities have been reassigned to another Federal agency by
 13 the statute with no prevention of performance, to issue
 14 any permit or other approval impacting on the OCS oil
 15 and gas leasing program, or any lease issued thereunder,
 16 or to implement any provision of this Act shall automati-
 17 cally prohibit any sharing of OCS Receipts under this sec-
 18 tion directly with the States, and their coastal political
 19 subdivisions, for the duration of the restriction. The Sec-
 20 retary shall make the determination of the existence of
 21 such restricting effects within 30 days of a petition by any
 22 outer Continental Shelf lessee or producing State.

23 “(h) DEFINITIONS.—In this section:

24 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
 25 SUBDIVISION.—The term ‘coastal county-equivalent

1 political subdivision’ means a political jurisdiction
2 immediately below the level of State government, in-
3 cluding a county, parish, borough in Alaska, inde-
4 pendent municipality not part of a county, parish, or
5 borough in Alaska, or other equivalent subdivision of
6 a coastal State, that lies within the coastal zone.

7 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
8 SION.—The term ‘coastal municipal political subdivi-
9 sion’ means a municipality located within and part
10 of a county, parish, borough in Alaska, or other
11 equivalent subdivision of a State, all or part of which
12 coastal municipal political subdivision lies within the
13 coastal zone.

14 “(3) COASTAL POPULATION.—The term ‘coastal
15 population’ means the population of all coastal coun-
16 ty-equivalent political subdivisions, as determined by
17 the most recent official data of the Census Bureau.

18 “(4) COASTAL ZONE.—The term ‘coastal zone’
19 means that portion of a coastal State, including the
20 entire territory of any coastal county-equivalent po-
21 litical subdivision at least a part of which lies, within
22 75 miles landward from the coastline, or a greater
23 distance as determined by State law enacted to im-
24 plement this section.

1 “(5) BONUS BIDS.—The term ‘bonus bids’
2 means all funds received by the Secretary to issue
3 an outer Continental Shelf minerals lease.

4 “(6) ROYALTIES.—The term ‘royalties’ means
5 all funds received by the Secretary from production
6 of oil or natural gas, or the sale of production taken
7 in-kind, or from net profit shares, from an outer
8 Continental Shelf minerals lease.

9 “(7) PRODUCING STATE.—The term ‘producing
10 State’ means an Adjacent State having an Adjacent
11 Zone containing leased tracts from which OCS Re-
12 cepts were derived.

13 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’
14 means bonus bids and royalties, excluding royalties
15 from leases amended under the authority of section
16 8(s) of this Act.”.

17 **CHAPTER 2—ARCTIC COASTAL PLAIN**

18 **SEC. 321. DEFINITIONS.**

19 In this chapter:

20 (1) COASTAL PLAIN.—The term “Coastal
21 Plain” means that area identified as the “1002
22 Coastal Plain Area” on the map.

23 (2) FEDERAL AGREEMENT.—The term “Fed-
24 eral Agreement” means the Federal Agreement and
25 Grant Right-of-Way for the Trans-Alaska Pipeline

1 issued on January 23, 1974, in accordance with sec-
2 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
3 and the Trans-Alaska Pipeline Authorization Act
4 (43 U.S.C. 1651 et seq.).

5 (3) FINAL STATEMENT.—The term “Final
6 Statement” means the final legislative environmental
7 impact statement on the Coastal Plain, dated April
8 1987, and prepared pursuant to section 1002 of the
9 Alaska National Interest Lands Conservation Act
10 (16 U.S.C. 3142) and section 102(2)(C) of the Na-
11 tional Environmental Policy Act of 1969 (42 U.S.C.
12 4332(2)(C)).

13 (4) MAP.—The term “map” means the map en-
14 titled “Arctic National Wildlife Refuge”, dated Sep-
15 tember 2005, and prepared by the United States Ge-
16 ological Survey.

17 (5) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior (or the designee of the
19 Secretary), acting through the Director of the Bu-
20 reau of Land Management, in consultation with the
21 Director of the United States Fish and Wildlife
22 Service.

1 **SEC. 322. LEASING PROGRAM FOR LAND WITHIN THE**
2 **COASTAL PLAIN.**

3 (a) IN GENERAL.—The Secretary shall take such ac-
4 tions as are necessary—

5 (1) to establish and implement, in accordance
6 with this chapter, a competitive oil and gas leasing
7 program that will result in an environmentally sound
8 program for the exploration, development, and pro-
9 duction of the oil and gas resources of the Coastal
10 Plain; and

11 (2) to administer this chapter through regula-
12 tions, lease terms, conditions, restrictions, prohibi-
13 tions, stipulations, and other provisions that require
14 the application of the best commercially available
15 technology for oil and gas exploration, development,
16 and production to all exploration, development, and
17 production operations under this chapter in a man-
18 ner that ensures the receipt of fair market value by
19 the public for the mineral resources to be leased.

20 (b) REPEAL.—

21 (1) REPEAL.—Section 1003 of the Alaska Na-
22 tional Interest Lands Conservation Act of 1980 (16
23 U.S.C. 3143) is repealed.

24 (2) CONFORMING AMENDMENT.—The table of
25 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 chapter, 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 chapter 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

1 lease sale authorized under this chapter;
 2 and

3 (ii) analyze the environmental effects
 4 and potential mitigation measures for
 5 those 2 alternatives.

6 (D) PUBLIC COMMENTS.—In carrying out
 7 this paragraph, the Secretary shall consider
 8 only public comments that are filed not later
 9 than 20 days after the date of publication of a
 10 draft environmental impact statement.

11 (E) EFFECT OF COMPLIANCE.—Notwith-
 12 standing any other provision of law, compliance
 13 with this paragraph shall be considered to sat-
 14 isfy all requirements for the analysis and con-
 15 sideration of the environmental effects of pro-
 16 posed leasing under this chapter.

17 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
 18 ITY.—Nothing in this chapter expands or limits any State
 19 or local regulatory authority.

20 (d) SPECIAL AREAS.—

21 (1) DESIGNATION.—

22 (A) IN GENERAL.—The Secretary, after
 23 consultation with the State of Alaska, the
 24 North Slope Borough, Alaska, and the City of
 25 Kaktovik, Alaska, may designate not more than

1 45,000 acres of the Coastal Plain as a special
2 area if the Secretary determines that the special
3 area would be of such unique character and in-
4 terest as to require special management and
5 regulatory protection.

6 (B) SADLEROCHIT SPRING AREA.—The
7 Secretary shall designate as a special area in
8 accordance with subparagraph (A) the
9 Sadlerochit Spring area, comprising approxi-
10 mately 4,000 acres as depicted on the map.

11 (2) MANAGEMENT.—The Secretary shall man-
12 age each special area designated under this sub-
13 section in a manner that preserves the unique and
14 diverse character of the area, including fish, wildlife,
15 subsistence resources, and cultural values of the
16 area.

17 (3) EXCLUSION FROM LEASING OR SURFACE
18 OCCUPANCY.—

19 (A) IN GENERAL.—The Secretary may ex-
20 clude any special area designated under this
21 subsection from leasing.

22 (B) NO SURFACE OCCUPANCY.—If the Sec-
23 retary leases all or a portion of a special area
24 for the purposes of oil and gas exploration, de-
25 velopment, production, and related activities,

1 there shall be no surface occupancy of the land
2 comprising the special area.

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

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

13 (f) REGULATIONS.—

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

21 (2) REVISION OF REGULATIONS.—The Sec-
22 retary shall periodically review and, as appropriate,
23 revise the rules and regulations issued under para-
24 graph (1) to reflect any significant biological, envi-

1 ronmental, scientific or engineering data that come
2 to the attention of the Secretary.

3 **SEC. 323. LEASE SALES.**

4 (a) IN GENERAL.—Land may be leased pursuant to
5 this chapter to any person qualified to obtain a lease for
6 deposits of oil and gas under the Mineral Leasing Act (30
7 U.S.C. 181 et seq.).

8 (b) PROCEDURES.—The Secretary shall, by regula-
9 tion, establish procedures for—

10 (1) receipt and consideration of sealed nomina-
11 tions for any area in the Coastal Plain for inclusion
12 in, or exclusion (as provided in subsection (c)) from,
13 a lease sale;

14 (2) the holding of lease sales after that nomina-
15 tion process; and

16 (3) public notice of and comment on designa-
17 tion of areas to be included in, or excluded from, a
18 lease sale.

19 (c) LEASE SALE BIDS.—Bidding for leases under
20 this chapter shall be by sealed competitive cash bonus
21 bids.

22 (d) ACREAGE MINIMUM IN FIRST SALE.—For the
23 first lease sale under this chapter, the Secretary shall offer
24 for lease those tracts the Secretary considers to have the
25 greatest potential for the discovery of hydrocarbons, tak-

1 ing into consideration nominations received pursuant to
 2 subsection (b)(1), but in no case less than 200,000 acres.

3 (e) TIMING OF LEASE SALES.—The Secretary
 4 shall—

5 (1) not later than 22 months after the date of
 6 enactment of this Act, conduct the first lease sale
 7 under this chapter;

8 (2) not later than 90 days after the date of the
 9 completion of the sale, evaluate the bids in the sale
 10 and issue leases resulting from the sale; and

11 (3) conduct additional sales at appropriate in-
 12 tervals if sufficient interest in exploration or devel-
 13 opment exists to warrant the conduct of the addi-
 14 tional sales.

15 **SEC. 324. GRANT OF LEASES BY THE SECRETARY.**

16 (a) IN GENERAL.—On payment by a lessee of such
 17 bonus as may be accepted by the Secretary, the Secretary
 18 may grant to the highest responsible qualified bidder in
 19 a lease sale conducted pursuant to section 323 a lease for
 20 any land on the Coastal Plain.

21 (b) SUBSEQUENT TRANSFERS.—

22 (1) IN GENERAL.—No lease issued under this
 23 chapter may be sold, exchanged, assigned, sublet, or
 24 otherwise transferred except with the approval of the
 25 Secretary.

1 (2) CONDITION FOR APPROVAL.—Before grant-
2 ing any approval described in paragraph (1), the
3 Secretary shall consult with and give due consider-
4 ation to the opinion of the Attorney General.

5 **SEC. 325. LEASE TERMS AND CONDITIONS.**

6 An oil or gas lease issued pursuant to this chapter
7 shall—

8 (1) provide for the payment of a royalty of not
9 less than 12½ percent of the amount or value of the
10 production removed or sold from the lease, as deter-
11 mined by the Secretary in accordance with regula-
12 tions applicable to other Federal oil and gas leases;

13 (2) require that each lessee of land within the
14 Coastal Plain shall be fully responsible and liable for
15 the reclamation of land within the Coastal Plain and
16 any other Federal land that is adversely affected in
17 connection with exploration, development, produc-
18 tion, or transportation activities within the Coastal
19 Plain conducted by the lessee or by any of the sub-
20 contractors or agents of the lessee;

21 (3) provide that the lessee may not delegate or
22 convey, by contract or otherwise, that reclamation
23 responsibility and liability to another person without
24 the express written approval of the Secretary;

1 (4) provide that the standard of reclamation for
2 land required to be reclaimed under this chapter
3 shall be, to the maximum extent practicable—

4 (A) a condition capable of supporting the
5 uses that the land was capable of supporting
6 prior to any exploration, development, or pro-
7 duction activities; or

8 (B) on application by the lessee, to a high-
9 er or better standard, as approved by the Sec-
10 retary;

11 (5) contain terms and conditions relating to
12 protection of fish and wildlife, fish and wildlife habi-
13 tat, subsistence resources, and the environment as
14 required under section 322(a)(2);

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

22 (7) contain such other provisions as the Sec-
23 retary determines to be necessary to ensure compli-
24 ance with this chapter and the regulations promul-
25 gated under this chapter.

1 **SEC. 326. EXPEDITED JUDICIAL REVIEW.**

2 (a) **FILING OF COMPLAINTS.—**

3 (1) **DEADLINE.**—A complaint seeking judicial
4 review of a provision of this chapter or an action of
5 the Secretary under this chapter shall be filed—

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

10 (B) in the case of a complaint based solely
11 on grounds arising after the 90-day period de-
12 scribed in subparagraph (A), by not later than
13 90 days after the date on which the complain-
14 ant knew or reasonably should have known
15 about the grounds for the complaint.

16 (2) **VENUE.**—A complaint seeking judicial re-
17 view of a provision of this chapter or an action of
18 the Secretary under this chapter shall be filed in the
19 United States District Court for the District of Co-
20 lumbia.

21 (3) **SCOPE.—**

22 (A) **IN GENERAL.**—Judicial review of a de-
23 cision of the Secretary relating to a lease sale
24 under this chapter (including an environmental
25 analysis of such a lease sale) shall be—

- 1 (i) limited to a review of whether the
 2 decision is in accordance with this chapter;
 3 and
 4 (ii) based on the administrative record
 5 of the decision.

6 (B) PRESUMPTIONS.—Any identification
 7 by the Secretary of a preferred course of action
 8 relating to a lease sale, and any analysis by the
 9 Secretary of environmental effects, under this
 10 chapter shall be presumed to be correct unless
 11 proven otherwise by clear and convincing evi-
 12 dence.

13 (b) LIMITATION ON OTHER REVIEW.—Any action of
 14 the Secretary that is subject to judicial review under this
 15 section shall not be subject to judicial review in any civil
 16 or criminal proceeding for enforcement.

17 (c) RELATIONSHIP TO OTHER PROVISIONS.—Sub-
 18 chapter B of chapter 2 shall not affect the application of
 19 this section.

20 **SEC. 327. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

21 (a) IN GENERAL.—The Secretary shall issue rights-
 22 of-way and easements across the Coastal Plain for the
 23 transportation of oil and gas—

- 24 (1) except as provided in paragraph (2), under
 25 section 28 of the Mineral Leasing Act (30 U.S.C.

1 185), without regard to title XI of the Alaska Na-
 2 tional Interest Lands Conservation Act (16 U.S.C.
 3 3161 et seq.); and

4 (2) under title XI of the Alaska National Inter-
 5 est Lands Conservation Act (16 U.S.C. 3161 et
 6 seq.), for access authorized by sections 1110 and
 7 1111 of that Act (16 U.S.C. 3170, 3171).

8 (b) REGULATIONS.—The Secretary shall include in
 9 regulations under section 322(f) provisions granting
 10 rights-of-way and easements described in subsection (a).

11 **SEC. 328. CONVEYANCE.**

12 Notwithstanding section 1302(h)(2) of the Alaska
 13 National Interest Lands Conservation Act (16 U.S.C.
 14 3192(h)(2)), to remove any cloud on title to land, and to
 15 clarify land ownership patterns in the Coastal Plain, the
 16 Secretary shall—

17 (1) to the extent necessary to fulfill the entitle-
 18 ment of the Kaktovik Inupiat Corporation under sec-
 19 tions 12 and 14 of the Alaska Native Claims Settle-
 20 ment Act (43 U.S.C. 1611, 1613), as determined by
 21 the Secretary, convey to that Corporation the sur-
 22 face estate of the land described in paragraph (1) of
 23 Public Land Order 6959, in accordance with the
 24 terms and conditions of the agreement between the
 25 Secretary, the United States Fish and Wildlife Serv-

1 ice, the Bureau of Land Management, and the
 2 Kaktovik Inupiat Corporation, dated January 22,
 3 1993; and

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

9 **Subtitle B—Revocation of Energy-** 10 **Restricting BLM Lockup**

11 **SEC. 331. REVOCATION OF SECRETARIAL ORDER NO. 3310.**

12 Secretarial Order No. 3310, dated December 22,
 13 2010, relating to protecting wilderness characteristics on
 14 lands managed by the Bureau of Land Management is
 15 hereby revoked.

16 **CHAPTER 1—EXPEDITED SHALE LEASING** 17 **OF FEDERAL LANDS**

18 **SEC. 341. OPENING OF LANDS TO OIL SHALE LEASING.**

19 (a) REPEAL OF LIMITATION ON USE OF FUNDS.—
 20 Section 433 of division F of the Consolidated Appropria-
 21 tions Act, 2008 (Public Law 110–161; 121 Stat. 2152)
 22 is repealed.

23 (b) ISSUANCE OF REGULATIONS.—The Secretary of
 24 the Interior shall issue all regulations necessary to imple-
 25 ment section 369 of the Energy Policy Act of 2005 (Public

1 Law 109–58; 42 U.S.C. 15927) with respect to oil shale
2 by not later than 60 days after the date of the enactment
3 of this Act. Such regulations shall include such safeguards
4 and assurances as the Secretary considers necessary to
5 allow States to exercise their regulatory and statutory au-
6 thorities under State law, consistent with otherwise appli-
7 cable Federal law.

8 (c) LEASING OF OIL SHALE RESOURCE.—Imme-
9 diately after issuing regulations under subsection (b), the
10 Secretary of the Interior shall—

11 (1) offer for leasing for research and develop-
12 ment of oil shale resources under subsection (c) of
13 section 369 of the Energy Policy Act of 2005 (Pub-
14 lic Law 109–58; 42 U.S.C. 15927), additional 160-
15 acre tracts of lands the Secretary considers nec-
16 essary to fulfill the research and development objec-
17 tives of such Act; and

18 (2) offer for leasing for commercial exploration,
19 development, and production of oil shale resources
20 under subsection (e) of such section, public lands in
21 States for which the Secretary finds sufficient sup-
22 port and interest as required by that subsection.

**CHAPTER 2—JUDICIAL REVIEW
REGARDING ENERGY PROJECTS**

**SEC. 351. 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 subtitle or any other provision of law that arise from any covered energy project.

SEC. 352. TIME FOR FILING COMPLAINT.

All causes and claims referred to in section 351 must 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. Any cause or claim not filed within that time period shall be barred.

SEC. 353. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.

(a) IN GENERAL.—All proceedings that are subject to section 351—

(1) shall be resolved as expeditiously as possible, and in any event not more than 180 days after such cause or claim is filed; and

1 (2) shall take precedence over all other pending
2 matters before the district court.

3 (b) FAILURE TO COMPLY WITH DEADLINE.—If an
4 interlocutory or final judgment, decree, or order has not
5 been issued by the district court by the deadline described
6 under this section, the cause or claim shall be dismissed
7 with prejudice and all rights relating to such cause or
8 claim shall be terminated.

9 **SEC. 354. ABILITY TO SEEK APPELLATE REVIEW.**

10 An interlocutory or final judgment, decree, or order
11 of the district court in a proceeding that is subject to sec-
12 tion 351 may be reviewed by no other court except the
13 Supreme Court.

14 **SEC. 355. DEADLINE FOR APPEAL TO THE SUPREME**
15 **COURT.**

16 If a writ of certiorari has been granted by the Su-
17 preme Court pursuant to section 354, then—

18 (1) the interlocutory or final judgment, decree,
19 or order of the district court shall be resolved as ex-
20 peditiously as possible and in any event not more
21 than 180 days after such interlocutory or final judg-
22 ment, decree, order of the district court is issued;
23 and

1 (2) all such proceedings shall take precedence
 2 over all other matters then before the Supreme
 3 Court.

4 **SEC. 356. COVERED ENERGY PROJECT DEFINED.**

5 In this chapter, the term “covered energy project”
 6 means any action or decision by the President or a Federal
 7 official regarding—

8 (1) the leasing of Federal lands (including sub-
 9 merged lands) for the exploration, development, pro-
 10 duction, processing, or transmission of oil, natural
 11 gas, or any other source or form of energy, including
 12 actions and decisions regarding the selection or of-
 13 fering of Federal lands for such leasing; or

14 (2) any action under such a lease.

15 **SEC. 357. LIMITATION ON APPLICATION.**

16 This chapter shall not apply with respect to a covered
 17 energy project to the extent such application would be in-
 18 consistent with chapter 3.

19 **CHAPTER 3—PERMITTING REFORM**

20 **SEC. 361. PURPOSES.**

21 The purposes of this chapter are to—

22 (1) respond to the Nation’s increased need for
 23 domestic energy resources;

24 (2) facilitate interagency coordination and co-
 25 operation in the processing of permits required to

1 support oil and gas use authorization on Federal
2 lands, both onshore and on the Outer Continental
3 Shelf, in order to achieve greater consistency, cer-
4 tainty, and timeliness in permit processing require-
5 ments;

6 (3) promote process streamlining and increased
7 interagency efficiency, including elimination of inter-
8 agency duplication of effort;

9 (4) improve information sharing among agen-
10 cies and understanding of respective agency roles
11 and responsibilities;

12 (5) promote coordination with State agencies
13 with expertise and responsibilities related to Federal
14 oil and gas permitting decisions;

15 (6) promote responsible stewardship of Federal
16 oil and gas resources;

17 (7) maintain high standards of safety and envi-
18 ronmental protection; and

19 (8) enhance the benefits to Federal permitting
20 already occurring as a result of a coordinated and
21 timely interagency process for oil and gas permit re-
22 view for certain Federal oil and gas leases.

1 **SEC. 362. FEDERAL COORDINATOR.**

2 (a) ESTABLISHMENT.—There is established, as an
3 independent agency in the Executive Branch, the Office
4 of the Federal Oil and Gas Permit Coordinator.

5 (b) FEDERAL PERMIT COORDINATOR.—The Office
6 shall be headed by a Federal Permit Coordinator, who
7 shall be appointed by the President within 90 days after
8 the date of enactment of this Act.

9 (c) DUTIES.—The Federal Permit Coordinator shall
10 be responsible for the following:

11 (1) Coordinating the timely completion of all
12 permitting activities by Federal agencies, and State
13 agencies to the maximum extent practicable, with re-
14 spect to any oil and gas project under a Federal
15 lease issued pursuant to the mineral leasing laws, ei-
16 ther onshore or on the Outer Continental Shelf. For
17 purposes of this chapter only, such oil and gas
18 projects shall include oil shale projects under Fed-
19 eral oil shale leases.

20 (2) Ensuring the compliance of Federal agen-
21 cies, and State agencies to the extent they partici-
22 pate, with this chapter.

23 **SEC. 363. REGIONAL OFFICES AND REGIONAL PERMIT CO-**
24 **ORDINATORS.**

25 (a) REGIONAL OFFICES.—Within 90 days after the
26 date of appointment of the Federal Permit Coordinator,

1 the Secretary of the Interior (Secretary), in consultation
2 with the Federal Permit Coordinator, shall establish re-
3 gional offices to coordinate review of Federal permits for
4 oil and gas projects on Federal lands onshore and on the
5 Outer Continental Shelf.

6 (b) NUMBER AND LOCATION OF REGIONAL OF-
7 FICES.—The number of regional offices shall be estab-
8 lished by the Secretary in consultation with the Federal
9 Permit Coordinator. The Secretary shall ensure that there
10 is an adequate number of offices in each region proximate
11 to available Federal oil and gas lease tracts onshore and
12 on the Outer Continental Shelf to meet the demands for
13 expeditious permitting in that region. The Secretary shall
14 designate as regional offices under this section all offices
15 established under section 365 of the Energy Policy Act
16 of 2005 (42 U.S.C. 15924).

17 (c) MEMORANDUM OF UNDERSTANDING.—Within 90
18 days after the appointment of the Federal Permit Coordi-
19 nator, the Federal Permit Coordinator, the Secretary, the
20 Secretary of Agriculture, the Secretary of Commerce, the
21 Secretary of Homeland Security, the Administrator of the
22 Environmental Protection Agency, the Secretary of De-
23 fense, and the head of any other Federal agency with re-
24 sponsibilities related to permitting of Federal oil and gas
25 leases, shall enter into a memorandum of understanding

1 (MOU) establishing respective duties and responsibilities
2 for staffing the regional offices and accomplishing the ob-
3 jectives of this section.

4 (d) DESIGNATION OF QUALIFIED STAFF.—

5 (1) IN GENERAL.—Not later than 30 days after
6 the date of signing of the MOU under subsection
7 (c), all Federal signatory agencies shall assign to
8 each regional office the appropriate employees with
9 expertise in the oil and gas permitting issues relat-
10 ing to that office, including, but not limited, with re-
11 spect to—

12 (A) consultation and preparation of bio-
13 logical opinions under section 7 of the Endan-
14 gered Species Act of 1973 (16 U.S.C. 1536);

15 (B) permits under section 404 of Federal
16 Water Pollution Control Act (33 U.S.C. 1344);

17 (C) regulatory matters under the Clean Air
18 Act (42 U.S.C. 7401 et seq.);

19 (D) planning under the National Forest
20 Management Act of 1976 (16 U.S.C. 472a et
21 seq.);

22 (E) the preparation of analyses under the
23 National Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.) (NEPA);

1 (F) applications for permits to drill under
2 the Mineral Leasing Act (30 U.S.C. 181 et
3 seq.); and

4 (G) exploration plans and development and
5 production plans under the Outer Continental
6 Shelf Lands Act (43 U.S.C. 1331 et seq.).

7 (2) PREFERENCE AND INCENTIVES.—To the
8 maximum extent practicable, for purposes of this
9 subsection, Federal agencies shall give preference to
10 employees volunteering for reassignment to the re-
11 gional offices, and shall offer incentives to attract
12 and retain regional office employees, including, but
13 not limited to, retaining contract employees, rota-
14 tional assignments, salary incentives of up to 120
15 percent of an employee's existing salary immediately
16 prior to reassignment, or any combination of strate-
17 gies.

18 (e) DUTIES.—Each employee assigned under sub-
19 section (d) shall—

20 (1) within 90 days after the date of assignment,
21 report to the regional office to which the employee
22 is assigned;

23 (2) be responsible for all issues relating to the
24 jurisdiction of the home office or agency of the em-
25 ployee; and

1 (3) participate as part of the team working on
2 proposed oil and gas projects, planning, and environ-
3 mental analyses.

4 (f) CREATION OF AND DELEGATION OF AUTHORITY
5 TO REGIONAL PERMIT COORDINATORS.—The Federal
6 Permit Coordinator shall appoint a Regional Permit Coor-
7 dinator to be located within each regional office estab-
8 lished under this section, with full authority to act on be-
9 half of the Federal Permit Coordinator.

10 (g) ADDITIONAL PERSONNEL.—The Federal Permit
11 Coordinator or Regional Permit Coordinators may at any
12 time direct that any Federal agency party to the MOU
13 under subsection (c) assign additional staff required to im-
14 plement the duties of the regional offices.

15 **SEC. 364. REVIEWS AND ACTIONS OF FEDERAL AGENCIES.**

16 (a) SCHEDULES FOR TIMELY PERMIT DECISION-
17 MAKING.—Within 10 days after the date on which the Sec-
18 retary receives any oil and gas permit application or
19 amended application, the Secretary shall either notify the
20 applicant that the application is complete or notify the ap-
21 plicant that information is missing and specify the infor-
22 mation that is required to be submitted for the application
23 to be complete. Within 30 days after notifying a permit
24 applicant that an application is complete, the Secretary,
25 in consultation with the permit applicant as necessary,

1 shall determine and inform the Regional Permit Coordi-
 2 nator responsible for that project area whether the pro-
 3 posed permit is a class I, class II, or class III permit. The
 4 Regional Permit Coordinator shall as soon as possible but
 5 in no event later than 30 days following the Secretary's
 6 determination establish a binding schedule to ensure the
 7 most expeditious possible review and processing of the re-
 8 quested permit, in accordance with this section.

9 (b) PERMIT CLASSES AND SCHEDULES.—

10 (1) CLASS I PERMITS.—An oil and gas permit
 11 shall be designated as a class I permit under this
 12 section if the permitted activity is of a nature that
 13 would typically require preparation of an environ-
 14 mental impact statement under NEPA to inform the
 15 permitting decision. For such permits, the Regional
 16 Permit Coordinator shall establish a schedule for
 17 timely completion of all permit reviews and proc-
 18 essing, not to exceed 30 months. The Regional Per-
 19 mit Coordinator shall make the schedule publicly
 20 available within 10 days after the schedule is estab-
 21 lished.

22 (2) CLASS II PERMITS.—An oil and gas permit
 23 shall be designated as a class II permit under this
 24 section if the permitted activity is of a nature that
 25 would typically be found not to significantly affect

1 the quality of the human environment under NEPA.
2 For such permits, the Regional Permit Coordinator
3 shall establish the most expeditious schedule possible
4 for completion of all permit reviews and processing,
5 not to exceed 90 days. The Regional Permit Coordi-
6 nator may grant a one-time extension of that sched-
7 ule, not to exceed 60 days, upon a good cause show-
8 ing that additional time is necessary to complete
9 permit decisions. Not later than 15 days after estab-
10 lishing or extending any schedule for a class II per-
11 mit, the Regional Permit Coordinator shall provide
12 the permit applicant with the schedule.

13 (3) CLASS III PERMITS.—Notwithstanding para-
14 graphs (1) and (2), an oil and gas permit shall be
15 designated as a class III permit under this section
16 if the permitted activity either qualifies for a statu-
17 tory or regulatory categorical exclusion under NEPA
18 or if the requirements under NEPA and other appli-
19 cable law for the permit have been completed within
20 30 days after the date of a complete application. For
21 such permits, the permit shall be issued within 30
22 days after the date of a complete application.

23 (4) RECLASSIFICATION OF CLASS II PERMIT.—
24 If prior to the expiration of the established schedule
25 for a class II permit newly discovered information

1 indicates that the class II permit will significantly
2 affect the quality of the human environment, the
3 Secretary may, in consultation with the permit appli-
4 cant, reclassify the permit as a class I permit under
5 paragraph (1), and the Regional Coordinator shall
6 establish an amended schedule that complies with
7 the provisions of that paragraph.

8 (c) REPORTING.—The Regional Permit Coordinators
9 shall include data on all schedule timing and compliance
10 in their reports to the Federal Permit Coordinator re-
11 quired under subsection (i), who shall include such data
12 in the report to the President and Congress required
13 under subsection (i).

14 (d) DISPUTE RESOLUTION.—The Regional Permit
15 Coordinator shall resolve all administrative issues that af-
16 fect oil and gas permit reviews. The Regional Permit Coor-
17 dinator shall report jointly to the Federal Permit Coordi-
18 nator and to the head of the relevant action agency, or
19 his or her designee, for resolution of any issue regarding
20 an oil and gas permit that may result in missing the
21 schedule deadlines established pursuant to subsection (b).
22 The Regional Permit Coordinators shall include data re-
23 garding the incidence and resolution of disputes under this
24 subsection in their reports to the Federal Permit Coordi-
25 nator required under subsection (i), who shall include such

1 reported data and develop recommendations in the report
2 to the President and Congress required under subsection
3 (i).

4 (e) REMEDIES.—An applicant for a class I permit
5 may bring a cause of action to seek expedited mandamus
6 review, if a Regional Permit Coordinator or the Secretary
7 fails to—

8 (1) establish a schedule in accordance with sub-
9 section (b);

10 (2) enforce and ensure completion of reviews
11 within schedule deadlines; or

12 (3) take all actions as are necessary and proper
13 to avoid jeopardizing the timely completion of the
14 entire schedule.

15 If an agency fails to complete its review of and issue a
16 decision upon a permit within the schedule established by
17 the Court, that permit shall be deemed granted to the ap-
18 plicant.

19 (f) PROHIBITION OF CERTAIN TERMS AND CONDI-
20 TIONS.—No Federal agency may include in any permit,
21 right-of-way, or other authorization issued for an oil and
22 gas project subject to the provisions of this chapter, any
23 term or condition that may be authorized, but is not re-
24 quired, by the provisions of any applicable law, if the Fed-
25 eral Permit Coordinator determines that such term or con-

1 dition would prevent or impair in any significant respect
 2 completion of a permit review within the time schedule es-
 3 tablished pursuant to subsection (b) or would otherwise
 4 impair in any significant respect expeditious oil and gas
 5 development. The Federal Permit Coordinator shall not
 6 have any authority to impose any terms, conditions, or re-
 7 quirements beyond those imposed by any Federal law,
 8 agency, regulation, or lease term.

9 (g) CONSOLIDATED RECORD.—The Federal Permit
 10 Coordinator, acting through the appropriate Regional Per-
 11 mit Coordinator, with the cooperation of Federal and
 12 State administrative officials and agencies, shall maintain
 13 a complete, consolidated record of all decisions made or
 14 actions taken by the Federal Permit Coordinator or Re-
 15 gional Permit Coordinator or by any Federal agency with
 16 respect to any oil and gas permit.

17 (h) RELATIONSHIP TO NEPA AND ENERGY POLICY
 18 ACT OF 2005.—

19 (1) Section 390(a) of the Energy Policy Act of
 20 2005 (42 U.S.C. 15942(a)) is amended—

21 (A) by striking “rebuttable presumption
 22 that the use of a”; and

23 (B) by striking “would apply”.

24 (2) Section 17(p) of the Mineral Leasing Act
 25 (30 U.S.C. 226(p)) is repealed.

1 (i) ADDITIONAL POWERS AND RESPONSIBILITIES.—

2 (1) REGIONAL PERMIT COORDINATOR RE-
3 PORTS.—The Regional Permit Coordinators shall
4 each submit a report to the Federal Permit Coordi-
5 nator by December 31 of each year that documents
6 each office’s performance in meeting the objectives
7 under this chapter, including recommendations to
8 further streamline the permitting process.

9 (2) REDIRECTION OF PRIORITIES OR RE-
10 SOURCES.—In order to expedite overall permitting
11 activity, the Federal Permit Coordinator may redi-
12 rect the priority of regional office activities or the al-
13 location of resources among such offices, and shall
14 engage the agencies that are parties to the MOU to
15 the extent such adjustments implicate their respec-
16 tive staffs or resources.

17 (3) REPORT TO CONGRESS.—Beginning three
18 years after the date of enactment of this Act, the
19 Federal Permit Coordinator shall prepare and sub-
20 mit a report to the President and Congress by April
21 15 of each year that outlines the results achieved
22 under this chapter and makes recommendations to
23 the President and Congress for further improve-
24 ments in processing oil and gas permits on Federal
25 lands.

1 **SEC. 365. STATE COORDINATION.**

2 The Governor of any State wherein an oil and gas
3 operation may require a Federal permit, or the coastline
4 of which is in immediate geographic proximity to oil and
5 gas operations on the Outer Continental Shelf, may be a
6 signatory to the MOU for purposes of fulfilling any State
7 responsibilities with respect to Federal oil and gas permit-
8 ting decisions. The Regional Permit Coordinators shall fa-
9 cilitate and coordinate concurrent State reviews of re-
10 quested permits for oil and gas projects on the Outer Con-
11 tinental Shelf.

12 **SEC. 366. SAVINGS PROVISION.**

13 Except as expressly stated, nothing in this chapter
14 affects—

- 15 (1) the applicability of any Federal or State
- 16 law; or
- 17 (2) any delegation of authority made by the
- 18 head of a Federal agency the employees of which are
- 19 participating in the implementation of this section.

20 **SEC. 367. ADMINISTRATIVE AND JUDICIAL REVIEW.**

21 (a) ADMINISTRATIVE REVIEW.—Any oil and gas per-
22 mitting decision for Federal lands onshore or on the Outer
23 Continental Shelf that was issued in accordance with the
24 procedures established by this chapter shall not be subject
25 to further administrative review within the respective Fed-
26 eral agency responsible for that decision, and shall be the

1 final decision of that agency for purposes of judicial re-
2 view.

3 (b) EXCLUSIVE JURISDICTION OVER PERMIT DECISIONS.—Only the United States District Court for the
4 District of Columbia shall have original jurisdiction over
5 any civil action for the review of such a permit decision.

6 (c) LIMITATIONS ON CLAIMS.—Notwithstanding any
7 other provision of law, any action arising under Federal
8 law seeking judicial review of a permit, license, or approval
9 issued by a Federal agency for an oil and gas permit sub-
10 ject to this chapter shall be barred unless it is filed within
11 90 days of the date of the decision. Nothing in this chapter
12 shall create a right to judicial review or places any limit
13 on filing a claim that a person has violated the terms of
14 a permit, license, or approval.

15 (d) FILING OF RECORD.—When any civil action is
16 brought pursuant to this chapter, the Federal Permit Co-
17 ordinator shall immediately prepare for the court a con-
18 solidated record.

19 (e) EXPEDITED REVIEW.—Any action for judicial re-
20 view challenging a decision approved pursuant to this sec-
21 tion shall be set for consideration by not later than 90
22 days after the date the action is filed.

23 (f) EXPEDITED MANDAMUS REVIEW.—Notwith-
24 standing subsection (e), within 30 days after the filing of
25

1 an action challenging or seeking to enforce an established
 2 permit review schedule for a class I permit, the court shall
 3 issue a decision either compelling permit issuance or sanc-
 4 tioning the delay and establishing a new schedule that en-
 5 ables the most expeditious possible completion of pro-
 6 ceedings. In rendering its decision, the court shall review
 7 whether the agencies subject to the schedule have been
 8 acting in good faith, whether the permit applicant has
 9 been cooperating fully with the agencies that are respon-
 10 sible for issuing the requested permits, and any other rel-
 11 evant matters. The court may issue orders to enforce any
 12 schedule it establishes under this subsection.

13 (g) NO PRIVATE RIGHT OF ACTION.—This chapter
 14 shall not be construed to create any additional right, ben-
 15 efit, or trust responsibility, substantive or procedural, en-
 16 forceable at law or equity, by a person against the United
 17 States, its agencies, its officers, or any person.

18 (h) FINALITY OF LEASING DECISIONS.—Notwith-
 19 standing the provisions of any law or regulation to the
 20 contrary, a decision by the Bureau of Land Management
 21 or the Minerals Management Service to issue a Final No-
 22 tice of Sale and proceed with an oil and gas lease sale
 23 pursuant to any mineral leasing law shall not be subject
 24 to further administrative review within the Department of

1 the Interior, and shall be the final decision of the agency
2 for purposes of judicial review.

3 **SEC. 368. AMENDMENTS TO PUBLICATION PROCESS.**

4 Section 18 of the Outer Continental Shelf Lands Act
5 (43 U.S.C. 1344) is amended—

6 (1) by amending subsection (c)(2) to read as
7 follows:

8 “(2) The Secretary shall publish a proposed
9 leasing program in the Federal Register, and shall
10 submit a copy of such proposed program to the Gov-
11 ernor of each affected State, for review and com-
12 ment. The Governor may solicit comments from
13 those executives of local governments in his State
14 which he, in his discretion, determines will be af-
15 fected by the proposed program.”;

16 (2) by striking subsection (c)(3); and

17 (3) in subsection (d)(2) by inserting “final”
18 after “proposed”.

19 **SEC. 369. REPEAL OF FEE FOR PERMITS TO DRILL.**

20 Public Law 110–161 is amended under the heading
21 “BUREAU OF LAND MANAGEMENT—MANAGEMENT OF
22 LANDS AND RESOURCES” (121 Stat. 2098) by striking “to
23 be reduced by amounts collected by the Bureau and cred-
24 ited to this appropriation that shall be derived from
25 \$4,000 per new application for permit to drill that the Bu-

1 reau shall collect upon submission of each new applica-
2 tion,”.

3 **SEC. 370. ALASKA OFFSHORE CONTINENTAL SHELF CO-**
4 **ORDINATION OFFICE.**

5 (a) ESTABLISHMENT.—The Secretary of the Interior
6 shall establish and maintain, in coordination with the
7 Mayor of the North Slope Borough of Alaska, a separate
8 office to be known as the Alaska Offshore Continental
9 Shelf Coordination Office.

10 (b) PURPOSE.—The purpose of the office shall be
11 to—

12 (1) coordinate the leasing of the Outer Conti-
13 nental Shelf off the coast of Alaska;

14 (2) advise persons awarded such leases on local
15 conditions and the history of areas affected by devel-
16 opment of the oil and gas resources of the Outer
17 Continental Shelf off the coast of Alaska;

18 (3) provide to the Committee on Natural Re-
19 sources of the House of Representatives and the
20 Committee on Energy and Natural Resources of the
21 Senate annual reports on the status of the coordina-
22 tion between such and communities affected by such
23 development;

24 (4) collect from residents of the North Slope of
25 Alaska information regarding the impacts of such

1 development on marine wildlife, coastal habitats, ma-
 2 rine and coastal subsistence resources, and the ma-
 3 rine and coastal environment of Alaska’s North
 4 Slope region; and

5 (5) ensure that the information collected under
 6 paragraph (3) is submitted to—

7 (A) developers of such resources; and

8 (B) any appropriate Federal agency.

9 **Subtitle C—Relief From Regula-**
 10 **tions and Prohibitions That**
 11 **Cause Artificial Price Increases**

12 **CHAPTER 1—RELIEF FROM EPA CLIMATE**
 13 **CHANGE REGULATIONS AND FEDERAL**
 14 **PROHIBITIONS ON SYNTHETIC FUELS**

15 **SEC. 371. REPEAL OF EPA CLIMATE CHANGE REGULATION.**

16 (a) GREENHOUSE GAS REGULATION UNDER CLEAN
 17 AIR ACT.—Section 302(g) of the Clean Air Act (42 U.S.C.
 18 7602(g)) is amended by adding the following at the end
 19 thereof: “The term ‘air pollutant’ shall not include carbon
 20 dioxide, water vapor, methane, nitrous oxide, hydrofluoro-
 21 carbons, perfluorocarbons, or sulfur hexafluoride.”.

22 (b) NO REGULATION OF CLIMATE CHANGE.—Noth-
 23 ing in the Clean Air Act (42 U.S.C. 7401 et seq.), the
 24 Federal Water Pollution Control Act (33 U.S.C. 1251 et
 25 seq.), the National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.), the Endangered Species Act of 1973
 2 (16 U.S.C. 1531 et seq.), or the Solid Waste Disposal Act
 3 (42 U.S.C. 6901 et seq.), shall be treated as authorizing
 4 or requiring the regulation of climate change or global
 5 warming.

6 **SEC. 372. REPEAL OF FEDERAL BAN ON SYNTHETIC FUELS**
 7 **PURCHASING REQUIREMENT.**

8 Section 526 of the Energy Independence and Security
 9 Act of 2007 (42 U.S.C. 17142) is repealed.

10 **CHAPTER 2—REFINERY REFORM**

11 **SEC. 381. REFINERY PERMITTING PROCESS.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADMINISTRATOR.—The term “Adminis-
 14 trator” means the Administrator of the Environ-
 15 mental Protection Agency.

16 (2) EXPANSION.—The term “expansion” means
 17 a physical change that results in an increase in the
 18 capacity of a refinery.

19 (3) INDIAN TRIBE.—The term “Indian tribe”
 20 has the meaning given the term in section 4 of the
 21 Indian Self-Determination and Education Assistance
 22 Act (25 U.S.C. 450b).

23 (4) PERMIT.—The term “permit” means any
 24 permit, license, approval, variance, or other form of
 25 authorization that a refiner is required to obtain—

1 (A) under any Federal law; or

2 (B) from a State or Indian tribal govern-
 3 ment agency delegated authority by the Federal
 4 Government, or authorized under Federal law,
 5 to issue permits.

6 (5) REFINER.—The term “refiner” means a
 7 person that—

8 (A) owns or operates a refinery; or

9 (B) seeks to become an owner or operator
 10 of a refinery.

11 (6) REFINERY.—

12 (A) IN GENERAL.—The term “refinery”
 13 means—

14 (i) a facility at which crude oil is re-
 15 fined into transportation fuel or other pe-
 16 troleum products; and

17 (ii) a coal liquification or coal-to-liquid
 18 facility at which coal is processed into syn-
 19 thetic crude oil or any other fuel.

20 (B) INCLUSIONS.—The term “refinery” in-
 21 cludes an expansion of a refinery.

22 (7) REFINERY PERMITTING AGREEMENT.—The
 23 term “refinery permitting agreement” means an
 24 agreement entered into between the Administrator
 25 and a State or Indian tribe under subsection (b).

1 (8) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

3 (9) STATE.—The term “State” means—

4 (A) a State;

5 (B) the District of Columbia;

6 (C) the Commonwealth of Puerto Rico;

7 and

8 (D) any other territory or possession of the
9 United States.

10 (b) STREAMLINING OF REFINERY PERMITTING
11 PROCESS.—

12 (1) IN GENERAL.—At the request of the Gov-
13 ernor of a State or the governing body of an Indian
14 tribe, the Administrator shall enter into a refinery
15 permitting agreement with the State or Indian tribe
16 under which the process for obtaining all permits
17 necessary for the construction and operation of a re-
18 finery shall be streamlined using a systematic inter-
19 disciplinary multimedia approach as provided in this
20 section.

21 (2) AUTHORITY OF ADMINISTRATOR.—Under a
22 refinery permitting agreement the Administrator
23 shall have authority, as applicable and necessary,
24 to—

1 (A) accept from a refiner a consolidated
2 application for all permits that the refiner is re-
3 quired to obtain to construct and operate a re-
4 finery;

5 (B) in consultation and cooperation with
6 each Federal, State, or Indian tribal govern-
7 ment agency that is required to make any de-
8 termination to authorize the issuance of a per-
9 mit, establish a schedule under which each
10 agency shall—

11 (i) concurrently consider, to the max-
12 imum extent practicable, each determina-
13 tion to be made; and

14 (ii) complete each step in the permit-
15 ting process; and

16 (C) issue a consolidated permit that com-
17 bines all permits issued under the schedule es-
18 tablished under subparagraph (B).

19 (3) AGREEMENT BY THE STATE.—Under a re-
20 finery permitting agreement, a State or governing
21 body of an Indian tribe shall agree that—

22 (A) the Administrator shall have each of
23 the authorities described in paragraph (2); and

24 (B) each State or Indian tribal government
25 agency shall—

1 (i) in accordance with State law, make
2 such structural and operational changes in
3 the agencies as are necessary to enable the
4 agencies to carry out consolidated project-
5 wide permit reviews concurrently and in
6 coordination with the Environmental Pro-
7 tection Agency and other Federal agencies;
8 and

9 (ii) comply, to the maximum extent
10 practicable, with the applicable schedule
11 established under paragraph (2)(B).

12 (4) DEADLINES.—

13 (A) NEW REFINERIES.—In the case of a
14 consolidated permit for the construction of a
15 new refinery, the Administrator and the State
16 or governing body of an Indian tribe shall ap-
17 prove or disapprove the consolidated permit not
18 later than—

19 (i) 360 days after the date of the re-
20 ceipt of the administratively complete ap-
21 plication for the consolidated permit; or

22 (ii) on agreement of the applicant, the
23 Administrator, and the State or governing
24 body of the Indian tribe, 90 days after the

1 expiration of the deadline established
2 under clause (i).

3 (B) EXPANSION OF EXISTING REFIN-
4 ERIES.—In the case of a consolidated permit
5 for the expansion of an existing refinery, the
6 Administrator and the State or governing body
7 of an Indian tribe shall approve or disapprove
8 the consolidated permit not later than—

9 (i) 120 days after the date of the re-
10 receipt of the administratively complete ap-
11 plication for the consolidated permit; or

12 (ii) on agreement of the applicant, the
13 Administrator, and the State or governing
14 body of the Indian tribe, 30 days after the
15 expiration of the deadline established
16 under clause (i).

17 (5) FEDERAL AGENCIES.—Each Federal agency
18 that is required to make any determination to au-
19 thorize the issuance of a permit shall comply with
20 the applicable schedule established under paragraph
21 (2)(B).

22 (6) JUDICIAL REVIEW.—Any civil action for re-
23 view of any permit determination under a refinery
24 permitting agreement shall be brought exclusively in
25 the United States district court for the district in

1 which the refinery is located or proposed to be lo-
2 cated.

3 (7) EFFICIENT PERMIT REVIEW.—In order to
4 reduce the duplication of procedures, the Adminis-
5 trator shall use State permitting and monitoring
6 procedures to satisfy substantially equivalent Fed-
7 eral requirements under this chapter.

8 (8) SEVERABILITY.—If 1 or more permits that
9 are required for the construction or operation of a
10 refinery are not approved on or before any deadline
11 established under paragraph (4), the Administrator
12 may issue a consolidated permit that combines all
13 other permits that the refiner is required to obtain
14 other than any permits that are not approved.

15 (9) SAVINGS.—Nothing in this subsection af-
16 fects the operation or implementation of otherwise
17 applicable law regarding permits necessary for the
18 construction and operation of a refinery.

19 (10) CONSULTATION WITH LOCAL GOVERN-
20 MENTS.—Congress encourages the Administrator,
21 States, and tribal governments to consult, to the
22 maximum extent practicable, with local governments
23 in carrying out this subsection.

24 (11) EFFECT ON LOCAL AUTHORITY.—Nothing
25 in this subsection affects—

1 (A) the authority of a local government
2 with respect to the issuance of permits; or

3 (B) any requirement or ordinance of a
4 local government (such as a zoning regulation).

5 (c) FISCHER-TROPSCH FUELS.—

6 (1) IN GENERAL.—In cooperation with the Sec-
7 retary of Energy, the Secretary of Defense, the Ad-
8 ministrator of the Federal Aviation Administration,
9 Secretary of Health and Human Services, and
10 Fischer-Tropsch industry representatives, the Ad-
11 ministrator shall—

12 (A) conduct a research and demonstration
13 program to evaluate the air quality benefits of
14 ultra-clean Fischer-Tropsch transportation fuel,
15 including diesel and jet fuel;

16 (B) evaluate the use of ultra-clean Fischer-
17 Tropsch transportation fuel as a mechanism for
18 reducing engine exhaust emissions; and

19 (C) submit recommendations to Congress
20 on the most effective use and associated bene-
21 fits of these ultra-clean fuel for reducing public
22 exposure to exhaust emissions.

23 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
24 Administrator shall, to the extent necessary, issue
25 any guidance or technical support documents that

1 would facilitate the effective use and associated ben-
2 efit of Fischer-Tropsch fuel and blends.

3 (3) REQUIREMENTS.—The program described
4 in paragraph (1) shall consider—

5 (A) the use of neat (100 percent) Fischer-
6 Tropsch fuel and blends with conventional
7 crude oil-derived fuel for heavy-duty and light-
8 duty diesel engines and the aviation sector; and

9 (B) the production costs associated with
10 domestic production of those ultra-clean fuel
11 and prices for consumers.

12 (4) REPORTS.—The Administrator shall submit
13 to the Committee on Environment and Public Works
14 and the Committee on Energy and Natural Re-
15 sources of the Senate and the Committee on Energy
16 and Commerce of the House of Representatives—

17 (A) not later than 1 year after the date of
18 enactment of this Act, an interim report on ac-
19 tions taken to carry out this subsection; and

20 (B) not later than 2 years after the date
21 of enactment of this Act, a final report on ac-
22 tions taken to carry out this subsection.

1 **SEC. 382. EXISTING REFINERY PERMIT APPLICATION DEAD-**
 2 **LINE.**

3 Notwithstanding any other provision of law, applica-
 4 tions for a permit for existing refinery applications shall
 5 not be considered to be timely if submitted after 120 days
 6 after the date of enactment of this Act.

7 **Subtitle D—Extension of Certain**
 8 **Outer Continental Shelf Leases**

9 **SEC. 391. EXTENSION OF CERTAIN OUTER CONTINENTAL**
 10 **SHELF LEASES.**

11 (a) DEFINITION OF COVERED LEASE.—In this sec-
 12 tion, the term “covered lease” means each oil and gas
 13 lease for the Gulf of Mexico outer Continental Shelf region
 14 issued under section 8 of the Outer Continental Shelf
 15 Lands Act (43 U.S.C. 1337) that was—

- 16 (1) not producing as of April 30, 2010; or
- 17 (2) suspended from operations, permit proc-
 18 essing, or consideration, in accordance with the mor-
 19 atorium set forth in the Minerals Management Serv-
 20 ice Notice to Lessees and Operators No. 2010–N04,
 21 dated May 30, 2010, or the decision memorandum
 22 of the Secretary of the Interior entitled “Decision
 23 memorandum regarding the suspension of certain
 24 offshore permitting and drilling activities on the
 25 Outer Continental Shelf” and dated July 12, 2010.

1 (b) EXTENSION OF COVERED LEASES.—The Sec-
 2 retary of the Interior shall extend the term of a covered
 3 lease by 1 year.

4 (c) EFFECT ON SUSPENSIONS OF OPERATIONS OR
 5 PRODUCTION.—The extension of covered leases under this
 6 section is in addition to any suspension of operations or
 7 suspension of production granted by the Minerals Manage-
 8 ment Service or Bureau of Ocean Energy Management,
 9 Regulation and Enforcement after May 1, 2010.

10 **Subtitle E—Approval of Keystone** 11 **XL Pipeline Project**

12 **SEC. 395. APPROVAL OF KEYSTONE XL PIPELINE PROJECT.**

13 (a) APPROVAL OF CROSS-BORDER FACILITIES.—

14 (1) IN GENERAL.—In accordance with section 8
 15 of article 1 of the Constitution (delegating to Con-
 16 gress the power to regulate commerce with foreign
 17 nations), TransCanada Keystone Pipeline, L.P. is
 18 authorized to construct, connect, operate, and main-
 19 tain pipeline facilities, subject to subsection (c), for
 20 the import of crude oil and other hydrocarbons at
 21 the United States-Canada Border at Phillips Coun-
 22 ty, Montana, in accordance with the application filed
 23 with the Department of State on September 19,
 24 2008 (as supplemented and amended).

1 (2) PERMIT.—Notwithstanding any other provi-
2 sion of law, no permit pursuant to Executive Order
3 13337 (3 U.S.C. 301 note) or any other similar Ex-
4 ecutive Order regulating construction, connection,
5 operation, or maintenance of facilities at the borders
6 of the United States, and no additional environ-
7 mental impact statement, shall be required for
8 TransCanada Keystone Pipeline, L.P. to construct,
9 connect, operate, and maintain the facilities de-
10 scribed in paragraph (1).

11 (b) CONSTRUCTION AND OPERATION OF KEYSTONE
12 XL PIPELINE IN UNITED STATES.—

13 (1) IN GENERAL.—The final environmental im-
14 pact statement issued by the Department of State
15 on August 26, 2011, shall be considered to satisfy
16 all requirements of the National Environmental Pol-
17 icy Act of 1969 (42 U.S.C. 4321 et seq.) and any
18 other provision of law that requires Federal agency
19 consultation or review with respect to the cross-bor-
20 der facilities described in subsection (a)(1) and the
21 related facilities in the United States described in
22 the application filed with the Department of State
23 on September 19, 2008 (as supplemented and
24 amended).

1 (2) PERMITS.—Any Federal permit or author-
2 ization issued before the date of enactment of this
3 Act for the cross-border facilities described in sub-
4 section (a)(1), and the related facilities in the
5 United States described in the application filed with
6 the Department of State on September 19, 2008 (as
7 supplemented and amended), shall remain in effect.

8 (c) CONDITIONS.—In constructing, connecting, oper-
9 ating, and maintaining the cross-border facilities described
10 in subsection (a)(1) and related facilities in the United
11 States described in the application filed with the Depart-
12 ment of State on September 19, 2008 (as supplemented
13 and amended), TransCanada Keystone Pipeline, L.P. shall
14 comply with the following conditions:

15 (1) TransCanada Keystone Pipeline, L.P. shall
16 comply with all applicable Federal and State laws
17 (including regulations) and all applicable industrial
18 codes regarding the construction, connection, oper-
19 ation, and maintenance of the facilities.

20 (2) Except as provided in subsection (a)(2),
21 TransCanada Keystone Pipeline, L.P. shall comply
22 with all requisite permits from Canadian authorities
23 and applicable Federal, State, and local government
24 agencies in the United States.

1 (3) TransCanada Keystone Pipeline, L.P. shall
2 take all appropriate measures to prevent or mitigate
3 any adverse environmental impact or disruption of
4 historic properties in connection with the construc-
5 tion, connection, operation, and maintenance of the
6 facilities.

7 (4) The construction, connection, operation, and
8 maintenance of the facilities shall be—

9 (A) in all material respects, similar to that
10 described in—

11 (i) the application filed with the De-
12 partment of State on September 19, 2008
13 (as supplemented and amended); and

14 (ii) the final environmental impact
15 statement described in subsection (b)(1);
16 and

17 (B) carried out in accordance with—

18 (i) the construction, mitigation, and
19 reclamation measures agreed to for the
20 project in the construction mitigation and
21 reclamation plan contained in appendix B
22 of the final environmental impact state-
23 ment described in subsection (b)(1);

24 (ii) the special conditions agreed to
25 between the owners and operators of the

1 project and the Administrator of the Pipe-
2 line and Hazardous Materials Safety Ad-
3 ministration of the Department of Trans-
4 portation, as contained in appendix U of
5 the final environmental impact statement;

6 (iii) the measures identified in appen-
7 dix H of the final environmental impact
8 statement, if the modified route submitted
9 by the State of Nebraska to the Secretary
10 of State crosses the Sand Hills region; and

11 (iv) the stipulations identified in ap-
12 pendix S of the final environmental impact
13 statement.

14 (d) ROUTE IN NEBRASKA.—

15 (1) IN GENERAL.—Any route and construction,
16 mitigation, and reclamation measures for the project
17 in the State of Nebraska that is identified by the
18 State of Nebraska and submitted to the Secretary of
19 State under this section is considered sufficient for
20 the purposes of this section.

21 (2) PROHIBITION.—Construction of the facili-
22 ties in the United States described in the application
23 filed with the Department of State on September 19,
24 2008 (as supplemented and amended), shall not
25 commence in the State of Nebraska until the date

1 on which the Secretary of State receives a route for
2 the project in the State of Nebraska that is identi-
3 fied by the State of Nebraska.

4 (3) RECEIPT.—On the date of receipt of the
5 route described in paragraph (1) by the Secretary of
6 State, the route for the project within the State of
7 Nebraska under this section shall supersede the
8 route for the project in the State specified in the ap-
9 plication filed with the Department of State on Sep-
10 tember 19, 2008 (including supplements and amend-
11 ments).

12 (4) COOPERATION.—Not later than 30 days
13 after the date on which the State of Nebraska sub-
14 mits a request to the Secretary of State or any ap-
15 propriate Federal official, the Secretary of State or
16 Federal official shall provide assistance that is con-
17 sistent with the law of the State of Nebraska.

18 (e) ADMINISTRATION.—

19 (1) IN GENERAL.—Any action taken to carry
20 out this section (including the modification of any
21 route under subsection (d)) shall not constitute a
22 major Federal action under the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 (2) STATE SITING AUTHORITY.—Nothing in
2 this section alters any provision of State law relating
3 to the siting of pipelines.

4 (3) PRIVATE PROPERTY.—Nothing in this sec-
5 tion alters any Federal, State, or local process or
6 condition in effect on the date of enactment of this
7 Act that is necessary to secure access from an owner
8 of private property to construct the project.

9 (f) FEDERAL JUDICIAL REVIEW.—The cross-border
10 facilities described in subsection (a)(1), and the related fa-
11 cilities in the United States described in the application
12 filed with the Department of State on September 19, 2008
13 (as supplemented and amended), that are approved by this
14 section, and any permit, right-of-way, or other action
15 taken to construct or complete the project pursuant to
16 Federal law, shall only be subject to judicial review on di-
17 rect appeal to the United States Court of Appeals for the
18 District of Columbia Circuit.

○