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112TH CONGRESS
1ST SESSION

S. 706

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

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2011

Mr. VITTER (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. MORAN, Mr. RISCH, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. WICKER, Mr. HOEVEN, and Mr. RUBIO) introduced the following bill; which was read the first time

APRIL 4, 2011

Read the second time and placed on the calendar

A BILL

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

Sec. 1. Short title; table of contents.

TITLE I—OUTER CONTINENTAL SHELF LEASING

Sec. 101. Leasing program considered approved.

Sec. 102. Lease sales.

Sec. 103. Applications for permits to drill.

Sec. 104. Lease sales for certain areas.

TITLE II—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

Sec. 201. Definitions.

Sec. 202. Leasing program for land within the Coastal Plain.

Sec. 203. Lease sales.

Sec. 204. Grant of leases by the Secretary.

Sec. 205. Lease terms and conditions.

Sec. 206. Coastal plain environmental protection.

Sec. 207. Expedited judicial review.

Sec. 208. Rights-of-way across the Coastal plain.

Sec. 209. Conveyance.

Sec. 210. ANWR Alternative Energy Trust Fund.

TITLE III—REGULATORY STREAMLINING

Sec. 301. Commercial leasing program for oil shale resources on public land.

Sec. 302. Jurisdiction over covered energy projects.

Sec. 303. Environmental impact statements.

Sec. 304. Clean air regulation.

Sec. 305. Employment effects of actions under Clean Air Act.

Sec. 306. Endangered species.

Sec. 307. Reissuance of permits and leases.

Sec. 308. Central Valley Project.

Sec. 309. Keystone XL pipeline.

Sec. 310. Beaufort Sea oil drilling project.

Sec. 311. Environmental legal fees.

1 **TITLE I—OUTER CONTINENTAL**
2 **SHELF LEASING**

3 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

4 (a) IN GENERAL.—The Draft Proposed Outer Conti-
5 nental Shelf Oil and Gas Leasing Program 2010–2015
6 issued by the Secretary of the Interior (referred to in this
7 section as the “Secretary”) under section 18 of the Outer
8 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
9 ered to have been approved by the Secretary as a final
10 oil and gas leasing program under that section.

11 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
12 The Secretary is considered to have issued a final environ-
13 mental impact statement for the program described in
14 subsection (a) in accordance with all requirements under
15 section 102(2)(C) of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4332(2)(C)).

17 **SEC. 102. LEASE SALES.**

18 (a) IN GENERAL.—Except as otherwise provided in
19 this section, not later than 180 days after the date of en-
20 actment of this Act and every 270 days thereafter, the
21 Secretary of the Interior (referred to in this section as
22 the “Secretary”) shall conduct a lease sale in each outer
23 Continental Shelf planning area for which the Secretary
24 determines that there is a commercial interest in pur-

1 chasing Federal oil and gas leases for production on the
2 outer Continental Shelf.

3 (b) SUBSEQUENT DETERMINATIONS AND SALES.—If
4 the Secretary determines that there is not a commercial
5 interest in purchasing Federal oil and gas leases for pro-
6 duction on the outer Continental Shelf in a planning area
7 under this section, not later than 2 years after the date
8 of enactment of the determination and every 2 years there-
9 after, the Secretary shall—

10 (1) determine whether there is a commercial in-
11 terest in purchasing Federal oil and gas leases for
12 production on the outer Continental Shelf in the
13 planning area; and

14 (2) if the Secretary determines that there is a
15 commercial interest described in subsection (a), con-
16 duct a lease sale in the planning area.

17 (c) EXCLUSION FROM 5-YEAR LEASE PROGRAM.—If
18 a planning area for which there is a commercial interest
19 described in subsection (a) was not included in a 5-year
20 lease program, the Secretary shall include leasing in the
21 planning area in the subsequent 5-year lease program.

22 (d) PETITIONS.—If a person petitions the Secretary
23 to conduct a lease sale for an outer Continental Shelf plan-
24 ning area in which the person has a commercial interest,

1 not later than 60 days after the date of receipt of the peti-
2 tion, the Secretary shall conduct a lease sale for the area.

3 **SEC. 103. APPLICATIONS FOR PERMITS TO DRILL.**

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

7 “(k) APPLICATIONS FOR PERMITS TO DRILL.—

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

13 “(2) DISAPPROVAL.—If the Secretary dis-
14 approves an application for a permit to drill sub-
15 mitted under paragraph (1), the Secretary shall—

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

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

23 “(C) approve or disapprove any resub-
24 mitted application not later than 10 days after

1 the date the application is submitted to the Sec-
2 retary.”.

3 **SEC. 104. LEASE SALES FOR CERTAIN AREAS.**

4 (a) **IN GENERAL.**—As soon as practicable but not
5 later than 1 year after the date of enactment of this Act,
6 the Secretary of the Interior shall hold—

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

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

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

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

15 (b) **COMPLIANCE WITH OTHER LAWS.**—For pur-
16 poses of the Lease Sales described in subsection (a), the
17 Environmental Impact Statement for the 2007-2015-Year
18 OCS Plan and the applicable Multi-Sale Environmental
19 Impact Statement shall be considered to satisfy the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
21 et seq.).

22 (c) **ENERGY PROJECTS IN THE GULF OF MEXICO.**—

23 (1) **JURISDICTION.**—The United States Court
24 of Appeals for the Fifth Circuit shall have exclusive
25 jurisdiction over challenges to offshore energy

1 projects and permits to drill carried out in the Gulf
2 of Mexico.

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

8 **TITLE II—LEASING PROGRAM**
9 **FOR LAND WITHIN COASTAL**
10 **PLAIN**

11 **SEC. 201. DEFINITIONS.**

12 In this title:

13 (1) COASTAL PLAIN.—The term “Coastal
14 Plain” means that area identified as the “1002
15 Coastal Plain Area” on the map.

16 (2) FEDERAL AGREEMENT.—The term “Fed-
17 eral Agreement” means the Federal Agreement and
18 Grant Right-of-Way for the Trans-Alaska Pipeline
19 issued on January 23, 1974, in accordance with sec-
20 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
21 and the Trans-Alaska Pipeline Authorization Act
22 (43 U.S.C. 1651 et seq.).

23 (3) FINAL STATEMENT.—The term “Final
24 Statement” means the final legislative environmental
25 impact statement on the Coastal Plain, dated April

1 1987, and prepared pursuant to section 1002 of the
2 Alaska National Interest Lands Conservation Act
3 (16 U.S.C. 3142) and section 102(2)(C) of the Na-
4 tional Environmental Policy Act of 1969 (42 U.S.C.
5 4332(2)(C)).

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

10 (5) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior (or the designee of the
12 Secretary), acting through the Director of the Bu-
13 reau of Land Management, in consultation with the
14 Director of the United States Fish and Wildlife
15 Service.

16 **SEC. 202. LEASING PROGRAM FOR LAND WITHIN THE**
17 **COASTAL PLAIN.**

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

20 (1) to establish and implement, in accordance
21 with this title, a competitive oil and gas leasing pro-
22 gram that will result in an environmentally sound
23 program for the exploration, development, and pro-
24 duction of the oil and gas resources of the Coastal
25 Plain; and

1 (2) to administer this title through regulations,
2 lease terms, conditions, restrictions, prohibitions,
3 stipulations, and other provisions that—

4 (A) ensure the oil and gas exploration, de-
5 velopment, and production activities on the
6 Coastal Plain will result in no significant ad-
7 verse effect on fish and wildlife, their habitat,
8 subsistence resources, and the environment; and

9 (B) require the application of the best
10 commercially available technology for oil and
11 gas exploration, development, and production to
12 all exploration, development, and production op-
13 erations under this title in a manner that en-
14 sures the receipt of fair market value by the
15 public for the mineral resources to be leased.

16 (b) REPEAL.—

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

20 (2) CONFORMING AMENDMENT.—The table of
21 contents contained in section 1 of that Act (16
22 U.S.C. 3101 note) is amended by striking the item
23 relating to section 1003.

24 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
25 TIONS.—

1 (A) IN GENERAL.—Before conducting the
2 first lease sale under this title, the Secretary
3 shall prepare an environmental impact state-
4 ment in accordance with the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et
6 seq.) with respect to the actions authorized by
7 this title that are not referred to in paragraph
8 (2).

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

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

15 (ii) to analyze the environmental ef-
16 fects of those courses of action.

17 (C) IDENTIFICATION OF PREFERRED AC-
18 TION.—Not later than 18 months after the date
19 of enactment of this Act, the Secretary shall—

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

23 (ii) analyze the environmental effects
24 and potential mitigation measures for
25 those 2 alternatives.

1 (D) PUBLIC COMMENTS.—In carrying out
2 this paragraph, the Secretary shall consider
3 only public comments that are filed not later
4 than 20 days after the date of publication of a
5 draft environmental impact statement.

6 (E) EFFECT OF COMPLIANCE.—Notwith-
7 standing any other provision of law, compliance
8 with this paragraph shall be considered to sat-
9 isfy all requirements for the analysis and con-
10 sideration of the environmental effects of pro-
11 posed leasing under this title.

12 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
13 ITY.—Nothing in this title expands or limits any State or
14 local regulatory authority.

15 (d) SPECIAL AREAS.—

16 (1) DESIGNATION.—

17 (A) IN GENERAL.—The Secretary, after
18 consultation with the State of Alaska, the
19 North Slope Borough, Alaska, and the City of
20 Kaktovik, Alaska, may designate not more than
21 45,000 acres of the Coastal Plain as a special
22 area if the Secretary determines that the special
23 area would be of such unique character and in-
24 terest as to require special management and
25 regulatory protection.

1 (B) SADLEROCHIT SPRING AREA.—The
2 Secretary shall designate as a special area in
3 accordance with subparagraph (A) the
4 Sadlerochit Spring area, comprising approxi-
5 mately 4,000 acres as depicted on the map.

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

12 (3) EXCLUSION FROM LEASING OR SURFACE
13 OCCUPANCY.—

14 (A) IN GENERAL.—The Secretary may ex-
15 clude any special area designated under this
16 subsection from leasing.

17 (B) NO SURFACE OCCUPANCY.—If the Sec-
18 retary leases all or a portion of a special area
19 for the purposes of oil and gas exploration, de-
20 velopment, production, and related activities,
21 there shall be no surface occupancy of the land
22 comprising the special area.

23 (4) DIRECTIONAL DRILLING.—Notwithstanding
24 any other provision of this subsection, the Secretary
25 may lease all or a portion of a special area under

1 terms that permit the use of horizontal drilling tech-
2 nology from sites on leases located outside the spe-
3 cial area.

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

8 (f) REGULATIONS.—

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

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

22 **SEC. 203. LEASE SALES.**

23 (a) IN GENERAL.—Land may be leased pursuant to
24 this title to any person qualified to obtain a lease for de-

1 posits of oil and gas under the Mineral Leasing Act (30
2 U.S.C. 181 et seq.).

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

5 (1) receipt and consideration of sealed nomina-
6 tions for any area in the Coastal Plain for inclusion
7 in, or exclusion (as provided in subsection (c)) from,
8 a lease sale;

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

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

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

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

22 (e) TIMING OF LEASE SALES.—The Secretary
23 shall—

1 (1) not later than 22 months after the date of
2 enactment of this Act, conduct the first lease sale
3 under this title;

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

7 (3) conduct additional sales at appropriate in-
8 tervals if sufficient interest in exploration or devel-
9 opment exists to warrant the conduct of the addi-
10 tional sales.

11 **SEC. 204. GRANT OF LEASES BY THE SECRETARY.**

12 (a) IN GENERAL.—On payment by a lessee of such
13 bonus as may be accepted by the Secretary, the Secretary
14 may grant to the highest responsible qualified bidder in
15 a lease sale conducted pursuant to section 203 a lease for
16 any land on the Coastal Plain.

17 (b) SUBSEQUENT TRANSFERS.—

18 (1) IN GENERAL.—No lease issued under this
19 title may be sold, exchanged, assigned, sublet, or
20 otherwise transferred except with the approval of the
21 Secretary.

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

1 **SEC. 205. LEASE TERMS AND CONDITIONS.**

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

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

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

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

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

1 (5) provide that the standard of reclamation for
2 land required to be reclaimed under this title shall
3 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 (6) 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 202(a)(2);

15 (7) 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 (8) contain such other provisions as the Sec-
23 retary determines to be necessary to ensure compli-
24 ance with this title and the regulations promulgated
25 under this title.

1 **SEC. 206. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 In accordance with section 202, the Secretary shall admin-
5 ister this title through regulations, lease terms, conditions,
6 restrictions, prohibitions, stipulations, or other provisions
7 that—

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

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

17 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

18 The Secretary shall require, with respect to any proposed
19 drilling and related activities on the Coastal Plain, that—

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

25 (2) a plan be implemented to avoid, minimize,
26 and mitigate (in that order and to the maximum ex-

1 tent practicable) any significant adverse effect iden-
2 tified under paragraph (1); and

3 (3) the development of the plan shall occur
4 after consultation with the 1 or more agencies hav-
5 ing jurisdiction over matters mitigated by the plan.

6 (c) REGULATIONS TO PROTECT COASTAL PLAIN
7 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
8 AND THE ENVIRONMENT.—Before implementing the leas-
9 ing program authorized by this title, the Secretary shall
10 prepare and issue regulations, lease terms, conditions, re-
11 strictions, prohibitions, stipulations, or other measures de-
12 signed to ensure, to the maximum extent practicable, that
13 the activities carried out on the Coastal Plain under this
14 title are conducted in a manner consistent with the pur-
15 poses and environmental requirements of this title.

16 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
17 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
18 proposed regulations, lease terms, conditions, restrictions,
19 prohibitions, and stipulations for the leasing program
20 under this title shall require—

21 (1) compliance with all applicable provisions of
22 Federal and State environmental law (including reg-
23 ulations);

24 (2) implementation of and compliance with—

1 (A) standards that are at least as effective
2 as the safety and environmental mitigation
3 measures, as described in items 1 through 29
4 on pages 167 through 169 of the Final State-
5 ment, on the Coastal Plain;

6 (B) seasonal limitations on exploration, de-
7 velopment, and related activities, as necessary,
8 to avoid significant adverse effects during peri-
9 ods of concentrated fish and wildlife breeding,
10 denning, nesting, spawning, and migration;

11 (C) design safety and construction stand-
12 ards for all pipelines and any access and service
13 roads that minimize, to the maximum extent
14 practicable, adverse effects on—

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

17 (ii) the flow of surface water by re-
18 quiring the use of culverts, bridges, or
19 other structural devices;

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

23 (E) stringent reclamation and rehabilita-
24 tion requirements in accordance with this title
25 for the removal from the Coastal Plain of all oil

1 and gas development and production facilities,
2 structures, and equipment on completion of oil
3 and gas production operations, except in a case
4 in which the Secretary determines that those
5 facilities, structures, or equipment—

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

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

10 (F) appropriate prohibitions or restrictions
11 on—

12 (i) access by all modes of transpor-
13 tation;

14 (ii) sand and gravel extraction; and

15 (iii) use of explosives;

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

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

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

23 (ii) the protection of natural surface
24 drainage patterns and wetland and ripar-
25 ian habitats; and

1 (iii) the regulation of methods or tech-
2 niques for developing or transporting ade-
3 quate supplies of water for exploratory
4 drilling; and

5 (I) research, monitoring, and reporting re-
6 quirements.

7 (3) that exploration activities (except surface
8 geological studies) be limited to the period between
9 approximately November 1 and May 1 of each year
10 and be supported, if necessary, by ice roads, winter
11 trails with adequate snow cover, ice pads, ice air-
12 strips, and air transport methods (except that those
13 exploration activities may be permitted at other
14 times if the Secretary determines that the explo-
15 ration will have no significant adverse effect on fish
16 and wildlife, fish and wildlife habitat, and the envi-
17 ronment of the Coastal Plain);

18 (4) consolidation of facility siting;

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

21 (6) treatment and disposal of hazardous and
22 toxic wastes, solid wastes, reserve pit fluids, drilling
23 muds and cuttings, and domestic wastewater, includ-
24 ing, in accordance with applicable Federal and State
25 environmental laws (including regulations)—

1 (A) preparation of an annual waste man-
2 agement report;

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

5 (C) prohibition on the use of chlorinated
6 solvents;

7 (7) fuel storage and oil spill contingency plan-
8 ning;

9 (8) conduct of periodic field crew environmental
10 briefings;

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

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

15 (11) appropriate seasonal and safety zone des-
16 ignations around well sites, within which subsistence
17 hunting and trapping shall be limited; and

18 (12) development and implementation of such
19 other protective environmental requirements, restric-
20 tions, terms, or conditions as the Secretary deter-
21 mines to be necessary.

22 (e) CONSIDERATIONS.—In preparing and issuing reg-
23 ulations, lease terms, conditions, restrictions, prohibitions,
24 or stipulations under this section, the Secretary shall take
25 into consideration—

1 (1) the stipulations and conditions that govern
2 the National Petroleum Reserve-Alaska leasing pro-
3 gram, as set forth in the 1999 Northeast National
4 Petroleum Reserve-Alaska Final Integrated Activity
5 Plan/Environmental Impact Statement;

6 (2) the environmental protection standards that
7 governed the initial Coastal Plain seismic exploration
8 program under parts 37.31 through 37.33 of title
9 50, Code of Federal Regulations (or successor regu-
10 lations); and

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

16 (f) FACILITY CONSOLIDATION PLANNING.—

17 (1) IN GENERAL.—After providing for public
18 notice and comment, the Secretary shall prepare and
19 periodically update a plan to govern, guide, and di-
20 rect the siting and construction of facilities for the
21 exploration, development, production, and transpor-
22 tation of oil and gas resources from the Coastal
23 Plain.

24 (2) OBJECTIVES.—The objectives of the plan
25 shall be—

1 (A) the avoidance of unnecessary duplica-
2 tion of facilities and activities;

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

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

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

11 (E) the enhancement of compatibility be-
12 tween wildlife values and development activities.

13 (g) ACCESS TO PUBLIC LAND.—The Secretary
14 shall—

15 (1) manage public land in the Coastal Plain in
16 accordance with subsections (a) and (b) of section
17 811 of the Alaska National Interest Lands Con-
18 servation Act (16 U.S.C. 3121); and

19 (2) ensure that local residents shall have rea-
20 sonable access to public land in the Coastal Plain for
21 traditional uses.

22 **SEC. 207. EXPEDITED JUDICIAL REVIEW.**

23 (a) FILING OF COMPLAINTS.—

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

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

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

14 (2) VENUE.—A complaint seeking judicial re-
15 view of a provision of this title or an action of the
16 Secretary under this title shall be filed in the United
17 States Court of Appeals for the District of Columbia
18 Circuit.

19 (3) SCOPE.—

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

1 (i) limited to a review of whether the
2 decision is in accordance with this title;
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 title 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 **SEC. 208. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

21 (1) except as provided in paragraph (2), under
22 section 28 of the Mineral Leasing Act (30 U.S.C.
23 185), without regard to title XI of the Alaska Na-
24 tional Interest Lands Conservation Act (16 U.S.C.
25 3161 et seq.); and

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

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

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

17 **SEC. 209. CONVEYANCE.**

18 Notwithstanding section 1302(h)(2) of the Alaska
19 National Interest Lands Conservation Act (16 U.S.C.
20 3192(h)(2)), to remove any cloud on title to land, and to
21 clarify land ownership patterns in the Coastal Plain, the
22 Secretary shall—

23 (1) to the extent necessary to fulfill the entitle-
24 ment of the Kaktovik Inupiat Corporation under sec-
25 tions 12 and 14 of the Alaska Native Claims Settle-

1 ment Act (43 U.S.C. 1611, 1613), as determined by
2 the Secretary, convey to that Corporation the sur-
3 face estate of the land described in paragraph (1) of
4 Public Land Order 6959, in accordance with the
5 terms and conditions of the agreement between the
6 Secretary, the United States Fish and Wildlife Serv-
7 ice, the Bureau of Land Management, and the
8 Kaktovik Inupiat Corporation, dated January 22,
9 1993; and

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

15 **SEC. 210. ANWR ALTERNATIVE ENERGY TRUST FUND.**

16 (a) SOURCE OF FUNDS.—

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

25 (2) TRANSFERS.—

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

8 (B) DEBT REDUCTION.—If the total
9 amount of revenues in the Federal budget for
10 a fiscal year does not exceed the total amount
11 of expenditures under the budget for the fiscal
12 year, all adjusted bonus, rental, and royalty rev-
13 enues from Federal oil and gas leasing and op-
14 erations authorized under this title for the fiscal
15 year—

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

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

20 (b) ESTABLISHMENT OF TRUST FUND.—There is es-
21 tablished in the Treasury of the United States a trust fund
22 to be known as the “ANWR Alternative Energy Trust
23 Fund”, consisting of such amounts as may be transferred
24 to the ANWR Alternative Energy Trust Fund as provided
25 in subsection (a).

1 (c) EXPENDITURES FROM ANWR ALTERNATIVE EN-
2 ERGY TRUST FUND.—

3 (1) IN GENERAL.—Amounts in the ANWR Al-
4 ternative Energy Trust Fund shall be available with-
5 out further appropriation to carry out specified pro-
6 visions of the Energy Policy Act of 2005 (Public
7 Law 109–58; referred to in this section as
8 “EPAAct2005”) and the Energy Independence and
9 Security Act of 2007 (Public Law 110–140; referred
10 to in this section as “EISAct2007”) as follows:

**The following per-
centage of annual
receipts to the
ANWR Alternative
Energy Trust Fund,
but not to exceed
the limit on
amount authorized,
if any:**

To carry out the provisions of:

EPAAct2005:	
Section 210	1.5 percent
Section 242	1.0 percent
Section 369	2.0 percent
Section 401	6.0 percent
Section 812	6.0 percent
Section 931	19.0 percent
Section 942	1.5 percent
Section 962	3.0 percent
Section 968	1.5 percent
Section 1704	6.0 percent
EISAct2007:	
Section 207	15.0 percent
Section 607	1.5 percent
Title VI, Subtitle B	3.0 percent
Title VI, Subtitle C	1.5 percent
Section 641	9.0 percent
Title VII, Subtitle A	10.0 percent
Section 1112	1.5 percent
Section 1304	11.0 percent.

11 (2) APPORTIONMENT OF EXCESS AMOUNT.—

12 Notwithstanding paragraph (1), any amounts allo-

1 cated under paragraph (1) that are in excess of the
2 amounts authorized in the applicable cited section or
3 subtitle of EPLAct2005 and EISAct2007 shall be re-
4 allocated to the remaining sections and subtitles
5 cited in paragraph (1), up to the amounts otherwise
6 authorized by law to carry out those sections and
7 subtitles, in proportion to the amounts authorized by
8 law to be appropriated for those other sections and
9 subtitles.

10 **TITLE III—REGULATORY** 11 **STREAMLINING**

12 **SEC. 301. COMMERCIAL LEASING PROGRAM FOR OIL SHALE** 13 **RESOURCES ON PUBLIC LAND.**

14 Subsection (e) of the Oil Shale, Tar Sands, and Other
15 Strategic Unconventional Fuels Act of 2005 (42 U.S.C.
16 15927(e)) is amended—

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

19 “(1) IN GENERAL.—Not later”;

20 (2) in the second sentence—

21 (A) by striking “If the Secretary” and in-
22 sserting the following:

23 “(2) LEASE SALES.—

24 “(A) IN GENERAL.—If the Secretary”; and

1 (B) by striking “may” and inserting
2 “shall”;

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

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

7 (4) by adding at the end the following:

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

13 “(i) at least annually, consult with the
14 persons described in paragraph (1) to ex-
15 pedite the commercial leasing program for
16 oil shale resources on public land in the
17 State; and

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

21 **SEC. 302. JURISDICTION OVER COVERED ENERGY**
22 **PROJECTS.**

23 (a) DEFINITION OF COVERED ENERGY PROJECT.—
24 In this section, the term “covered energy project” means
25 any action or decision by a Federal official regarding—

1 (1) the leasing of Federal land (including sub-
2 merged land) for the exploration, development, pro-
3 duction, processing, or transmission of oil, natural
4 gas, or any other source or form of energy, including
5 actions and decisions regarding the selection or of-
6 fering of Federal land for such leasing; or

7 (2) any action under such a lease, except that
8 this section and Act shall not apply to a dispute be-
9 tween the parties to a lease entered into a provision
10 of law authorizing the lease regarding obligations
11 under the lease or the alleged breach of the lease.

12 (b) EXCLUSIVE JURISDICTION OVER CAUSES AND
13 CLAIMS RELATING TO COVERED ENERGY PROJECTS.—
14 Notwithstanding any other provision of law, the United
15 States District Court for the District of Columbia shall
16 have exclusive jurisdiction to hear all causes and claims
17 under this section or any other Act that arise from any
18 covered energy project.

19 (c) TIME FOR FILING COMPLAINT.—

20 (1) IN GENERAL.—Each case or claim described
21 in subsection (b) shall be filed not later than the end
22 of the 60-day period beginning on the date of the ac-
23 tion or decision by a Federal official that constitutes
24 the covered energy project concerned.

1 (2) PROHIBITION.—Any cause or claim de-
2 scribed in subsection (b) that is not filed within the
3 time period described in paragraph (1) shall be
4 barred.

5 (d) DISTRICT COURT FOR THE DISTRICT OF COLUM-
6 BIA DEADLINE.—

7 (1) IN GENERAL.—Each proceeding that is sub-
8 ject to subsection (b) shall—

9 (A) be resolved as expeditiously as prac-
10 ticable and in any event not more than 180
11 days after the cause or claim is filed; and

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

14 (2) FAILURE TO COMPLY WITH DEADLINE.—If
15 an interlocutory or final judgment, decree, or order
16 has not been issued by the district court by the
17 deadline required under this section, the cause or
18 claim shall be dismissed with prejudice and all rights
19 relating to the cause or claim shall be terminated.

20 (e) ABILITY TO SEEK APPELLATE REVIEW.—An in-
21 terlocutory or final judgment, decree, or order of the dis-
22 trict court under this section may be reviewed by no other
23 court except the Supreme Court.

24 (f) DEADLINE FOR APPEAL TO THE SUPREME
25 COURT.—If a writ of certiorari has been granted by the

1 Supreme Court pursuant to subsection (e), the interlocu-
2 tory or final judgment, decree, or order of the district
3 court shall be resolved as expeditiously as practicable and
4 in any event not more than 180 days after the interlocu-
5 tory or final judgment, decree, order of the district court
6 is issued.

7 **SEC. 303. ENVIRONMENTAL IMPACT STATEMENTS.**

8 Title I of the National Environmental Policy Act of
9 1969 (42 U.S.C. 4331 et seq.) is amended by adding at
10 the end the following:

11 **“SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL**
12 **IMPACT STATEMENTS.**

13 “(a) COMPLETION.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of law, each review carried out under sec-
16 tion 102(2)(C) with respect to any action taken
17 under any provision of law, or for which funds are
18 made available under any provision of law, shall be
19 completed not later than the date that is 270 days
20 after the commencement of the review.

21 “(2) FAILURE TO COMPLETE REVIEW.—If a re-
22 view described in paragraph (1) has not been com-
23 pleted for an action subject to section 102(2)(C) by
24 the date specified in paragraph (1)—

1 “(A) the action shall be considered to have
2 no significant impact described in section
3 102(2)(C); and

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

6 “(3) UNEMPLOYMENT RATE.—If the national
7 unemployment rate is 5 percent or more, the lead
8 agency conducting a review of an action under this
9 section shall use the most expeditious means author-
10 ized under this title to conduct the review.

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

14 “(c) REVIEW.—

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

18 “(2) JUDICIAL REVIEW.—

19 “(A) IN GENERAL.—On resolution of the
20 administrative appeal, judicial review of the
21 final agency decision after exhaustion of admin-
22 istrative remedies shall lie with the United
23 States Court of Appeals for the District of Co-
24 lumbia Circuit.

1 “(B) ADMINISTRATIVE RECORD.—An ap-
 2 peal to the court described in subparagraph (A)
 3 shall be based only on the administrative
 4 record.

5 “(C) PENDENCY OF JUDICIAL REVIEW.—
 6 After an agency has made a final decision with
 7 respect to a review carried out under this sub-
 8 section, the decision shall be effective during
 9 the course of any subsequent appeal to a court
 10 described in subparagraph (A).

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

14 **SEC. 304. CLEAN AIR REGULATION.**

15 (a) REGULATION OF GREENHOUSE GASES.—Section
 16 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is
 17 amended—

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

20 “(g) AIR POLLUTANT.—

21 “(1) IN GENERAL.—The term”;

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

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

25 and

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

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

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

12 **SEC. 305. EMPLOYMENT EFFECTS OF ACTIONS UNDER**
13 **CLEAN AIR ACT.**

14 Section 321(b) of the Clean Air Act (42 U.S.C.
15 7621(b)) is amended—

16 (1) by designating the first through eighth sen-
17 tences as paragraphs (1) through (8), respectively;
18 and

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

20 “(9) ECONOMIC ANALYSIS.—Not later than 30
21 days before conducting a public hearing or providing
22 notice of a determination that a hearing is not nec-
23 essary with respect to a requirement described in
24 paragraph (1), the Administrator shall—

1 “(A) conduct a full economic analysis of
2 the requirement; and

3 “(B) make the results of the analysis avail-
4 able to the public.

5 “(10) ECONOMIC REVIEW BOARD.—

6 “(A) IN GENERAL.—Not later than 30
7 days after the date on which the Administrator
8 makes the results of an economic analysis of a
9 requirement available to the public under para-
10 graph (9)(B), the Secretary of Commerce shall
11 establish an economic review board consisting of
12 a representative from each Federal agency with
13 jurisdiction over affected industries to assess—

14 “(i) the cumulative economic impact
15 of the requirement, including the direct, in-
16 direct, quantifiable, and qualitative effects;

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

19 “(iii) the effect of the requirement on
20 the retirement or closure of domestic busi-
21 nesses;

22 “(iv) the direct and indirect adverse
23 impacts on the economies of local commu-
24 nities that are projected to result from the
25 requirement;

1 “(v) energy sectors that could be ex-
2 pected to retire units as a result of the re-
3 quirement;

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

7 “(vii) the economic harm to con-
8 sumers resulting from the requirement;

9 “(viii) the impact of the requirement
10 on the ability of industries and businesses
11 in the United States to compete with in-
12 dustries and businesses in other countries,
13 with respect to competitiveness in both do-
14 mestic and foreign markets;

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

17 “(I) most affected from the di-
18 rect and indirect adverse impacts of
19 the requirement from the retirement
20 of impacted units and increased prices
21 for retail electricity, transportation
22 fuels, heating oil, and petrochemicals;
23 and

24 “(II) least affected from adverse
25 impacts described in subclause (I) due

1 to the creation of new jobs and eco-
2 nomic growth that are expected to re-
3 sult directly and indirectly from en-
4 ergy construction projects;

5 “(x) the adverse impacts of the re-
6 quirement on electric reliability that are
7 expected to result from the retirement of
8 electric generation;

9 “(xi) the geographical distribution of
10 the projected adverse electric reliability im-
11 pacts of the requirement;

12 “(xii) Federal, State, and local poli-
13 cies that have been or will be implemented
14 to support energy infrastructure in the
15 United States, including policies that pro-
16 mote fuel diversity, affordable and reliable
17 electricity, and energy security; and

18 “(xiii) other direct and indirect im-
19 pacts that are expected to result from the
20 cumulative obligation to comply with the
21 requirement.

22 “(B) REPORT.—Not later than 30 days
23 after the date on which the economic review
24 board completes the assessment of a require-
25 ment under subparagraph (A), the economic re-

1 view board shall submit to Congress, the Presi-
2 dent, and the Secretary a report that describes
3 the results of the assessment.

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

10 **SEC. 306. ENDANGERED SPECIES.**

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

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

23 (b) PROHIBITION OF CONSIDERATION OF IMPACT OF
24 GREENHOUSE GAS.—

1 (1) IN GENERAL.—The Endangered Species Act
2 of 1973 (16 U.S.C. 1531 et seq.) is amended by
3 adding at the end the following:

4 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**
5 **GREENHOUSE GAS.**

6 “(a) DEFINITION OF GREENHOUSE.—In this section,
7 the term ‘greenhouse gas’ means any of—

8 “(1) carbon dioxide;

9 “(2) methane;

10 “(3) nitrous oxide;

11 “(4) sulfur hexafluoride;

12 “(5) a hydrofluorocarbon;

13 “(6) a perfluorocarbon; or

14 “(7) any other anthropogenic gas designated by
15 the Secretary for purposes of this section.

16 “(b) IMPACT OF GREENHOUSE GAS.—The impact of
17 greenhouse gas on any species of fish or wildlife or plant
18 shall not be considered for any purpose in the implementa-
19 tion of this Act.”.

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

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

1 **SEC. 307. REISSUANCE OF PERMITS AND LEASES.**

2 (a) ENVIRONMENTAL PROTECTION AGENCY.—Not
3 later than 30 days after the date of enactment of this Act,
4 the Administrator of the Environment Protection Agency
5 shall approve the specification of the areas described in
6 the notice entitled “Final Determination of the Assistant
7 Administrator for Water Pursuant to Section 404(c) of
8 the Clean Water Act Concerning the Spruce No. 1 Mine,
9 Logan County, WV” (76 Fed. Reg. 3126; January 19.
10 2011), with no further review or analysis.

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

17 **SEC. 308. CENTRAL VALLEY PROJECT.**

18 The Act of August 27, 1954 (68 Stat. 879, chapter
19 1012; 16 U.S.C. 695d et seq.) is amended by adding at
20 the end the following:

21 **“SEC. 9. EFFECT OF BIOLOGICAL OPINIONS.**

22 “Notwithstanding any other provision of law, in con-
23 nection with the Central Valley Project, the Bureau of
24 Reclamation and an agency of the State of California op-
25 erating a water project in connection with the Project shall
26 not restrict operations of an applicable project pursuant

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

6 **SEC. 309. KEYSTONE XL PIPELINE.**

7 (a) IN GENERAL.—The Secretary of State (referred
8 to in this section as the “Secretary”) shall take such ac-
9 tions as are necessary to expedite the permit request for
10 the Keystone XL pipeline that is pending on the date of
11 enactment of this Act (referred to in this section as the
12 “pipeline”) in accordance with this section.

13 (b) GREENHOUSE GAS IMPACTS.—The Secretary
14 shall not consider greenhouse gas impacts during the per-
15 mit review process for the pipeline.

16 (c) NEPA COMPLIANCE.—Effective beginning on the
17 date that is 120 days after the date of enactment of this
18 Act, the pipeline project shall be considered in compliance
19 with the National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.).

21 (d) ADDITIONAL ROUTES.—In conducting the permit
22 review process, the Secretary shall consider additional
23 routes for the pipeline, including routes that are parallel
24 to the United States portions of Keystone 1.

1 (e) PERMIT REVIEW.—Not later than 120 days after
2 the date of enactment of this Act, the Secretary shall com-
3 plete the permit review for the pipeline

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

7 **SEC. 310. BEAUFORT SEA OIL DRILLING PROJECT.**

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

14 **SEC. 311. ENVIRONMENTAL LEGAL FEES.**

15 Section 504 of title 5, United States Code, is amend-
16 ed by adding at the end the following:

17 “(g) ENVIRONMENTAL LEGAL FEES.—Notwith-
18 standing section 1304 of title 31, no award may be made
19 under this section and no amounts may be obligated or
20 expended from the Claims and Judgment Fund of the
21 United States Treasury to pay any legal fees of an envi-
22 ronmental nongovernmental organization related to an ac-
23 tion that (with respect to the United States)—

24 “(1) prevents, terminates, or reduces access to
25 or the production of—

- 1 “(A) energy;
- 2 “(B) a mineral resource;
- 3 “(C) water by agricultural producers;
- 4 “(D) a resource by commercial or rec-
- 5 reational fishermen; or
- 6 “(E) grazing or timber production on Fed-
- 7 eral land;
- 8 “(2) diminishes the private property value of a
- 9 property owner; or
- 10 “(3) eliminates or prevents 1 or more jobs.”.

Calendar No. 23

112TH CONGRESS
1ST Session

S. 706

A BILL

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

APRIL 4, 2011

Read the second time and placed on the calendar