

113TH CONGRESS  
1ST SESSION

# H. R. 2674

To encourage job creation, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2013

Mr. BUCHANAN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Natural Resources, Education and the Workforce, Transportation and Infrastructure, Energy and Commerce, Small Business, and Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To encourage job creation, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Job Creation Act of 2013”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—TRADE

Sec. 101. Sense of Congress regarding expanding trading markets.

Sec. 102. Sense of Congress regarding China’s intellectual property rights violations.

## TITLE II—TAX REFORM

Sec. 201. Sense of Congress regarding tax reform.

## TITLE III—BALANCED BUDGET AMENDMENT

Sec. 301. Sense of Congress regarding a balanced budget amendment.

## TITLE IV—ENERGY

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Leasing program for lands within the Coastal Plain.
- Sec. 404. Lease sales.
- Sec. 405. Grant of leases by the Secretary.
- Sec. 406. Lease terms and conditions.
- Sec. 407. Coastal Plain environmental protection.
- Sec. 408. Expedited judicial review.
- Sec. 409. Federal and State distribution of revenues.
- Sec. 410. Rights-of-way across the Coastal Plain.
- Sec. 411. Conveyance.
- Sec. 412. Local government impact aid and community service assistance.
- Sec. 413. ANWR Alternative Energy Trust Fund.

## TITLE V—NORTHERN ROUTE APPROVAL ACT

- Sec. 501. Short title.
- Sec. 502. Findings.
- Sec. 503. Keystone XL permit approval.
- Sec. 504. Judicial review.
- Sec. 505. American burying beetle.
- Sec. 506. Right-of-way and temporary use permit.
- Sec. 507. Permits for activities in navigable waters.
- Sec. 508. Migratory Bird Treaty Act permit.
- Sec. 509. Oil spill response plan disclosure.

## TITLE VI—REPEAL OF EMPLOYER HEALTH INSURANCE MANDATE

Sec. 601. Repeal of employer health insurance mandate.

## TITLE VII—SECRET BALLOT PROTECTION ACT

- Sec. 701. Short title.
- Sec. 702. Findings.
- Sec. 703. National Labor Relations Act.
- Sec. 704. Regulations.

## TITLE VIII—FEDERAL RULES OF CIVIL PROCEDURE IMPROVEMENTS

- Sec. 801. Attorney accountability.
- Sec. 802. Applicability of Rule 11 to State cases affecting interstate commerce.
- Sec. 803. Prevention of forum-shopping.
- Sec. 804. Rule of construction.

Sec. 901. Short title.

Sec. 902. Clarification and expansion of rules covered by the Regulatory Flexibility Act.

Sec. 903. Requirements providing for more detailed analyses.

Sec. 904. Repeal of waiver and delay authority; additional powers of the Chief Counsel for Advocacy.

Sec. 905. Procedures for gathering comments.

Sec. 906. Periodic review of rules.

Sec. 907. Judicial review of compliance with the requirements of the Regulatory Flexibility Act available after publication of the final rule.

Sec. 908. Jurisdiction of court of appeals over rules implementing the Regulatory Flexibility Act.

Sec. 909. Clerical amendments.

1                   **TITLE I—TRADE**

2   **SEC. 101. SENSE OF CONGRESS REGARDING EXPANDING**

3                   **TRADING MARKETS.**

(1) Ninety-five percent of the world's consumers live outside the United States.

(2) It is imperative to the United States economy that United States businesses sell their goods and services outside the United States.

10 (b) SENSE OF CONGRESS.—It is the sense of Con-  
11 gress that—

12 (1) Congress should continue to work with the  
13 Administration to expand trading markets; and

1           (2) the future growth of the United States  
2           economy requires this pro-growth strategy.

3   **SEC. 102. SENSE OF CONGRESS REGARDING CHINA'S INTEL-**  
4                   **LECTUAL PROPERTY RIGHTS VIOLATIONS.**

5           (a) FINDINGS.—Congress finds the following:

6           (1) United States copyright industries suffer se-  
7           vere losses due to piracy in China.

8           (2) Counterfeiting remains pervasive in many  
9           retail and wholesale markets in China.

10          (3) China also maintains market access bar-  
11          riers, which delay entry into China for legitimate  
12          products and, thus, create commercial opportunities  
13          for infringing products.

14          (4) According to a report by the United States  
15          International Trade Commission, Chinese piracy and  
16          counterfeiting of United States software and a wide  
17          range of other intellectual property cost American  
18          businesses an estimated \$48 billion in 2009.

19          (5) The report also concluded that 2.1 million  
20          jobs could be created in the United States if China  
21          complied with its current international obligations to  
22          protect and enforce intellectual property rights.

23          (6) The most direct jobs impact would come in  
24          high-tech and other innovative industries.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-  
2 gress that China’s intellectual property rights violations  
3 are a problem for our economy.

## 4 **TITLE II—TAX REFORM**

### 5 **SEC. 201. SENSE OF CONGRESS REGARDING TAX REFORM.**

6 (a) FINDINGS.—Congress finds the following:

7 (1) The Federal tax code is long, complex, anti-  
8 quated, and stifling growth in our economy.

9 (2) Comprehensive reform of the Federal tax  
10 code is needed to get Americans working again and  
11 our economy back on track.

12 (3) Independent economists estimate that, when  
13 coupled with reduced Federal spending, comprehen-  
14 sive tax reform could lead to the creation of 1 mil-  
15 lion jobs in the first year alone.

16 (4) The Internal Revenue Service reports that  
17 the average person spends more than 13 hours to fill  
18 out the tax forms.

19 (5) A USA Today editorial lampooned the com-  
20 plexity by noting that the instruction booklet for Ap-  
21 ple’s Ipad is one page, while the instruction booklet  
22 for this year’s IRS 1040 long form is 172 pages.

23 (6) The Federal tax system needs to be re-  
24 formed in order for the United States to once again  
25 be competitive in the international market.

1           (7) The United States has the highest corporate  
2       tax rate in the industrialized world.

3           (8) In 1960, 17 companies headquartered in  
4       the United States comprised 17 of the world's larg-  
5       est 20 companies—that's 85 percent. By 2010, just  
6       6 companies headquartered in the United States—  
7       or a mere 30 percent—were ranked among the top  
8       20.

9       (b) SENSE OF CONGRESS.—It is the sense of Con-  
10   gress that reforming the Federal tax code will benefit  
11   American taxpayers and our economy.

12       **TITLE III—BALANCED BUDGET**  
13                       **AMENDMENT**

14   **SEC. 301. SENSE OF CONGRESS REGARDING A BALANCED**  
15                       **BUDGET AMENDMENT.**

16       (a) FINDINGS.—The Congress finds that a balanced  
17   budget amendment would put the United States on a path  
18   to solvency and help bring stability to the economy.

19       (b) SENSE OF CONGRESS.—It is the sense of Con-  
20   gress that Congress needs to pass a balanced budget  
21   amendment to the United States Constitution and send  
22   it to the States for ratification.

1                   **TITLE IV—ENERGY**

2   **SEC. 401. SHORT TITLE.**

3           This title may be cited as the “American Energy  
4 Independence and Price Reduction Act”.

5   **SEC. 402. DEFINITIONS.**

6           In this title:

7               (1) COASTAL PLAIN.—The term “Coastal  
8 Plain” means that area described in appendix I to  
9 part 37 of title 50, Code of Federal Regulations.

10              (2) SECRETARY.—The term “Secretary”, except  
11 as otherwise provided, means the Secretary of the  
12 Interior or the Secretary’s designee.

13   **SEC. 403. LEASING PROGRAM FOR LANDS WITHIN THE**  
14                   **COASTAL PLAIN.**

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

17               (1) to establish and implement, in accordance  
18 with this title and acting through the Director of the  
19 Bureau of Land Management in consultation with  
20 the Director of the United States Fish and Wildlife  
21 Service, a competitive oil and gas leasing program  
22 that will result in an environmentally sound program  
23 for the exploration, development, and production of  
24 the oil and gas resources of the Coastal Plain; and

1           (2) to administer the provisions of this title  
2           through regulations, lease terms, conditions, restric-  
3           tions, prohibitions, stipulations, and other provisions  
4           that ensure the oil and gas exploration, development,  
5           and production activities on the Coastal Plain will  
6           result in no significant adverse effect on fish and  
7           wildlife, their habitat, subsistence resources, and the  
8           environment, including, in furtherance of this goal,  
9           by requiring the application of the best commercially  
10          available technology for oil and gas exploration, de-  
11          velopment, and production to all exploration, devel-  
12          opment, and production operations under this Act in  
13          a manner that ensures the receipt of fair market  
14          value by the public for the mineral resources to be  
15          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 in section 1 of such Act is amended by  
22          striking the item relating to section 1003.

23       (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
24      TAIN OTHER LAWS.—



1           (1) COMPATIBILITY.—For purposes of the Na-  
2           tional Wildlife Refuge System Administration Act of  
3           1966 (16 U.S.C. 668dd et seq.), the oil and gas  
4           leasing program and activities authorized by this  
5           section in the Coastal Plain are deemed to be com-  
6           patible with the purposes for which the Arctic Na-  
7           tional Wildlife Refuge was established, and no fur-  
8           ther findings or decisions are required to implement  
9           this determination.

10          (2) ADEQUACY OF THE DEPARTMENT OF THE  
11          INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT  
12          STATEMENT.—The “Final Legislative Environ-  
13          mental Impact Statement” (April 1987) on the  
14          Coastal Plain prepared pursuant to section 1002 of  
15          the Alaska National Interest Lands Conservation  
16          Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
17          of the National Environmental Policy Act of 1969  
18          (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
19          quirements under the National Environmental Policy  
20          Act of 1969 that apply with respect to prelease ac-  
21          tivities, including actions authorized to be taken by  
22          the Secretary to develop and promulgate the regula-  
23          tions for the establishment of a leasing program au-  
24          thorized by this title before the conduct of the first  
25          lease sale.

1           (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
2       TIONS.—Before conducting the first lease sale under  
3       this title, the Secretary shall prepare an environ-  
4       mental impact statement under the National Envi-  
5       ronmental Policy Act of 1969 with respect to the ac-  
6       tions authorized by this title that are not referred to  
7       in paragraph (2). Notwithstanding any other law,  
8       the Secretary is not required to identify nonleasing  
9       alternative courses of action or to analyze the envi-  
10      ronmental effects of such courses of action. The Sec-  
11      retary shall only identify a preferred action for such  
12      leasing and a single leasing alternative, and analyze  
13      the environmental effects and potential mitigation  
14      measures for those two alternatives. The identifica-  
15      tion of the preferred action and related analysis for  
16      the first lease sale under this title shall be completed  
17      within 18 months after the date of enactment of this  
18      Act. The Secretary shall only consider public com-  
19      ments that specifically address the Secretary’s pre-  
20      ferred action and that are filed within 20 days after  
21      publication of an environmental analysis. Notwith-  
22      standing any other law, compliance with this para-  
23      graph is deemed to satisfy all requirements for the  
24      analysis and consideration of the environmental ef-  
25      fects of proposed leasing under this title.

1 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
2 ITY.—Nothing in this title shall be considered to expand  
3 or limit State and local regulatory authority.

4 (e) SPECIAL AREAS.—

5 (1) IN GENERAL.—The Secretary, after con-  
6 sultation with the State of Alaska, the city of  
7 Kaktovik, and the North Slope Borough, may des-  
8 ignate up to a total of 45,000 acres of the Coastal  
9 Plain as a Special Area if the Secretary determines  
10 that the Special Area is of such unique character  
11 and interest so as to require special management  
12 and regulatory protection. The Secretary shall des-  
13 ignate as such a Special Area the Sadlerochit Spring  
14 area, comprising approximately 4,000 acres.

15 (2) MANAGEMENT.—Each such Special Area  
16 shall be managed so as to protect and preserve the  
17 area's unique and diverse character including its  
18 fish, wildlife, and subsistence resource values.

19 (3) EXCLUSION FROM LEASING OR SURFACE  
20 OCCUPANCY.—The Secretary may exclude any Spe-  
21 cial Area from leasing. If the Secretary leases a Spe-  
22 cial Area, or any part thereof, for purposes of oil  
23 and gas exploration, development, production, and  
24 related activities, there shall be no surface occu-  
25 pancy of the lands comprising the Special Area.

1           (4) DIRECTIONAL DRILLING.—Notwithstanding  
2           the other provisions of this subsection, the Secretary  
3           may lease all or a portion of a Special Area under  
4           terms that permit the use of horizontal drilling tech-  
5           nology from sites on leases located outside the Spe-  
6           cial Area.

7           (f) LIMITATION ON CLOSED AREAS.—The Sec-  
8           retary's sole authority to close lands within the Coastal  
9           Plain to oil and gas leasing and to exploration, develop-  
10          ment, and production is that set forth in this title.

11          (g) REGULATIONS.—

12           (1) IN GENERAL.—The Secretary shall pre-  
13           scribe such regulations as may be necessary to carry  
14           out this title, including rules and regulations relating  
15           to protection of the fish and wildlife, their habitat,  
16           subsistence resources, and environment of the Coast-  
17           al Plain, by no later than 15 months after the date  
18           of enactment of this Act.

19           (2) REVISION OF REGULATIONS.—The Sec-  
20           retary shall periodically review and, if appropriate,  
21           revise the rules and regulations issued under sub-  
22           section (a) to reflect any significant biological, envi-  
23           ronmental, or engineering data that come to the Sec-  
24           retary's attention.

1 **SEC. 404. LEASE SALES.**

2 (a) IN GENERAL.—Lands may be leased pursuant to  
3 this title to any person qualified to obtain a lease for de-  
4 posits of oil and gas under the Mineral Leasing Act (30  
5 U.S.C. 181 et seq.).

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

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

12 (2) the holding of lease sales after such nomina-  
13 tion process; and

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

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

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

25 (e) TIMING OF LEASE SALES.—The Secretary  
26 shall—

1           (1) conduct the first lease sale under this title  
2       within 22 months after the date of the enactment of  
3       this Act;

4           (2) evaluate the bids in such sale and issue  
5       leases resulting from such sale, within 90 days after  
6       the date of the completion of such sale; and

7           (3) conduct additional sales so long as sufficient  
8       interest in development exists to warrant, in the Sec-  
9       retary's judgment, the conduct of such sales.

10 **SEC. 405. GRANT OF LEASES BY THE SECRETARY.**

11       (a) IN GENERAL.—The Secretary may grant to the  
12       highest responsible qualified bidder in a lease sale con-  
13       ducted pursuant to section 404 any lands to be leased on  
14       the Coastal Plain upon payment by the lessee of such  
15       bonus as may be accepted by the Secretary.

16       (b) SUBSEQUENT TRANSFERS.—No lease issued  
17       under this title may be sold, exchanged, assigned, sublet,  
18       or otherwise transferred except with the approval of the  
19       Secretary. Prior to any such approval the Secretary shall  
20       consult with, and give due consideration to the views of,  
21       the Attorney General.

22 **SEC. 406. LEASE TERMS AND CONDITIONS.**

23       (a) IN GENERAL.—An oil or gas lease issued pursu-  
24       ant to this title shall—

1           (1) provide for the payment of a royalty of not  
2           less than 12½ percent in amount or value of the  
3           production removed or sold from the lease, as deter-  
4           mined by the Secretary under the regulations appli-  
5           cable to other Federal oil and gas leases;

6           (2) provide that the Secretary may close, on a  
7           seasonal basis, portions of the Coastal Plain to ex-  
8           ploratory drilling activities as necessary to protect  
9           caribou calving areas and other species of fish and  
10          wildlife;

11          (3) require that the lessee of lands within the  
12          Coastal Plain shall be fully responsible and liable for  
13          the reclamation of lands within the Coastal Plain  
14          and any other Federal lands that are adversely af-  
15          fected in connection with exploration, development,  
16          production, or transportation activities conducted  
17          under the lease and within the Coastal Plain by the  
18          lessee or by any of the subcontractors or agents of  
19          the lessee;

20          (4) provide that the lessee may not delegate or  
21          convey, by contract or otherwise, the reclamation re-  
22          sponsibility and liability to another person without  
23          the express written approval of the Secretary;

24          (5) provide that the standard of reclamation for  
25          lands required to be reclaimed under this title shall

1 be, as nearly as practicable, a condition capable of  
2 supporting the uses which the lands were capable of  
3 supporting prior to any exploration, development, or  
4 production activities, or upon application by the les-  
5 see, to a higher or better use as approved by the  
6 Secretary;

7 (6) contain terms and conditions relating to  
8 protection of fish and wildlife, their habitat, subsist-  
9 ence resources, and the environment as required  
10 pursuant to section 403(a)(2);

11 (7) provide that the lessee, its agents, and its  
12 contractors use best efforts to provide a fair share,  
13 as determined by the level of obligation previously  
14 agreed to in the 1974 agreement implementing sec-  
15 tion 29 of the Federal Agreement and Grant of  
16 Right of Way for the Operation of the Trans-Alaska  
17 Pipeline, of employment and contracting for Alaska  
18 Natives and Alaska Native Corporations from  
19 throughout the State;

20 (8) prohibit the export of oil produced under  
21 the lease; and

22 (9) contain such other provisions as the Sec-  
23 retary determines necessary to ensure compliance  
24 with the provisions of this title and the regulations  
25 issued under this title.



1       (b) PROJECT LABOR AGREEMENTS.—The Secretary,  
 2 as a term and condition of each lease under this title and  
 3 in recognizing the Government’s proprietary interest in  
 4 labor stability and in the ability of construction labor and  
 5 management to meet the particular needs and conditions  
 6 of projects to be developed under the leases issued pursu-  
 7 ant to this title and the special concerns of the parties  
 8 to such leases, shall require that the lessee and its agents  
 9 and contractors negotiate to obtain a project labor agree-  
 10 ment for the employment of laborers and mechanics on  
 11 production, maintenance, and construction under the  
 12 lease.

13 **SEC. 407. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

14       (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
 15 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—  
 16 The Secretary shall, consistent with the requirements of  
 17 section 403, administer the provisions of this title through  
 18 regulations, lease terms, conditions, restrictions, prohibi-  
 19 tions, stipulations, and other provisions that—

- 20           (1) ensure the oil and gas exploration, develop-  
 21 ment, and production activities on the Coastal Plain  
 22 will result in no significant adverse effect on fish  
 23 and wildlife, their habitat, and the environment;
- 24           (2) require the application of the best commer-  
 25 cially available technology for oil and gas explo-

1       ration, development, and production on all new ex-  
2       ploration, development, and production operations;  
3       and

4               (3) ensure that the maximum amount of sur-  
5       face acreage covered by production and support fa-  
6       cilities, including airstrips and any areas covered by  
7       gravel berms or piers for support of pipelines, does  
8       not exceed 2,000 acres on the Coastal Plain.

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

10   The Secretary shall also require, with respect to any pro-  
11   posed drilling and related activities, that—

12               (1) a site-specific analysis be made of the prob-  
13       able effects, if any, that the drilling or related activi-  
14       ties will have on fish and wildlife, their habitat, sub-  
15       sistence resources, and the environment;

16               (2) a plan be implemented to avoid, minimize,  
17       and mitigate (in that order and to the extent prac-  
18       ticable) any significant adverse effect identified  
19       under paragraph (1); and

20               (3) the development of the plan shall occur  
21       after consultation with the agency or agencies hav-  
22       ing jurisdiction over matters mitigated by the plan.

23       (c) REGULATIONS TO PROTECT COASTAL PLAIN  
24   FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
25   AND THE ENVIRONMENT.—Before implementing the leas-

1 ing program authorized by this title, the Secretary shall  
2 prepare and promulgate regulations, lease terms, condi-  
3 tions, restrictions, prohibitions, stipulations, and other  
4 measures designed to ensure that the activities undertaken  
5 on the Coastal Plain under this title are conducted in a  
6 manner consistent with the purposes and environmental  
7 requirements of this title.

8 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
9 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
10 proposed regulations, lease terms, conditions, restrictions,  
11 prohibitions, and stipulations for the leasing program  
12 under this title shall require compliance with all applicable  
13 provisions of Federal and State environmental law, and  
14 shall also require the following:

15 (1) Standards at least as effective as the safety  
16 and environmental mitigation measures set forth in  
17 items 1 through 29 at pages 167 through 169 of the  
18 “Final Legislative Environmental Impact State-  
19 ment” (April 1987) on the Coastal Plain.

20 (2) Seasonal limitations on exploration, develop-  
21 ment, and related activities, where necessary, to  
22 avoid significant adverse effects during periods of  
23 concentrated fish and wildlife breeding, denning,  
24 nesting, spawning, and migration.

1           (3) That exploration activities, except for sur-  
2       face geological studies, be limited to the period be-  
3       tween approximately November 1 and May 1 each  
4       year and that exploration activities shall be sup-  
5       ported, if necessary, by ice roads, winter trails with  
6       adequate snow cover, ice pads, ice airstrips, and air  
7       transport methods, except that such exploration ac-  
8       tivities may occur at other times if the Secretary  
9       finds that such exploration will have no significant  
10      adverse effect on the fish and wildlife, their habitat,  
11      and the environment of the Coastal Plain.

12           (4) Design safety and construction standards  
13      for all pipelines and any access and service roads,  
14      that—

15                (A) minimize, to the maximum extent pos-  
16              sible, adverse effects upon the passage of mi-  
17              gratory species such as caribou; and

18                (B) minimize adverse effects upon the flow  
19              of surface water by requiring the use of cul-  
20              verts, bridges, and other structural devices.

21           (5) Prohibitions on general public access and  
22      use on all pipeline access and service roads.

23           (6) Stringent reclamation and rehabilitation re-  
24      quirements, consistent with the standards set forth  
25      in this title, requiring the removal from the Coastal

1 Plain of all oil and gas development and production  
2 facilities, structures, and equipment upon completion  
3 of oil and gas production operations, except that the  
4 Secretary may exempt from the requirements of this  
5 paragraph those facilities, structures, or equipment  
6 that the Secretary determines would assist in the  
7 management of the Arctic National Wildlife Refuge  
8 and that are donated to the United States for that  
9 purpose.

10 (7) Appropriate prohibitions or restrictions on  
11 access by all modes of transportation.

12 (8) Appropriate prohibitions or restrictions on  
13 sand and gravel extraction.

14 (9) Consolidation of facility siting.

15 (10) Appropriate prohibitions or restrictions on  
16 use of explosives.

17 (11) Avoidance, to the extent practicable, of  
18 springs, streams, and river system; the protection of  
19 natural surface drainage patterns, wetlands, and ri-  
20 parian habitats; and the regulation of methods or  
21 techniques for developing or transporting adequate  
22 supplies of water for exploratory drilling.

23 (12) Avoidance or minimization of air traffic-re-  
24 lated disturbance to fish and wildlife.

1           (13) Treatment and disposal of hazardous and  
2       toxic wastes, solid wastes, reserve pit fluids, drilling  
3       muds and cuttings, and domestic wastewater, includ-  
4       ing an annual waste management report, a haz-  
5       ardous materials tracking system, and a prohibition  
6       on chlorinated solvents, in accordance with applica-  
7       ble Federal and State environmental law.

8           (14) Fuel storage and oil spill contingency plan-  
9       ning.

10          (15) Research, monitoring, and reporting re-  
11       quirements.

12          (16) Field crew environmental briefings.

13          (17) Avoidance of significant adverse effects  
14       upon subsistence hunting, fishing, and trapping by  
15       subsistence users.

16          (18) Compliance with applicable air and water  
17       quality standards.

18          (19) Appropriate seasonal and safety zone des-  
19       ignations around well sites, within which subsistence  
20       hunting and trapping shall be limited.

21          (20) Reasonable stipulations for protection of  
22       cultural and archeological resources.

23          (21) All other protective environmental stipula-  
24       tions, restrictions, terms, and conditions deemed  
25       necessary by the Secretary.

1 (e) CONSIDERATIONS.—In preparing and promul-  
2 gating regulations, lease terms, conditions, restrictions,  
3 prohibitions, and stipulations under this section, the Sec-  
4 retary shall consider the following:

5 (1) The stipulations and conditions that govern  
6 the National Petroleum Reserve-Alaska leasing pro-  
7 gram, as set forth in the 1999 Northeast National  
8 Petroleum Reserve-Alaska Final Integrated Activity  
9 Plan/Environmental Impact Statement.

10 (2) The environmental protection standards  
11 that governed the initial Coastal Plain seismic explo-  
12 ration program under parts 37.31 to 37.33 of title  
13 50, Code of Federal Regulations.

14 (3) The land use stipulations for exploratory  
15 drilling on the KIC–ASRC private lands that are set  
16 forth in appendix 2 of the August 9, 1983, agree-  
17 ment between Arctic Slope Regional Corporation and  
18 the United States.

19 (f) FACILITY CONSOLIDATION PLANNING.—

20 (1) IN GENERAL.—The Secretary shall, after  
21 providing for public notice and comment, prepare  
22 and update periodically a plan to govern, guide, and  
23 direct the siting and construction of facilities for the  
24 exploration, development, production, and transpor-  
25 tation of Coastal Plain oil and gas resources.

1           (2) OBJECTIVES.—The plan shall have the fol-  
2       lowing objectives:

3           (A) Avoiding unnecessary duplication of fa-  
4       cilities and activities.

5           (B) Encouraging consolidation of common  
6       facilities and activities.

7           (C) Locating or confining facilities and ac-  
8       tivities to areas that will minimize impact on  
9       fish and wildlife, their habitat, and the environ-  
10      ment.

11          (D) Utilizing existing facilities wherever  
12      practicable.

13          (E) Enhancing compatibility between wild-  
14      life values and development activities.

15      (g) ACCESS TO PUBLIC LANDS.—The Secretary  
16      shall—

17          (1) manage public lands in the Coastal Plain  
18      subject to subsections (a) and (b) of section 811 of  
19      the Alaska National Interest Lands Conservation  
20      Act (16 U.S.C. 3121); and

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

24      **SEC. 408. EXPEDITED JUDICIAL REVIEW.**

25      (a) FILING OF COMPLAINT.—



1           (1) DEADLINE.—Subject to paragraph (2), any  
2           complaint seeking judicial review of any provision of  
3           this title or any action of the Secretary under this  
4           title shall be filed—

5                   (A) except as provided in subparagraph  
6                   (B), within the 90-day period beginning on the  
7                   date of the action being challenged; or

8                   (B) in the case of a complaint based solely  
9                   on grounds arising after such period, within 90  
10                  days after the complainant knew or reasonably  
11                  should have known of the grounds for the com-  
12                  plaint.

13           (2) VENUE.—Any complaint seeking judicial re-  
14           view of any provision of this title or any action of  
15           the Secretary under this title may be filed only in  
16           the United States Court of Appeals for the District  
17           of Columbia.

18           (3) LIMITATION ON SCOPE OF CERTAIN RE-  
19           VIEW.—Judicial review of a Secretarial decision to  
20           conduct a lease sale under this title, including the  
21           environmental analysis thereof, shall be limited to  
22           whether the Secretary has complied with the terms  
23           of this title and shall be based upon the administra-  
24           tive record of that decision. The Secretary's identi-  
25           fication of a preferred course of action to enable

1 leasing to proceed and the Secretary's analysis of  
 2 environmental effects under this title shall be pre-  
 3 sumed to be correct unless shown otherwise by clear  
 4 and convincing evidence to the contrary.

5 (b) LIMITATION ON OTHER REVIEW.—Actions of the  
 6 Secretary with respect to which review could have been  
 7 obtained under this section shall not be subject to judicial  
 8 review in any civil or criminal proceeding for enforcement.

9 **SEC. 409. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
 10 **NUES.**

11 (a) IN GENERAL.—Notwithstanding any other provi-  
 12 sion of law, of the amount of adjusted bonus, rental, and  
 13 royalty revenues from Federal oil and gas leasing and op-  
 14 erations authorized under this title—

15 (1) 50 percent shall be paid to the State of  
 16 Alaska; and

17 (2) except as provided in section 412(d), the  
 18 balance shall be transferred to the ANWR Alter-  
 19 native Energy Trust Fund established by this title.

20 (b) PAYMENTS TO ALASKA.—Payments to the State  
 21 of Alaska under this section shall be made semiannually.

22 **SEC. 410. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

1           (1) except as provided in paragraph (2), under  
2           section 28 of the Mineral Leasing Act (30 U.S.C.  
3           185), without regard to title XI of the Alaska Na-  
4           tional Interest Lands Conservation Act (30 U.S.C.  
5           3161 et seq.); and

6           (2) under title XI of the Alaska National Inter-  
7           est Lands Conservation Act (30 U.S.C. 3161 et  
8           seq.), for access authorized by sections 1110 and  
9           1111 of that Act (16 U.S.C. 3170 and 3171).

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

19          (c) REGULATIONS.—The Secretary shall include in  
20       regulations under section 403(g) provisions granting  
21       rights-of-way and easements described in subsection (a)  
22       of this section.

23       **SEC. 411. CONVEYANCE.**

24           In order to maximize Federal revenues by removing  
25       clouds on title to lands and clarifying land ownership pat-

1 terns within the Coastal Plain, the Secretary, notwith-  
 2 standing the provisions of section 1302(h)(2) of the Alas-  
 3 ka National Interest Lands Conservation Act (16 U.S.C.  
 4 3192(h)(2)), shall convey—

5           (1) to the Kaktovik Inupiat Corporation the  
 6 surface estate of the lands described in paragraph 1  
 7 of Public Land Order 6959, to the extent necessary  
 8 to fulfill the Corporation’s entitlement under sec-  
 9 tions 12 and 14 of the Alaska Native Claims Settle-  
 10 ment Act (43 U.S.C. 1611 and 1613) in accordance  
 11 with the terms and conditions of the Agreement be-  
 12 tween the Department of the Interior, the United  
 13 States Fish and Wildlife Service, the Bureau of  
 14 Land Management, and the Kaktovik Inupiat Cor-  
 15 poration effective January 22, 1993; and

16           (2) to the Arctic Slope Regional Corporation  
 17 the remaining subsurface estate to which it is enti-  
 18 tled pursuant to the August 9, 1983, agreement be-  
 19 tween the Arctic Slope Regional Corporation and the  
 20 United States of America.

21 **SEC. 412. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
 22 **NITY SERVICE ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

24           (1) IN GENERAL.—The Secretary may use  
 25 amounts available from the Coastal Plain Local Gov-

ernment Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this title, as determined by the Secretary, shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and

1 problems associated with such effects, including fire-  
2 fighting, police, water, waste treatment, medivac,  
3 and medical services; and

4 (4) establishment of a coordination office, by  
5 the North Slope Borough, in the City of Kaktovik,  
6 which shall—

7 (A) coordinate with and advise developers  
8 on local conditions, impact, and history of the  
9 areas utilized for development; and

10 (B) provide to the Committee on Resources  
11 of the House of Representatives and the Com-  
12 mittee on Energy and Natural Resources of the  
13 Senate an annual report on the status of co-  
14 ordination between developers and the commu-  
15 nities affected by development.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—Any community that is eligi-  
18 ble for assistance under this section may submit an  
19 application for such assistance to the Secretary, in  
20 such form and under such procedures as the Sec-  
21 retary may prescribe by regulation.

22 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
23 community located in the North Slope Borough may  
24 apply for assistance under this section either directly

1 to the Secretary or through the North Slope Bor-  
2 ough.

3 (3) APPLICATION ASSISTANCE.—The Secretary  
4 shall work closely with and assist the North Slope  
5 Borough and other communities eligible for assist-  
6 ance under this section in developing and submitting  
7 applications for assistance under this section.

8 (d) ESTABLISHMENT OF FUND.—

9 (1) IN GENERAL.—There is established in the  
10 Treasury the Coastal Plain Local Government Im-  
11 pact Aid Assistance Fund.

12 (2) USE.—Amounts in the fund may be used  
13 only for providing financial assistance under this  
14 section.

15 (3) DEPOSITS.—Subject to paragraph (4), there  
16 shall be deposited into the fund amounts received by  
17 the United States as revenues derived from rents,  
18 bonuses, and royalties from Federal leases and lease  
19 sales authorized under this title.

20 (4) LIMITATION ON DEPOSITS.—The total  
21 amount in the fund may not exceed \$11,000,000.

22 (5) INVESTMENT OF BALANCES.—The Sec-  
23 retary of the Treasury shall invest amounts in the  
24 fund in interest bearing government securities.

1       (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
 2 vide financial assistance under this section there is author-  
 3 ized to be appropriated to the Secretary from the Coastal  
 4 Plain Local Government Impact Aid Assistance Fund  
 5 \$5,000,000 for each fiscal year.

6 **SEC. 413. ANWR ALTERNATIVE ENERGY TRUST FUND.**

7       (a) ESTABLISHMENT OF TRUST FUND.—There is es-  
 8 tablished in the Treasury of the United States a trust fund  
 9 to be known as the “ANWR Alternative Energy Trust  
 10 Fund”, consisting of such amounts as may be transferred  
 11 to the ANWR Alternative Energy Trust Fund as provided  
 12 in section 409.

13       (b) EXPENDITURES FROM ANWR ALTERNATIVE  
 14 ENERGY TRUST FUND.—

15           (1) IN GENERAL.—Amounts in the ANWR Al-  
 16 ternative Energy Trust Fund shall be available with-  
 17 out further appropriation to carry out specified pro-  
 18 visions of the Energy Policy Act of 2005 (Public  
 19 Law 109–58; in this section referred to as  
 20 “EPAAct2005”) and the Energy Independence and  
 21 Security Act of 2007 (Public Law 110–140; in this  
 22 section referred to as “EISAct2007”), as follows:



To carry out the provisions of:	The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:
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 .....	15.0 percent
Section 1112 .....	1.5 percent
Section 1304 .....	6.0 percent.

1           (2) APPORTIONMENT OF EXCESS AMOUNT.—

2           Notwithstanding paragraph (1), any amounts allo-

3           cated under paragraph (1) that are in excess of the

4           amounts authorized in the applicable cited section or

5           subtitle of EPAAct2005 and EISAct2007 shall be re-

6           allocated to the remaining sections and subtitles

7           cited in paragraph (1), up to the amounts otherwise

8           authorized by law to carry out such sections and

9           subtitles, in proportion to the amounts authorized by

10          law to be appropriated for such other sections and

11          subtitles.

# **TITLE V—NORTHERN ROUTE APPROVAL ACT**

## **3 SEC. 501. SHORT TITLE.**

4       This Act may be cited as the “Northern Route Ap-  
5   proval Act”.

## **6 SEC. 502. FINDINGS.**

7       The Congress finds the following:

8           (1) To maintain our Nation’s competitive edge  
9       and ensure an economy built to last, the United  
10      States must have fast, reliable, resilient, and envi-  
11      ronmentally sound means of moving energy. In a  
12      global economy, we will compete for the world’s in-  
13      vestments based in significant part on the quality of  
14      our infrastructure. Investing in the Nation’s infra-  
15      structure provides immediate and long-term eco-  
16      nomic benefits for local communities and the Nation  
17      as a whole.

18          (2) The delivery of oil from Canada, a close ally  
19      not only in proximity but in shared values and  
20      ideals, to domestic markets is in the national inter-  
21      est because of the need to lessen dependence upon  
22      insecure foreign sources.

23          (3) The Keystone XL pipeline would provide  
24      both short-term and long-term employment opportu-

1 nities and related labor income benefits, such as gov-  
2 ernment revenues associated with taxes.

3 (4) The State of Nebraska has thoroughly re-  
4 viewed and approved the proposed Keystone XL  
5 pipeline reroute, concluding that the concerns of Ne-  
6 braskans have had a major influence on the pipeline  
7 reroute and that the reroute will have minimal envi-  
8 ronmental impacts.

9 (5) The Department of State and other Federal  
10 agencies have over a long period of time conducted  
11 extensive studies and analysis of the technical as-  
12 pects and of the environmental, social, and economic  
13 impacts of the proposed Keystone XL pipeline,  
14 and—

15 (A) the Department of State assessments  
16 found that the Keystone XL pipeline “is not  
17 likely to impact the amount of crude oil pro-  
18 duced from the oil sands” and that “approval  
19 or denial of the proposed project is unlikely to  
20 have a substantial impact on the rate of devel-  
21 opment in the oil sands”;

22 (B) the Department of State found that  
23 incremental life-cycle greenhouse gas emissions  
24 associated with the Keystone XL project are es-  
25 timated in the range of 0.07 to 0.83 million

metric tons of carbon dioxide equivalents, with the upper end of this range representing twelve one-thousandths of one percent of the 6,702 million metric tons of carbon dioxide emitted in the United States in 2011; and

(C) after extensive evaluation of potential impacts to land and water resources along the Keystone XL pipeline’s 875-mile proposed route, the Department of State found that “The analyses of potential impacts associated with construction and normal operation of the proposed Project suggest that there would be no significant impacts to most resources along the proposed Project route (assuming Keystone complies with all laws and required conditions and measures).”.

(6) The transportation of oil via pipeline is the safest and most economically and environmentally effective means of doing so, and—

(A) transportation of oil via pipeline has a record of unmatched safety and environmental protection, and the Department of State found that “Spills associated with the proposed Project that enter the environment expected to be rare and relatively small”, and that “there

1 is no evidence of increased corrosion or other  
2 pipeline threat due to viscosity” of diluted bitu-  
3 men oil that will be transported by the Key-  
4 stone XL pipeline; and

5 (B) plans to incorporate 57 project-specific  
6 special conditions related to the design, con-  
7 struction, and operations of the Keystone XL  
8 pipeline led the Department of State to find  
9 that the pipeline will have “a degree of safety  
10 over any other typically constructed domestic oil  
11 pipeline”.

12 (7) The Keystone XL is in much the same posi-  
13 tion today as the Alaska Pipeline in 1973 prior to  
14 congressional action. Once again, the Federal regu-  
15 latory process remains an insurmountable obstacle  
16 to a project that is likely to reduce oil imports from  
17 insecure foreign sources.

18 **SEC. 503. KEYSTONE XL PERMIT APPROVAL.**

19 Notwithstanding Executive Order No. 13337 (3  
20 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.  
21 301 note), section 301 of title 3, United States Code, and  
22 any other Executive order or provision of law, no Presi-  
23 dential permit shall be required for the pipeline described  
24 in the application filed on May 4, 2012, by TransCanada  
25 Keystone Pipeline, L.P. to the Department of State for

1 the Keystone XL pipeline, as supplemented to include the  
2 Nebraska reroute evaluated in the Final Evaluation Re-  
3 port issued by the Nebraska Department of Environ-  
4 mental Quality in January 2013 and approved by the Ne-  
5 braska governor. The final environmental impact state-  
6 ment issued by the Secretary of State on August 26, 2011,  
7 coupled with the Final Evaluation Report described in the  
8 previous sentence, shall be considered to satisfy all re-  
9 quirements of the National Environmental Policy Act of  
10 1969 (42 U.S.C. 4321 et seq.) and of the National His-  
11 toric Preservation Act (16 U.S.C. 470 et seq.).

12 **SEC. 504. JUDICIAL REVIEW.**

13 (a) **EXCLUSIVE JURISDICTION.**—Except for review by  
14 the Supreme Court on writ of certiorari, the United States  
15 Court of Appeals for the District of Columbia Circuit shall  
16 have original and exclusive jurisdiction to determine—

17 (1) the validity of any final order or action (in-  
18 cluding a failure to act) of any Federal agency or of-  
19 ficer with respect to issuance of a permit relating to  
20 the construction or maintenance of the Keystone XL  
21 pipeline, including any final order or action deemed  
22 to be taken, made, granted, or issued;

23 (2) the constitutionality of any provision of this  
24 Act, or any decision or action taken, made, granted,

1 or issued, or deemed to be taken, made, granted, or  
2 issued under this Act; or

3 (3) the adequacy of any environmental impact  
4 statement prepared under the National Environ-  
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),  
6 or of any analysis under any other Act, with respect  
7 to any action taken, made, granted, or issued, or  
8 deemed to be taken, made, granted, or issued under  
9 this Act.

10 (b) DEADLINE FOR FILING CLAIM.—A claim arising  
11 under this Act may be brought not later than 60 days  
12 after the date of the decision or action giving rise to the  
13 claim.

14 (c) EXPEDITED CONSIDERATION.—The United  
15 States Court of Appeals for the District of Columbia Cir-  
16 cuit shall set any action brought under subsection (a) for  
17 expedited consideration, taking into account the national  
18 interest of enhancing national energy security by providing  
19 access to the significant oil reserves in Canada that are  
20 needed to meet the demand for oil.

21 **SEC. 505. AMERICAN BURYING BEETLE.**

22 (a) FINDINGS.—The Congress finds that—

23 (1) environmental reviews performed for the  
24 Keystone XL pipeline project satisfy the require-

1       ments of section 7 of the Endangered Species Act of  
2       1973 (16 U.S.C. 1536(a)(2)) in its entirety; and  
3       (2) for purposes of that Act, the Keystone XL  
4       pipeline project will not jeopardize the continued ex-  
5       istence of the American burying beetle or destroy or  
6       adversely modify American burying beetle critical  
7       habitat.

8       (b) BIOLOGICAL OPINION.—The Secretary of the In-  
9       terior is deemed to have issued a written statement setting  
10      forth the Secretary’s opinion containing such findings  
11      under section 7(b)(1)(A) of the Endangered Species Act  
12      of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the  
13      American burying beetle that is incidental to the construc-  
14      tion or operation and maintenance of the Keystone XL  
15      pipeline as it may be ultimately defined in its entirety,  
16      shall not be considered a prohibited taking of such species  
17      under such Act.

18   **SEC. 506. RIGHT-OF-WAY AND TEMPORARY USE PERMIT.**

19       The Secretary of the Interior is deemed to have  
20      granted or issued a grant of right-of-way and temporary  
21      use permit under section 28 of the Mineral Leasing Act  
22      (30 U.S.C. 185) and the Federal Land Policy and Man-  
23      agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth  
24      in the application tendered to the Bureau of Land Man-  
25      agement for the Keystone XL pipeline.



1 **SEC. 507. PERMITS FOR ACTIVITIES IN NAVIGABLE**  
2 **WATERS.**

3 (a) **ISSUANCE OF PERMITS.**—The Secretary of the  
4 Army, not later than 90 days after receipt of an applica-  
5 tion therefor, shall issue all permits under section 404 of  
6 the Federal Water Pollution Control Act (33 U.S.C. 1344)  
7 and section 10 of the Act of March 3, 1899 (33 U.S.C.  
8 403; commonly known as the Rivers and Harbors Approp-  
9 riations Act of 1899), necessary for the construction, op-  
10 eration, and maintenance of the pipeline described in the  
11 May 4, 2012, application referred to in section 3, as sup-  
12 plemented by the Nebraska reroute. The application shall  
13 be based on the administrative record for the pipeline as  
14 of the date of enactment of this Act, which shall be consid-  
15 ered complete.

16 (b) **WAIVER OF PROCEDURAL REQUIREMENTS.**—The  
17 Secretary may waive any procedural requirement of law  
18 or regulation that the Secretary considers desirable to  
19 waive in order to accomplish the purposes of this section.

20 (c) **ISSUANCE IN ABSENCE OF ACTION BY THE SEC-**  
21 **RETARY.**—If the Secretary has not issued a permit de-  
22 scribed in subsection (a) on or before the last day of the  
23 90-day period referred to in subsection (a), the permit  
24 shall be deemed issued under section 404 of the Federal  
25 Water Pollution Control Act (33 U.S.C. 1344) or section

1 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-  
2 priate, on the day following such last day.

3 (d) LIMITATION.—The Administrator of the Environ-  
4 mental Protection Agency may not prohibit or restrict an  
5 activity or use of an area that is authorized under this  
6 section.

7 **SEC. 508. MIGRATORY BIRD TREATY ACT PERMIT.**

8 The Secretary of the Interior is deemed to have  
9 issued a special purpose permit under the Migratory Bird  
10 Treaty Act (16 U.S.C. 703 et seq.), as described in the  
11 application filed with the United States Fish and Wildlife  
12 Service for the Keystone XL pipeline on January 11,  
13 2013.

14 **SEC. 509. OIL SPILL RESPONSE PLAN DISCLOSURE.**

15 (a) IN GENERAL.—Any pipeline owner or operator  
16 required under Federal law to develop an oil spill response  
17 plan for the Keystone XL pipeline shall make such plan  
18 available to the Governor of each State in which such pipe-  
19 line operates to assist with emergency response prepared-  
20 ness.

21 (b) UPDATES.—A pipeline owner or operator required  
22 to make available to a Governor a plan under subsection  
23 (a) shall make available to such Governor any update of  
24 such plan not later than 7 days after the date on which  
25 such update is made.

1 **TITLE VI—REPEAL OF EM-**  
2 **PLOYER HEALTH INSURANCE**  
3 **MANDATE**

4 **SEC. 601. REPEAL OF EMPLOYER HEALTH INSURANCE MAN-**  
5 **DATE.**

6 (a) IN GENERAL.—Chapter 43 of the Internal Rev-  
7 enue Code of 1986 is amended by striking section 4980H.

8 (b) REPEAL OF RELATED REPORTING REQUIRE-  
9 MENTS.—Subpart D of part III of subchapter A of chap-  
10 ter 61 of such Code is amended by striking section 6056.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subparagraph (B) of section 6724(d)(1) of  
13 such Code is amended by inserting “or” at the end  
14 of clause (xxiii), by striking “and” at the end of  
15 clause (xxiv) and inserting “or”, and by striking  
16 clause (xxv).

17 (2) Paragraph (2) of section 6724(d) of such  
18 Code is amended by inserting “or” at the end of  
19 subparagraph (FF), by striking “, or” at the end of  
20 subparagraph (GG) and inserting a period, and by  
21 striking subparagraph (HH).

22 (3) The table of sections for chapter 43 of such  
23 Code is amended by striking the item relating to sec-  
24 tion 4980H.

1           (4) The table of sections for subpart D of part  
 2           III of subchapter A of chapter 61 of such Code is  
 3           amended by striking the item relating to section  
 4           6056.

5           (5) Section 1513 of the Patient Protection and  
 6           Affordable Care Act is amended by striking sub-  
 7           section (c).

8           (d) EFFECTIVE DATES.—

9           (1) IN GENERAL.—Except as otherwise pro-  
 10          vided in this subsection, the amendments made by  
 11          this section shall apply to months and other periods  
 12          beginning after December 31, 2013.

13          (2) REPEAL OF STUDY AND REPORT.—The  
 14          amendment made by subsection (c)(5) shall take ef-  
 15          fect on the date of the enactment of this Act.

## 16           **TITLE VII—SECRET BALLOT** 17           **PROTECTION ACT**

### 18           **SEC. 701. SHORT TITLE.**

19           This title may be cited as the “Secret Ballot Protec-  
 20          tion Act”.

### 21           **SEC. 702. FINDINGS.**

22           Congress finds that—

23           (1) the importance of a secret ballot election  
 24           has been recognized by the United States for over  
 25           100 years;

1           (2) the fundamental democratic right to choose  
2       by secret ballot is the only method that ensures a  
3       choice free of coercion, intimidation, irregularity, or  
4       illegality;

5           (3) the recognition of a labor organization by  
6       way of a private agreement, rather than a secret bal-  
7       lot election supervised by a neutral third party,  
8       threatens an employee's right, codified in the Na-  
9       tional Labor Relations Act, to choose whether or not  
10      to be represented by a labor organization; and

11          (4) preserving workers' right to choose whether  
12      or not to be represented by a labor organization  
13      through a secret ballot election is important to the  
14      strength of the national economy.

15 **SEC. 703. NATIONAL LABOR RELATIONS ACT.**

16      (a) RECOGNITION OF REPRESENTATIVE.—

17          (1) IN GENERAL.—Section 8(a)(2) of the Na-  
18      tional Labor Relations Act (29 U.S.C. 158(a)(2)) is  
19      amended by inserting before the colon the following:  
20      “or to recognize or bargain collectively with a labor  
21      organization that has not been selected by a major-  
22      ity of employees in a unit appropriate for such pur-  
23      poses in a secret ballot election conducted by the  
24      National Labor Relations Board in accordance with  
25      section 9”.

1           (2) APPLICATION.—The amendment made by  
2       paragraph (1) shall not apply to collective bar-  
3       gaining relationships that were recognized before the  
4       date of enactment of this Act.

5       (b) ELECTION REQUIRED.—

6           (1) IN GENERAL.—Section 8(b) of the National  
7       Labor Relations Act (29 U.S.C. 158(b)), as amend-  
8       ed by subsection (c) of this section, is amended—

9           (A) by striking “and” at the end of para-  
10       graph (6);

11          (B) by striking the period at the end of  
12       paragraph (7) and inserting “; and”; and

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

14       “(8) to cause or attempt to cause an employer  
15       to recognize or bargain collectively with a represent-  
16       ative of a labor organization that has not been se-  
17       lected by a majority of employees in a unit appro-  
18       priate for such purposes in a secret ballot election  
19       conducted by the National Labor Relations Board in  
20       accordance with section 9.”.

21       (2) APPLICATION.—The amendment made by  
22       paragraph (1) shall not apply to collective bar-  
23       gaining relationships that were recognized before the  
24       date of enactment of this Act.

1       (c) SECRET BALLOT ELECTION REQUIRED.—Section  
2 9(a) of the National Labor Relations Act (29 U.S.C.  
3 159(a)), is amended—

4           (1) by inserting “(1)” after “(a)”;

5           (2) by inserting after “designated or selected”  
6 the following: “by a secret ballot election conducted  
7 by the National Labor Relations Board in accord-  
8 ance with this section”; and

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

10          “(2) The secret ballot election requirement of  
11 paragraph (1) shall not apply to collective bar-  
12 gaining relationships that were recognized before the  
13 date of enactment of the Secret Ballot Protection  
14 Act.”.

15       (d) CONFORMING AMENDMENTS.—Section 9(c)(1) of  
16 such Act (29 U.S.C. 159(c)(1)) is amended—

17           (1) in subparagraph (A)—

18               (A) in clause (i), by striking “and that  
19 their employer declines to recognize their rep-  
20 resentative as the representative defined in sec-  
21 tion 9(a)” and inserting “by a representative”;  
22 and

23               (B) in clause (ii), by striking “section  
24 9(a);” and inserting “subsection (a),”; and

1 (2) in subparagraph (B), by striking “alleging”  
 2 and all that follows through “defined in section  
 3 9(a)”.

4 **SEC. 704. REGULATIONS.**

5 Not later than 6 months after the date of the enact-  
 6 ment of this Act the National Labor Relations Board shall  
 7 review and revise all regulations promulgated before such  
 8 date to implement the amendments made in this title to  
 9 the National Labor Relations Act.

10 **TITLE VIII—FEDERAL RULES OF**  
 11 **CIVIL PROCEDURE IMPROVE-**  
 12 **MENTS**

13 **SEC. 801. ATTORNEY ACCOUNTABILITY.**

14 Rule 11(c) of the Federal Rules of Civil Procedure  
 15 is amended—

16 (1) by amending the first sentence to read as  
 17 follows: “If a pleading, motion, or other paper is  
 18 signed in violation of this rule, the court, upon mo-  
 19 tion or upon its own initiative, shall impose upon the  
 20 attorney, law firm, or parties that have violated this  
 21 subdivision or are responsible for the violation, an  
 22 appropriate sanction, which may include an order to  
 23 pay the other party or parties for the reasonable ex-  
 24 penses incurred as a direct result of the filing of the  
 25 pleading, motion, or other paper, that is the subject



1 of the violation, including a reasonable attorney's  
2 fee.”;

3 (2) in paragraph (1)(A)—

4 (A) by striking “Rule 5” and all that fol-  
5 lows through “corrected.” and inserting “Rule  
6 5.”; and

7 (B) by striking “the court may award”  
8 and inserting “the court shall award”; and

9 (3) in paragraph (2), by striking “shall be lim-  
10 ited to what is sufficient” and all that follows  
11 through the end of the paragraph (including sub-  
12 paragraphs (A) and (B)) and inserting “shall be suf-  
13 ficient to deter repetition of such conduct or com-  
14 parable conduct by others similarly situated, and to  
15 compensate the parties that were injured by such  
16 conduct. The sanction may consist of an order to  
17 pay to the party or parties the amount of the rea-  
18 sonable expenses incurred as a direct result of the  
19 filing of the pleading, motion, or other paper that is  
20 the subject of the violation, including a reasonable  
21 attorney's fee.”.

22 **SEC. 802. APPLICABILITY OF RULE 11 TO STATE CASES AF-**  
23 **FECTING INTERSTATE COMMERCE.**

24 In any civil action in State court, the court, upon mo-  
25 tion, shall determine within 30 days after the filing of such

1 motion whether the action substantially affects interstate  
 2 commerce. Such court shall make such determination  
 3 based on an assessment of the costs to the interstate econ-  
 4 omy, including the loss of jobs, were the relief requested  
 5 granted. If the court determines such action substantially  
 6 affects interstate commerce, the provisions of Rule 11 of  
 7 the Federal Rules of Civil Procedure shall apply to such  
 8 action.

9 **SEC. 803. PREVENTION OF FORUM-SHOPPING.**

10 (a) IN GENERAL.—Subject to subsection (b), a per-  
 11 sonal injury claim filed in State or Federal court may be  
 12 filed only in the State and, within that State, in the county  
 13 (or if there is no State court in the county, the nearest  
 14 county where a court of general jurisdiction is located),  
 15 or Federal district in which—

16 (1) the person bringing the claim, including an  
 17 estate in the case of a decedent and a parent or  
 18 guardian in the case of a minor or incompetent—

19 (A) resides at the time of filing; or

20 (B) resided at the time of the alleged in-  
 21 jury;

22 (2) the alleged injury or circumstances giving  
 23 rise to the personal injury claim allegedly occurred;

24 (3) the defendant's principal place of business  
 25 is located, if the defendant is a corporation; or

1           (4) the defendant resides, if the defendant is an  
2       individual.

3       (b) DETERMINATION OF MOST APPROPRIATE  
4 FORUM.—If a person alleges that the injury or cir-  
5 cumstances giving rise to the personal injury claim oc-  
6 curred in more than one county (or Federal district), the  
7 trial court shall determine which State and county (or  
8 Federal district) is the most appropriate forum for the  
9 claim. If the court determines that another forum would  
10 be the most appropriate forum for a claim, the court shall  
11 dismiss the claim. Any otherwise applicable statute of limi-  
12 tations shall be tolled beginning on the date the claim was  
13 filed and ending on the date the claim is dismissed under  
14 this subsection.

15       (c) DEFINITIONS.—In this section:

16           (1) The term “personal injury claim”—

17               (A) means a civil action brought under  
18 State law by any person to recover for a per-  
19 son’s personal injury, illness, disease, death,  
20 mental or emotional injury, risk of disease, or  
21 other injury, or the costs of medical monitoring  
22 or surveillance (to the extent such claims are  
23 recognized under State law), including any de-  
24 rivative action brought on behalf of any person  
25 on whose injury or risk of injury the action is

1 based by any representative party, including a  
2 spouse, parent, child, or other relative of such  
3 person, a guardian, or an estate;

4 (B) does not include a claim brought as a  
5 class action; and

6 (C) does not include a claim against a  
7 debtor in a case pending under title 11 of the  
8 United States Code that is a personal injury  
9 tort or wrongful death claim within the mean-  
10 ing of section 157(b)(5) of title 28, United  
11 States Code.

12 (2) The term “person” means any individual,  
13 corporation, company, association, firm, partnership,  
14 society, joint stock company, or any other entity, but  
15 not any governmental entity.

16 (3) The term “State” includes the District of  
17 Columbia, the Commonwealth of Puerto Rico, the  
18 United States Virgin Islands, Guam, and any other  
19 territory or possession of the United States.

20 (d) APPLICABILITY.—This section applies to any per-  
21 sonal injury claim filed in Federal or State court on or  
22 after the date of the enactment of this Act.

23 **SEC. 804. RULE OF CONSTRUCTION.**

24 Nothing in section 402 or in the amendments made  
25 by section 401 shall be construed to bar or impede the

1 assertion or development of new claims or remedies under  
2 Federal, State, or local civil rights law.

3 **SEC. 805. THREE-STRIKES RULE FOR SUSPENDING ATTOR-**  
4 **NEYS WHO COMMIT MULTIPLE RULE 11 VIO-**  
5 **LATIONS.**

6 (a) MANDATORY SUSPENSION.—Whenever a Federal  
7 district court determines that an attorney has violated  
8 Rule 11 of the Federal Rules of Civil Procedure, the court  
9 shall determine the number of times that the attorney has  
10 violated that rule in that Federal district court during that  
11 attorney’s career. If the court determines that the number  
12 is three or more, the Federal district court—

13 (1) shall suspend that attorney from the prac-  
14 tice of law in that Federal district court for one  
15 year; and

16 (2) may suspend that attorney from the prac-  
17 tice of law in that Federal district court for any ad-  
18 ditional period that the court considers appropriate.

19 (b) APPEAL; STAY.—An attorney has the right to ap-  
20 peal a suspension under subsection (a). While such an ap-  
21 peal is pending, the suspension shall be stayed.

22 (c) REINSTATEMENT.—To be reinstated to the prac-  
23 tice of law in a Federal district court after completion of  
24 a suspension under subsection (a), the attorney involved

1 must first petition the court for reinstatement under such  
 2 procedures and conditions as the court may prescribe.

3 **SEC. 806. PRESUMPTION OF RULE 11 VIOLATION FOR RE-**  
 4 **PEATEDLY RELITIGATING SAME ISSUE.**

5 Whenever a party presents to a Federal court a  
 6 pleading, written motion, or other paper, that includes a  
 7 claim or defense that the party has already litigated and  
 8 lost on the merits in any forum in final decisions not sub-  
 9 ject to appeal on three consecutive occasions, and the  
 10 claim or defense, respectively, involves the same plaintiff  
 11 and the same defendant on each occasion, there shall be  
 12 a rebuttable presumption that the presentation of such  
 13 paper is in violation of Rule 11 of the Federal Rules of  
 14 Civil Procedure.

15 **SEC. 807. ENHANCED SANCTIONS FOR DOCUMENT DE-**  
 16 **STRUCTION IN PENDING FEDERAL COURT**  
 17 **PROCEEDINGS.**

18 Whoever willfully and intentionally influences, ob-  
 19 structs, or impedes, or attempts to influence, or obstruct,  
 20 or impede, a pending Federal court proceeding through  
 21 the willful and intentional destruction of documents  
 22 sought pursuant to the rules of such Federal court pro-  
 23 ceeding and highly relevant to that proceeding—

24 (1) shall be punished with mandatory civil sanc-  
 25 tions of a degree commensurate with the civil sanc-

1        tions available under Rule 11 of the Federal Rules  
2        of Civil Procedure, in addition to any other civil  
3        sanctions that otherwise apply; and

4            (2) shall be held in contempt of court; and if  
5        an attorney, referred to one or more appropriate  
6        State bar associations for disciplinary proceedings.

7        **SEC. 808. BAN ON CONCEALMENT OF UNLAWFUL CONDUCT.**

8            (a) IN GENERAL.—In any Rule 11 of the Federal  
9        Rules of Civil Procedure proceeding, a court may not order  
10       that a court record not be disclosed unless the court makes  
11       a finding of fact that identifies the interest that justifies  
12       the order and determines that interest outweighs any in-  
13       terest in the public health and safety that the court deter-  
14       mines would be served by disclosing the court record.

15          (b) APPLICABILITY.—This section applies to any  
16       record formally filed with a court, but shall not include  
17       any records subject to—

18            (1) the attorney-client privilege or any other  
19        privilege recognized under Federal or State law that  
20        grants the right to prevent disclosure of certain in-  
21        formation unless the privilege has been waived; or

22            (2) applicable State or Federal laws that pro-  
23        tect the confidentiality of crime victims, including  
24        victims of sexual abuse.

1 **TITLE IX—REGULATORY FLEXI-**  
2 **BILITY IMPROVEMENTS ACT**  
3 **OF 2013**

4 **SEC. 901. SHORT TITLE.**

5 This title may be cited as the “Regulatory Flexibility  
6 Improvements Act of 2013”.

7 **SEC. 902. CLARIFICATION AND EXPANSION OF RULES COV-**  
8 **ERED BY THE REGULATORY FLEXIBILITY**  
9 **ACT.**

10 (a) IN GENERAL.—Paragraph (2) of section 601 of  
11 title 5, United States Code, is amended to read as follows:

12 “(2) RULE.—The term ‘rule’ has the meaning  
13 given such term in section 551(4) of this title, ex-  
14 cept that such term does not include a rule of par-  
15 ticular (and not general) applicability relating to  
16 rates, wages, corporate or financial structures or re-  
17 organizations thereof, prices, facilities, appliances,  
18 services, or allowances therefor or to valuations,  
19 costs or accounting, or practices relating to such  
20 rates, wages, structures, prices, appliances, services,  
21 or allowances.”.

22 (b) INCLUSION OF RULES WITH INDIRECT EF-  
23 FECTS.—Section 601 of title 5, United States Code, is  
24 amended by adding at the end the following new para-  
25 graph:



1           “(9) ECONOMIC IMPACT.—The term ‘economic  
2           impact’ means, with respect to a proposed or final  
3           rule—

4                   “(A) any direct economic effect on small  
5                   entities of such rule; and

6                   “(B) any indirect economic effect on small  
7                   entities which is reasonably foreseeable and re-  
8                   sults from such rule (without regard to whether  
9                   small entities will be directly regulated by the  
10                  rule).”.

11          (c) INCLUSION OF RULES WITH BENEFICIAL EF-  
12          FECTS.—

13               (1) INITIAL REGULATORY FLEXIBILITY ANAL-  
14               YSIS.—Subsection (c) of section 603 of title 5,  
15               United States Code, is amended by striking the first  
16               sentence and inserting “Each initial regulatory flexi-  
17               bility analysis shall also contain a detailed descrip-  
18               tion of alternatives to the proposed rule which mini-  
19               mize any adverse significant economic impact or  
20               maximize any beneficial significant economic impact  
21               on small entities.”.

22               (2) FINAL REGULATORY FLEXIBILITY ANAL-  
23               YSIS.—The first paragraph (6) of section 604(a) of  
24               title 5, United States Code, is amended by striking  
25               “minimize the significant economic impact” and in-

1       serting “minimize the adverse significant economic  
2       impact or maximize the beneficial significant eco-  
3       nomic impact”.

4       (d) INCLUSION OF RULES AFFECTING TRIBAL ORGA-  
5       NIZATIONS.—Paragraph (5) of section 601 of title 5,  
6       United States Code, is amended by inserting “and tribal  
7       organizations (as defined in section 4(l) of the Indian Self-  
8       Determination and Education Assistance Act (25 U.S.C.  
9       450b(l))),” after “special districts,”.

10       (e) INCLUSION OF LAND MANAGEMENT PLANS AND  
11       FORMAL RULEMAKING.—

12               (1) INITIAL REGULATORY FLEXIBILITY ANAL-  
13       YSIS.—Subsection (a) of section 603 of title 5,  
14       United States Code, is amended in the first sen-  
15       tence—

16                       (A) by striking “or” after “proposed  
17                       rule,”; and

18                       (B) by inserting “or publishes a revision or  
19                       amendment to a land management plan,” after  
20                       “United States,”.

21               (2) FINAL REGULATORY FLEXIBILITY ANAL-  
22       YSIS.—Subsection (a) of section 604 of title 5,  
23       United States Code, is amended in the first sen-  
24       tence—

1 (A) by striking “or” after “proposed rule-  
2 making,”; and

3 (B) by inserting “or adopts a revision or  
4 amendment to a land management plan,” after  
5 “section 603(a),”.

6 (3) LAND MANAGEMENT PLAN DEFINED.—Sec-  
7 tion 601 of title 5, United States Code, is amended  
8 by adding at the end the following new paragraph:

9 “(10) LAND MANAGEMENT PLAN.—

10 “(A) IN GENERAL.—The term ‘land man-  
11 agement plan’ means—

12 “(i) any plan developed by the Sec-  
13 retary of Agriculture under section 6 of  
14 the Forest and Rangeland Renewable Re-  
15 sources Planning Act of 1974 (16 U.S.C.  
16 1604); and

17 “(ii) any plan developed by the Sec-  
18 retary of Interior under section 202 of the  
19 Federal Land Policy and Management Act  
20 of 1976 (43 U.S.C. 1712).

21 “(B) REVISION.—The term ‘revision’  
22 means any change to a land management plan  
23 which—

24 “(i) in the case of a plan described in  
25 subparagraph (A)(i), is made under section

1           6(f)(5) of the Forest and Rangeland Re-  
2           newable Resources Planning Act of 1974  
3           (16 U.S.C. 1604(f)(5)); or

4           “(ii) in the case of a plan described in  
5           subparagraph (A)(ii), is made under sec-  
6           tion 1610.5–6 of title 43, Code of Federal  
7           Regulations (or any successor regulation).

8           “(C) AMENDMENT.—The term ‘amend-  
9           ment’ means any change to a land management  
10          plan which—

11          “(i) in the case of a plan described in  
12          subparagraph (A)(i), is made under section  
13          6(f)(4) of the Forest and Rangeland Re-  
14          newable Resources Planning Act of 1974  
15          (16 U.S.C. 1604(f)(4)) and with respect to  
16          which the Secretary of Agriculture pre-  
17          pares a statement described in section  
18          102(2)(C) of the National Environmental  
19          Policy Act of 1969 (42 U.S.C.  
20          4332(2)(C)); or

21          “(ii) in the case of a plan described in  
22          subparagraph (A)(ii), is made under sec-  
23          tion 1610.5–5 of title 43, Code of Federal  
24          Regulations (or any successor regulation)  
25          and with respect to which the Secretary of

1 the Interior prepares a statement described  
2 in section 102(2)(C) of the National Envi-  
3 ronmental Policy Act of 1969 (42 U.S.C.  
4 4332(2)(C)).”.

5 (f) INCLUSION OF CERTAIN INTERPRETIVE RULES  
6 INVOLVING THE INTERNAL REVENUE LAWS.—

7 (1) IN GENERAL.—Subsection (a) of section  
8 603 of title 5, United States Code, is amended by  
9 striking the period at the end and inserting “or a  
10 recordkeeping requirement, and without regard to  
11 whether such requirement is imposed by statute or  
12 regulation.”.

13 (2) COLLECTION OF INFORMATION.—Paragraph  
14 (7) of section 601 of title 5, United States Code, is  
15 amended to read as follows:

16 “(7) COLLECTION OF INFORMATION.—The term  
17 ‘collection of information’ has the meaning given  
18 such term in section 3502(3) of title 44, United  
19 States Code.”.

20 (3) RECORDKEEPING REQUIREMENT.—Para-  
21 graph (8) of section 601 of title 5, United States  
22 Code, is amended to read as follows:

23 “(8) RECORDKEEPING REQUIREMENT.—The  
24 term ‘recordkeeping requirement’ has the meaning

1       given such term in section 3502(13) of title 44,  
2       United States Code.”.

3       (g) DEFINITION OF SMALL ORGANIZATION.—Para-  
4 graph (4) of section 601 of title 5, United States Code,  
5 is amended to read as follows:

6               “(4) SMALL ORGANIZATION.—

7                       “(A) IN GENERAL.—The term ‘small orga-  
8                       nization’ means any not-for-profit enterprise  
9                       which, as of the issuance of the notice of pro-  
10                      posed rulemaking—

11                      “(i) in the case of an enterprise which  
12                      is described by a classification code of the  
13                      North American Industrial Classification  
14                      System, does not exceed the size standard  
15                      established by the Administrator of the  
16                      Small Business Administration pursuant to  
17                      section 3 of the Small Business Act (15  
18                      U.S.C. 632) for small business concerns  
19                      described by such classification code; and

20                      “(ii) in the case of any other enter-  
21                      prise, has a net worth that does not exceed  
22                      \$7,000,000 and has not more than 500  
23                      employees.

24                      “(B) LOCAL LABOR ORGANIZATIONS.—In  
25                      the case of any local labor organization, sub-

paragraph (A) shall be applied without regard to any national or international organization of which such local labor organization is a part.

“(C) AGENCY DEFINITIONS.—Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.”.

**SEC. 903. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.**

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

“(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

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

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

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

3           “(4) describing the projected reporting, record-  
4 keeping, and other compliance requirements of the  
5 proposed rule, including an estimate of the classes of  
6 small entities which will be subject to the require-  
7 ment and the type of professional skills necessary  
8 for preparation of the report and record;

9           “(5) describing all relevant Federal rules which  
10 may duplicate, overlap, or conflict with the proposed  
11 rule, or the reasons why such a description could not  
12 be provided;

13           “(6) estimating the additional cumulative eco-  
14 nomic impact of the proposed rule on small entities  
15 beyond that already imposed on the class of small  
16 entities by the agency or why such an estimate is  
17 not available; and

18           “(7) describing any disproportionate economic  
19 impact on small entities or a specific class of small  
20 entities.”.

21 (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

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



1 (A) in paragraph (4), by striking “an ex-  
2 planation” and inserting “a detailed expla-  
3 nation”;

4 (B) in each of paragraphs (4), (5), and the  
5 first paragraph (6), by inserting “detailed” be-  
6 fore “description”; and

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

8 “(7) describing any disproportionate economic  
9 impact on small entities or a specific class of small  
10 entities.”.

11 (2) INCLUSION OF RESPONSE TO COMMENTS ON  
12 CERTIFICATION OF PROPOSED RULE.—Paragraph  
13 (2) of section 604(a) of title 5, United States Code,  
14 is amended by inserting “(or certification of the pro-  
15 posed rule under section 605(b))” after “initial reg-  
16 ulatory flexibility analysis”.

17 (3) PUBLICATION OF ANALYSIS ON WEBSITE.—  
18 Subsection (b) of section 604 of title 5, United  
19 States Code, is amended to read as follows:

20 “(b) The agency shall make copies of the final regu-  
21 latory flexibility analysis available to the public, including  
22 placement of the entire analysis on the agency’s website,  
23 and shall publish in the Federal Register the final regu-  
24 latory flexibility analysis, or a summary thereof which in-  
25 cludes the telephone number, mailing address, and link to

1 the website where the complete analysis may be ob-  
2 tained.”.

3 (c) CROSS-REFERENCES TO OTHER ANALYSES.—  
4 Subsection (a) of section 605 of title 5, United States  
5 Code, is amended to read as follows:

6 “(a) A Federal agency shall be treated as satisfying  
7 any requirement regarding the content of an agenda or  
8 regulatory flexibility analysis under section 602, 603, or  
9 604, if such agency provides in such agenda or analysis  
10 a cross-reference to the specific portion of another agenda  
11 or analysis which is required by any other law and which  
12 satisfies such requirement.”.

13 (d) CERTIFICATIONS.—Subsection (b) of section 605  
14 of title 5, United States Code, is amended—

15 (1) by inserting “detailed” before “statement”;

16 and

17 (2) by inserting “and legal” after “factual”.

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

21 **“§ 607. Quantification requirements**

22 “In complying with sections 603 and 604, an agency  
23 shall provide—

1           “(1) a quantifiable or numerical description of  
 2           the effects of the proposed or final rule and alter-  
 3           natives to the proposed or final rule; or

4           “(2) a more general descriptive statement and  
 5           a detailed statement explaining why quantification is  
 6           not practicable or reliable.”.

7   **SEC. 904. REPEAL OF WAIVER AND DELAY AUTHORITY; AD-**  
 8                           **DITIONAL POWERS OF THE CHIEF COUNSEL**  
 9                           **FOR ADVOCACY.**

10       (a) IN GENERAL.—Section 608 is amended to read  
 11 as follows:

12   **“§ 608. Additional powers of Chief Counsel for Advo-**  
 13                           **cacy**

14       “(a)(1) Not later than 270 days after the date of the  
 15 enactment of the Regulatory Flexibility Reform Act, the  
 16 Chief Counsel for Advocacy of the Small Business Admin-  
 17 istration shall, after opportunity for notice and comment  
 18 under section 553, issue rules governing agency compli-  
 19 ance with this chapter. The Chief Counsel may modify or  
 20 amend such rules after notice and comment under section  
 21 553. This chapter (other than this subsection) shall not  
 22 apply with respect to the issuance, modification, and  
 23 amendment of rules under this paragraph.

24       “(2) An agency shall not issue rules which supple-  
 25 ment the rules issued under subsection (a) unless such

1 agency has first consulted with the Chief Counsel for Ad-  
2 vocacy to ensure that such supplemental rules comply with  
3 this chapter and the rules issued under paragraph (1).

4 “(b) Notwithstanding any other law, the Chief Coun-  
5 sel for Advocacy of the Small Business Administration  
6 may intervene in any agency adjudication (unless such  
7 agency is authorized to impose a fine or penalty under  
8 such adjudication), and may inform the agency of the im-  
9 pact that any decision on the record may have on small  
10 entities. The Chief Counsel shall not initiate an appeal  
11 with respect to any adjudication in which the Chief Coun-  
12 sel intervenes under this subsection.

13 “(c) The Chief Counsel for Advocacy may file com-  
14 ments in response to any agency notice requesting com-  
15 ment, regardless of whether the agency is required to file  
16 a general notice of proposed rulemaking under section  
17 553.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 611(a)(1) of such title is amended  
20 by striking “608(b),”.

21 (2) Section 611(a)(2) of such title is amended  
22 by striking “608(b),”.

23 (3) Section 611(a)(3) of such title is amend-  
24 ed—

25 (A) by striking subparagraph (B); and

1 (B) by striking “(3)(A) A small entity”  
2 and inserting the following:  
3 “(3) A small entity”.

4 **SEC. 905. PROCEDURES FOR GATHERING COMMENTS.**

5 Section 609 of title 5, United States Code, is amend-  
6 ed by striking subsection (b) and all that follows and in-  
7 serting the following:

8 “(b)(1) Prior to publication of any proposed rule de-  
9 scribed in subsection (e), an agency making such rule shall  
10 notify the Chief Counsel for Advocacy of the Small Busi-  
11 ness Administration and provide the Chief Counsel with—

12 “(A) all materials prepared or utilized by the  
13 agency in making the proposed rule, including the  
14 draft of the proposed rule; and

15 “(B) information on the potential adverse and  
16 beneficial economic impacts of the proposed rule on  
17 small entities and the type of small entities that  
18 might be affected.

19 “(2) An agency shall not be required under para-  
20 graph (1) to provide the exact language of any draft if  
21 the rule—

22 “(A) relates to the internal revenue laws of the  
23 United States; or

1           “(B) is proposed by an independent regulatory  
2           agency (as defined in section 3502(5) of title 44,  
3           United States Code).

4           “(c) Not later than 15 days after the receipt of such  
5           materials and information under subsection (b), the Chief  
6           Counsel for Advocacy of the Small Business Administra-  
7           tion shall—

8           “(1) identify small entities or representatives of  
9           small entities or a combination of both for the pur-  
10          pose of obtaining advice, input, and recommenda-  
11          tions from those persons about the potential eco-  
12          nomic impacts of the proposed rule and the compli-  
13          ance of the agency with section 603 of this title; and

14          “(2) convene a review panel consisting of an  
15          employee from the Office of Advocacy of the Small  
16          Business Administration, an employee from the  
17          agency making the rule, and in the case of an agen-  
18          cy other than an independent regulatory agency (as  
19          defined in section 3502(5) of title 44, United States  
20          Code), an employee from the Office of Information  
21          and Regulatory Affairs of the Office of Management  
22          and Budget to review the materials and information  
23          provided to the Chief Counsel under subsection (b).

24          “(d)(1) Not later than 60 days after the review panel  
25          described in subsection (c)(2) is convened, the Chief Coun-

1 sel for Advocacy of the Small Business Administration  
2 shall, after consultation with the members of such panel,  
3 submit a report to the agency and, in the case of an agen-  
4 cy other than an independent regulatory agency (as de-  
5 fined in section 3502(5) of title 44, United States Code),  
6 the Office of Information and Regulatory Affairs of the  
7 Office of Management and Budget.

8       “(2) Such report shall include an assessment of the  
9 economic impact of the proposed rule on small entities and  
10 a discussion of any alternatives that will minimize adverse  
11 significant economic impacts or maximize beneficial sig-  
12 nificant economic impacts on small entities.

13       “(3) Such report shall become part of the rulemaking  
14 record. In the publication of the proposed rule, the agency  
15 shall explain what actions, if any, the agency took in re-  
16 sponse to such report.

17       “(e) A proposed rule is described by this subsection  
18 if the Administrator of the Office of Information and Reg-  
19 ulatory Affairs of the Office of Management and Budget,  
20 the head of the agency (or the delegatee of the head of  
21 the agency), or an independent regulatory agency deter-  
22 mines that the proposed rule is likely to result in—

23               “(1) an annual effect on the economy of  
24       \$100,000,000 or more;

1           “(2) a major increase in costs or prices for con-  
2           sumers, individual industries, Federal, State, or local  
3           governments, tribal organizations, or geographic re-  
4           gions;

5           “(3) significant adverse effects on competition,  
6           employment, investment, productivity, innovation, or  
7           on the ability of United States-based enterprises to  
8           compete with foreign-based enterprises in domestic  
9           and export markets; or

10           “(4) a significant economic impact on a sub-  
11           stantial number of small entities.

12           “(f) Upon application by the agency, the Chief Coun-  
13           sel for Advocacy of the Small Business Administration  
14           may waive the requirements of subsections (b) through (e)  
15           if the Chief Counsel determines that compliance with the  
16           requirements of such subsections are impracticable, un-  
17           necessary, or contrary to the public interest.”.

18   **SEC. 906. PERIODIC REVIEW OF RULES.**

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

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

22           “(a) Not later than 180 days after the enactment of  
23           the Regulatory Flexibility Improvements Act of 2013,  
24           each agency shall publish in the Federal Register and  
25           place on its website a plan for the periodic review of rules



1 issued by the agency which the head of the agency deter-  
2 mines have a significant economic impact on a substantial  
3 number of small entities. Such determination shall be  
4 made without regard to whether the agency performed an  
5 analysis under section 604. The purpose of the review  
6 shall be to determine whether such rules should be contin-  
7 ued without change, or should be amended or rescinded,  
8 consistent with the stated objectives of applicable statutes,  
9 to minimize any adverse significant economic impacts or  
10 maximize any beneficial significant economic impacts on  
11 a substantial number of small entities. Such plan may be  
12 amended by the agency at any time by publishing the revi-  
13 sion in the Federal Register and subsequently placing the  
14 amended plan on the agency's website.

15       “(b) The plan shall provide for the review of all such  
16 agency rules existing on the date of the enactment of the  
17 Regulatory Flexibility Improvements Act of 2013 within  
18 10 years of the date of publication of the plan in the Fed-  
19 eral Register and for review of rules adopted after the date  
20 of enactment of the Regulatory Flexibility Improvements  
21 Act of 2013 within 10 years after the publication of the  
22 final rule in the Federal Register. If the head of the agen-  
23 cy determines that completion of the review of existing  
24 rules is not feasible by the established date, the head of  
25 the agency shall so certify in a statement published in the

1 Federal Register and may extend the review for not longer  
2 than 2 years after publication of notice of extension in  
3 the Federal Register. Such certification and notice shall  
4 be sent to the Chief Counsel for Advocacy of the Small  
5 Business Administration and the Congress.

6 “(c) Each agency shall annually submit a report re-  
7 garding the results of its review pursuant to such plan  
8 to the Congress, the Chief Counsel for Advocacy of the  
9 Small Business Administration, and, in the case of agen-  
10 cies other than independent regulatory agencies (as de-  
11 fined in section 3502(5) of title 44, United States Code)  
12 to the Administrator of the Office of Information and Reg-  
13 ulatory Affairs of the Office of Management and Budget.  
14 Such report shall include the identification of any rule  
15 with respect to which the head of the agency made a deter-  
16 mination described in paragraph (5) or (6) of subsection  
17 (d) and a detailed explanation of the reasons for such de-  
18 termination.

19 “(d) In reviewing a rule pursuant to subsections (a)  
20 through (c), the agency shall amend or rescind the rule  
21 to minimize any adverse significant economic impact on  
22 a substantial number of small entities or disproportionate  
23 economic impact on a specific class of small entities, or  
24 maximize any beneficial significant economic impact of the  
25 rule on a substantial number of small entities to the great-

1 est extent possible, consistent with the stated objectives  
2 of applicable statutes. In amending or rescinding the rule,  
3 the agency shall consider the following factors:

4 “(1) The continued need for the rule.

5 “(2) The nature of complaints received by the  
6 agency from small entities concerning the rule.

7 “(3) Comments by the Regulatory Enforcement  
8 Ombudsman and the Chief Counsel for Advocacy of  
9 the Small Business Administration.

10 “(4) The complexity of the rule.

11 “(5) The extent to which the rule overlaps, du-  
12 plicates, or conflicts with other Federal rules and,  
13 unless the head of the agency determines it to be in-  
14 feasible, State and local rules.

15 “(6) The contribution of the rule to the cumu-  
16 lative economic impact of all Federal rules on the  
17 class of small entities affected by the rule, unless the  
18 head of the agency determines that such calculations  
19 cannot be made and reports that determination in  
20 the annual report required under subsection (c).

21 “(7) The length of time since the rule has been  
22 evaluated or the degree to which technology, eco-  
23 nomic conditions, or other factors have changed in  
24 the area affected by the rule.

1       “(e) The agency shall publish in the Federal Register  
 2 and on its website a list of rules to be reviewed pursuant  
 3 to such plan. Such publication shall include a brief de-  
 4 scription of the rule, the reason why the agency deter-  
 5 mined that it has a significant economic impact on a sub-  
 6 stantial number of small entities (without regard to wheth-  
 7 er it had prepared a final regulatory flexibility analysis  
 8 for the rule), and request comments from the public, the  
 9 Chief Counsel for Advocacy of the Small Business Admin-  
 10 istration, and the Regulatory Enforcement Ombudsman  
 11 concerning the enforcement of the rule.”.

12 **SEC. 907. JUDICIAL REVIEW OF COMPLIANCE WITH THE RE-**  
 13 **QUIREMENTS OF THE REGULATORY FLEXI-**  
 14 **BILITY ACT AVAILABLE AFTER PUBLICATION**  
 15 **OF THE FINAL RULE.**

16       (a) IN GENERAL.—Paragraph (1) of section 611(a)  
 17 of title 5, United States Code, is amended by striking  
 18 “final agency action” and inserting “such rule”.

19       (b) JURISDICTION.—Paragraph (2) of such section is  
 20 amended by inserting “(or which would have such jurisdic-  
 21 tion if publication of the final rule constituted final agency  
 22 action)” after “provision of law,”.

23       (c) TIME FOR BRINGING ACTION.—Paragraph (3) of  
 24 such section is amended—

1 (1) by striking “final agency action” and insert-  
2 ing “publication of the final rule”; and

3 (2) by inserting “, in the case of a rule for  
4 which the date of final agency action is the same  
5 date as the publication of the final rule,” after “ex-  
6 cept that”.

7 (d) INTERVENTION BY CHIEF COUNSEL FOR ADVO-  
8 CACY.—Subsection (b) of section 612 of title 5, United  
9 States Code, is amended by inserting before the first pe-  
10 riod “or agency compliance with section 601, 603, 604,  
11 605(b), 609, or 610”.

12 **SEC. 908. JURISDICTION OF COURT OF APPEALS OVER**  
13 **RULES IMPLEMENTING THE REGULATORY**  
14 **FLEXIBILITY ACT.**

15 (a) IN GENERAL.—Section 2342 of title 28, United  
16 States Code, is amended—

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

19 (2) in paragraph (7), by striking the period at  
20 the end and inserting “; and”; and

21 (3) by adding at the end the following new  
22 paragraph:

23 “(8) all final rules under section 608(a) of title  
24 5, United States Code.”.

1 (b) CONFORMING AMENDMENTS.—Paragraph (3) of  
 2 section 2341 of title 28, United States Code, is amended—

3 (1) in subparagraph (D), by striking “and” at  
 4 the end;

5 (2) in subparagraph (E), by striking the period  
 6 at the end and inserting “; and”; and

7 (3) by adding at the end the following new sub-  
 8 paragraph:

9 “(F) the Office of Advocacy of the Small  
 10 Business Administration, when the final rule is  
 11 under section 608(a) of title 5, United States  
 12 Code.”.

13 (c) AUTHORIZATION TO INTERVENE AND COMMENT  
 14 ON AGENCY COMPLIANCE WITH ADMINISTRATIVE PROCE-  
 15 DURE.—Subsection (b) of section 612 of title 5, United  
 16 States Code, is amended by inserting “chapter 5, and  
 17 chapter 7,” after “this chapter,”.

18 **SEC. 909. CLERICAL AMENDMENTS.**

19 (a) Section 601 of title 5, United States Code, is  
 20 amended—

21 (1) in paragraph (1)—

22 (A) by striking the semicolon at the end  
 23 and inserting a period; and

24 (B) by striking “(1) the term” and insert-  
 25 ing the following:

1 “(1) AGENCY.—The term”;

2 (2) in paragraph (3)—

3 (A) by striking the semicolon at the end  
4 and inserting a period, and

5 (B) by striking “(3) the term” and insert-  
6 ing the following:

7 “(3) SMALL BUSINESS.—The term”;

8 (3) in paragraph (5)—

9 (A) by striking the semicolon at the end  
10 and inserting a period, and

11 (B) by striking “(5) the term” and insert-  
12 ing the following:

13 “(5) SMALL GOVERNMENTAL JURISDICTION.—  
14 The term”; and

15 (4) in paragraph (6)—

16 (A) by striking “; and” and inserting a pe-  
17 riod, and

18 (B) by striking “(6) the term” and insert-  
19 ing the following:

20 “(6) SMALL ENTITY.—The term”.

21 (b) The heading of section 605 of title 5, United  
22 States Code, is amended to read as follows:

1 **“§ 605. Incorporations by reference and certifi-**  
2 **cations”.**

3 (c) The table of sections for chapter 6 of title 5,  
4 United States Code, is amended—

5 (1) by striking the item relating to section 605  
6 and inserting the following new item:

“605. Incorporations by reference and certifications.”;

7 (2) by striking the item relating to section 607  
8 and inserting the following new item:

“607. Quantification requirements.”;

9 and

10 (3) by striking the item relating to section 608  
11 and inserting the following:

“608. Additional powers of Chief Counsel for Advocacy.”.

12 (d) Chapter 6 of title 5, United States Code, is  
13 amended as follows:

14 (1) In section 603, by striking subsection (d).

15 (2) In section 604(a) by striking the second  
16 paragraph (6).

○