

109TH CONGRESS  
1ST SESSION

# S. 1111

To promote oil shale and tar sand development, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 24, 2005

Mr. HATCH (for himself, Mr. BENNETT, and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To promote oil shale and tar sand development, 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 “Oil Shale and Tar Sand Development Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Declaration of policy.
- Sec. 3. Definitions.

**TITLE I—STRATEGIC FUELS DEVELOPMENT**

- Sec. 101. Strategic Fuels Task Force.
- Sec. 102. Federal leasing program.
- Sec. 103. Mineral Leasing Act amendments.

- Sec. 104. Royalties.
- Sec. 105. Office of Strategic Fuels.
- Sec. 106. Cost-shared demonstration technologies.
- Sec. 107. Technical assistance.
- Sec. 108. State water rights.
- Sec. 109. Authorization of appropriations.

TITLE II—PROCUREMENT OF UNCONVENTIONAL FUELS BY  
DEPARTMENT OF DEFENSE

- Sec. 201. Procurement of unconventional fuels by the Department of Defense.

TITLE III—TAX INCENTIVES

- Sec. 301. Expensing of oil shale and oil sands technology expenditures.

**1 SEC. 2. DECLARATION OF POLICY.**

2 Congress declares that it is the policy of the United  
3 States that—

4 (1) domestic oil shale, tar sands, and other  
5 strategic fuels—

6 (A) represent major long-term strategic en-  
7 ergy assets that complement the near-term as-  
8 sets of the Strategic Petroleum Reserve; and

9 (B) should be developed on an accelerated  
10 basis;

11 (2) development of those strategic fuels should  
12 be promoted to meet the anticipated energy needs of  
13 the United States, including civilian and military re-  
14 quirements;

15 (3) those fuels are strategically important re-  
16 sources; and

17 (4) the Federal Government and the private  
18 sector should form a partnership to develop those

1 strategic fuels for the benefit of the people of the  
2 United States.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) OFFICE.—The term “Office” means the Of-  
6 fice of Strategic Fuels established by section 105(a).

7 (2) PLAN.—The term “plan” means the 5-year  
8 strategic fuels development plan formulated under  
9 section 101(c).

10 (3) SECRETARY.—The term “Secretary” means  
11 the Secretary of Energy, acting in consultation with  
12 the Task Force.

13 (4) STRATEGIC FUEL.—The term “strategic  
14 fuel” means domestic and military fuels derived  
15 from strategic hydrocarbon resources to be managed  
16 and developed under the guidance and authorities of  
17 the Strategic Petroleum Reserve as established by  
18 the Energy Policy and Conservation Act (42 U.S.C.  
19 6201 et seq.).

20 (5) STRATEGIC HYDROCARBON RESOURCES.—  
21 The term “strategic hydrocarbon resources”  
22 means—

23 (A) oil;

24 (B) oil shale;

1 (C) tar sands (commonly referred to as  
2 “oil sands”);

3 (D) coal-derived liquids;

4 (E) gas-derived liquids; and

5 (F) any other hydrocarbon resource deter-  
6 mined by the Secretary.

7 (6) TASK FORCE.—The term “Task Force”  
8 means the Strategic Fuels Task Force established  
9 by section 101(a).

## 10 **TITLE I—STRATEGIC FUELS** 11 **DEVELOPMENT**

### 12 **SEC. 101. STRATEGIC FUELS TASK FORCE.**

13 (a) ESTABLISHMENT.—There is established a Stra-  
14 tegic Fuels Task Force to develop a program to coordinate  
15 and accelerate the commercial development of strategic  
16 fuels in an integrated manner.

17 (b) COMPOSITION.—The Task Force shall be com-  
18 posed of—

19 (1) the Secretary (or the designee of the Sec-  
20 retary);

21 (2) the Secretary of Defense (or the designee of  
22 the Secretary of Defense);

23 (3) the Secretary of the Interior (or the des-  
24 ignee of the Secretary of the Interior); and

1           (4) representatives of industry, affected States  
2           and communities, and other stakeholders, appointed  
3           by the President.

4           (c) DEVELOPMENT OF A 5-YEAR PLAN.—

5           (1) IN GENERAL.—The Task Force shall direct  
6           the Office to formulate a 5-year plan and coordinate  
7           with representatives of the Department of Defense  
8           and the Department of the Interior to promote the  
9           development of strategic fuels by industry.

10          (2) COMPONENTS.—In formulating the plan,  
11          the Task Force shall—

12                 (A) identify public actions that are re-  
13                 quired to stimulate prudent development of  
14                 strategic fuels by industry;

15                 (B) analyze the costs and benefits of those  
16                 actions;

17                 (C) make recommendations concerning  
18                 specific actions that should be taken to stimu-  
19                 late prudent development of strategic fuels by  
20                 industry, including economic, investment, tax,  
21                 technology, research and development, infra-  
22                 structure, environmental, education, and socio-  
23                 economic actions;

24                 (D) provide notice and opportunity for  
25                 public comment on the plan;

1           (E) identify strategic fuel technologies  
2           that—

3                   (i) are ready for pilot plant and  
4                   semiworks development; and

5                   (ii) have a high probability of leading  
6                   to advanced technology for first- or second-  
7                   generation commercial production; and

8           (F) assess the availability of water from  
9           the Green River Formation to meet the needs  
10           of the strategic fuels industry.

11           (3) REPORTS.—Not later than 180 days after  
12           the date of enactment of this Act, the Task Force  
13           shall submit to the President and Congress a report  
14           that describes the analysis and recommendations of  
15           the Task Force for the plan.

16 **SEC. 102. FEDERAL LEASING PROGRAM.**

17           (a) IN GENERAL.—As soon as practicable after the  
18           date of enactment of this Act, the Secretary of the Inte-  
19           rior, acting through the Bureau of Land Management,  
20           shall develop, implement, and manage comprehensive leas-  
21           ing programs for strategic fuels on Federal land that ad-  
22           dress all stages of the leasing process from research and  
23           development to full commercial leasing.

24           (b) ADMINISTRATION.—In carrying out the leasing  
25           programs, the Secretary of the Interior shall—

1           (1) ensure environmentally sound and efficient  
2 development of strategic fuels;

3           (2) permit leasing beginning not later than the  
4 date that is 18 months after the date of enactment  
5 of this Act;

6           (3) in consultation with industry and the States  
7 of Utah, Wyoming, and Colorado, define lease blocks  
8 that—

9                   (A) meet requirements of industry;

10                   (B) facilitate the efficient development of  
11 strategic fuels; and

12                   (C) are sufficient in size for development  
13 for a commercial operation consistent with the  
14 Mineral Leasing Act (30 U.S.C. 181 et seq.);  
15 and

16           (4) as appropriate, provide for exchanges of  
17 Federal land for such State or private land as is  
18 necessary to achieve responsible leasing and develop-  
19 ment.

20 **SEC. 103. MINERAL LEASING ACT AMENDMENTS.**

21           Section 21 of the Mineral Leasing Act (30 U.S.C.  
22 241) is amended—

23           (1) in subsection (a)—

1 (A) by designating the first, second, and  
2 third sentences as paragraphs (1), (2), and (3),  
3 respectively;

4 (B) in paragraph (3) (as designated by  
5 paragraph (1))—

6 (i) by striking “rate of 50 cents per  
7 acre” and inserting “rate of \$2.00 per  
8 acre”; and

9 (ii) in the last proviso—

10 (I) by striking “That not more  
11 than one lease shall be granted under  
12 this section to any” and inserting  
13 “That no”;

14 (II) by striking “except that with  
15 respect to leases for” and inserting  
16 “shall acquire or hold more than  
17 50,000 acres of oil shale leases in any  
18 1 State. For”; and

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

20 “(4) RESEARCH AND DEVELOPMENT.—For a  
21 lease issued for research and development activities,  
22 the lessee shall be entitled to a preference right to  
23 lease additional lands to a total acreage not to ex-  
24 ceed 5,120 acres to develop commercial production  
25 facilities, if the lessee submits an application and

1 provides evidence, and the Secretary agrees, that the  
2 lessee has developed technology that warrants a  
3 commercial lease.”;

4 (2) by redesignating subsection (d) as sub-  
5 section (e);

6 (3) by redesignating the second subsection (c)  
7 as subsection (d); and

8 (4) in subsection (e)(1) (as redesignated by  
9 paragraph (2)), by striking “subsection (c)” and in-  
10 serting “subsection (d)”.

11 **SEC. 104. ROYALTIES.**

12 Section 35 of the Mineral Leasing Act (30 U.S.C.  
13 191) is amended by adding at the end the following:

14 “(c)(1) Except as provided in paragraph (2) and not-  
15 withstanding any other provision of this Act, any royalty  
16 otherwise accruing to the United States under any lease  
17 for the extraction of a strategic fuel (as defined in section  
18 3 of the Oil Shale and Tar Sand Development Act of  
19 2005) on Federal land shall be reduced by—

20 “(A) 50 percent if NYMEX WTI oil \$22.00–  
21 23.99 a barrel on the date on which the strategic  
22 fuel is sold;

23 “(B) 40 percent if NYMEX WTI oil is \$24.00–  
24 25.99 a barrel on the date on which the strategic  
25 fuel is sold;

1           “(C) 30 percent if NYMEX WTI oil is \$26.00–  
2           27.99 a barrel on the date on which the strategic  
3           fuel is sold;

4           “(D) 20 percent if NYMEX WTI oil is \$28.00–  
5           29.99 a barrel on the date on which the strategic  
6           fuel is sold; and

7           “(E) 10 percent if NYMEX WTI oil is \$30.00–  
8           31.99 a barrel on the date on which the strategic  
9           fuel is sold.

10          “(2) The reduction in royalty provided under para-  
11          graph (1) shall terminate on the date that the project for  
12          the extraction of the strategic fuel reaches payback, as de-  
13          termined by the Secretary of the Interior (in consultation  
14          with the Secretary of Energy).

15          **SEC. 105. OFFICE OF STRATEGIC FUELS.**

16          (a) ESTABLISHMENT.—There is established, in the  
17          Office of Naval Petroleum and Oil Shale Reserves, within  
18          the Office of the Deputy Assistant Secretary for Petro-  
19          leum Reserves of the Department of Energy, the Office  
20          of Strategic Fuels, to ensure that strategic fuels are devel-  
21          oped as strategic resources of national importance.

22          (b) PURPOSES.—The purposes of the Office are—

23                  (1) to coordinate the creation and implementa-  
24                  tion of a commercial strategic fuel development pro-  
25                  gram for the United States;

1           (2) to evaluate the strategic importance of un-  
2           conventional sources of strategic fuels to the security  
3           of the United States; and

4           (3) to promote and coordinate Federal Govern-  
5           ment actions that facilitate the development of stra-  
6           tegic fuels in order to effectively address the energy  
7           supply needs of the United States.

8           (c) DUTIES.—The Office shall—

9           (1) identify, assess, and recommend appropriate  
10          actions of the Federal Government required to assist  
11          in the development and manufacturing of strategic  
12          fuels;

13          (2) coordinate and facilitate appropriate rela-  
14          tionships between private industry and the Federal  
15          Government to promote sufficient and timely private  
16          investment to commercialize strategic fuels for do-  
17          mestic and military use; and

18          (3) facilitate a partnership with Alberta, Can-  
19          ada, for purposes of sharing information relating to  
20          the development and manufacturing of strategic  
21          fuels.

22          (d) CONSULTATION AND COORDINATION.—In car-  
23          rying out subsection (c), the Office shall—

24          (1) work closely with the Task Force; and

1           (2) establish an advisory group composed of the  
2 various stakeholders involved in the development of  
3 strategic fuels, including State and local representa-  
4 tives, private industry, and other affected commu-  
5 nities.

6           (e) ANNUAL REPORTS.—Not later than 180 days  
7 after the date of enactment of this Act and annually there-  
8 after, the Office shall submit to Congress a report describ-  
9 ing the activities and recommendations of the Office.

10 **SEC. 106. COST-SHARED DEMONSTRATION TECHNOLOGIES.**

11           (a) IDENTIFICATION.—The Secretary shall identify  
12 technologies for the development of strategic fuels that—

13               (1) are ready for demonstration at a commer-  
14 cially-representative scale; and

15               (2) have a high probability of leading to com-  
16 mercial production.

17           (b) ASSISTANCE.—For each technology identified  
18 under subsection (a), the Secretary may provide—

19               (1) technical assistance;

20               (2) assistance in meeting environmental and  
21 regulatory requirements; and

22               (3) cost-sharing assistance through the payment  
23 of a Federal share of not to exceed 49 percent (as  
24 determined by the Secretary) of the capital and op-

1 erating costs of the expanded project, including envi-  
2 ronmental controls.

3 **SEC. 107. TECHNICAL ASSISTANCE.**

4 (a) IN GENERAL.—The Secretary shall provide tech-  
5 nical assistance to private industry for the purpose of  
6 overcoming technical challenges to the development of ad-  
7 vancement of strategic fuels technologies for application  
8 in the United States.

9 (b) ADMINISTRATION.—

10 (1) IN GENERAL.—The Secretary may provide  
11 technical assistance under this section on a fee-for-  
12 service or cost-shared basis through individual agree-  
13 ments, cooperative research and development agree-  
14 ments, partnerships, or other approaches.

15 (2) FEDERAL SHARE.—The Federal share of  
16 the cost of activities assisted under this section shall  
17 be not less than 25 percent, as determined by the  
18 Secretary.

19 **SEC. 108. STATE WATER RIGHTS.**

20 Nothing in this title impairs or in any manner affects  
21 any right or jurisdiction of the States with respect to the  
22 waters (including boundary waters) of the States.

23 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums  
25 as are necessary to carry out this title.

1 **TITLE II—PROCUREMENT OF**  
2 **UNCONVENTIONAL FUELS BY**  
3 **DEPARTMENT OF DEFENSE**

4 **SEC. 201. PROCUREMENT OF UNCONVENTIONAL FUELS BY**  
5 **THE DEPARTMENT OF DEFENSE.**

6 (a) IN GENERAL.—Chapter 141 of title 10, United  
7 States Code, is amended by inserting after section 2398  
8 the following new section:

9 **“§ 2398a. Procurement of fuels derived from coal, oil**  
10 **shale, and tar sands**

11 “(a) UTILIZATION OF FUELS TO MEET DEPART-  
12 MENT OF DEFENSE NEEDS.—The Secretary of Defense  
13 shall develop a strategy to utilize fuels produced from coal,  
14 oil shale, or tar (oil) sands (commonly referred to as ‘un-  
15 conventional fuels’) that are either extracted by mining or  
16 in-situ methods and refined in the United States in order  
17 to assist in meeting the fuel requirements of the Depart-  
18 ment of Defense.

19 “(b) AUTHORITY TO PROCURE.—The Secretary of  
20 Defense may enter into one or more contracts or other  
21 agreements to procure a fuel described in that subsection  
22 to meet one or more fuel requirements of the Department  
23 of Defense. Any such contract or agreement shall meet  
24 the requirements of this section.

1       “(c) CLEAN FUEL REQUIREMENTS.—A fuel may be  
2       procured under subsection (b) only if such fuel meets such  
3       standards for clean fuels produced from domestic sources  
4       as the Secretary of Defense shall establish for purposes  
5       of this section in consultation with the Office of Strategic  
6       Fuel Analysis of the Department of Energy.

7       “(d) MULTIYEAR CONTRACT AUTHORITY.—Subject  
8       to applicable provisions of appropriations Acts, any con-  
9       tract or other agreement for the procurement of fuel under  
10      subsection (b) may be for one or more years at the election  
11      of the Secretary of Defense.

12      “(e) PRICE LIMITATIONS.—

13             “(1) Each contract or other agreement for the  
14             procurement of fuel under subsection (b) shall set  
15             forth the maximum price and minimum price to be  
16             paid for a unit of fuel under such contract or agree-  
17             ment, which prices shall be established by the Sec-  
18             retary of Defense at the time of entry into such con-  
19             tract or agreement.

20             “(2) In establishing under paragraph (1) the  
21             maximum price and minimum price to be paid for  
22             fuel under a contract or agreement under subsection  
23             (b), the Secretary shall take into account applicable  
24             information on world oil markets from the Depart-  
25             ment of Energy, including global prices for crude oil,

1 costs of production of such fuel from both conven-  
 2 tional and unconventional sources, and returns on  
 3 investment in the production of such fuel.

4 “(f) FUEL SOURCE ANALYSIS.—In order to facilitate  
 5 the procurement by the Department of Defense of fuels  
 6 under subsection (b), the Secretary of Defense may carry  
 7 out a comprehensive assessment of current and potential  
 8 locations in the United States for the supply of fuels de-  
 9 scribed in subsection (a) to the Department.”.

10 (b) CLERICAL AMENDMENT.—The table of sections  
 11 at the beginning of such chapter is amended by inserting  
 12 after the item relating to section 2398 the following new  
 13 item:

“2398a. Procurement of fuels derived from coal, oil shale, and tar sands.”.

## 14 **TITLE III—TAX INCENTIVES**

### 15 **SEC. 301. EXPENSING OF OIL SHALE AND OIL SANDS TECH-** 16 **NOLOGY EXPENDITURES.**

17 (a) IN GENERAL.—Part VI of subchapter B of chap-  
 18 ter 1 of the Internal Revenue Code of 1986 (relating to  
 19 itemized deductions for individuals and corporations) is  
 20 amended by inserting after section 190 the following new  
 21 section:

### 22 **“SEC. 191. OIL SHALE AND OIL SANDS TECHNOLOGY EX-** 23 **PENDITURES.**

24 “(a) TREATMENT OF EXPENDITURES.—

1           (1) IN GENERAL.—A taxpayer may elect to  
2           treat any qualified oil shale and oil sands technology  
3           expenditure which is paid or incurred by the tax-  
4           payer as an expense which is not chargeable to cap-  
5           ital account. Any expenditure which is so treated  
6           shall be allowed as a deduction.

7           “(2) ELECTION.—An election under paragraph  
8           (1) shall be made at such time and in such manner  
9           as the Secretary may prescribe by regulation.

10          “(b) QUALIFIED OIL SHALE AND OIL SANDS TECH-  
11          NOLOGY EXPENDITURES.—For purposes of this section,  
12          the term ‘qualified oil shale and oil sands technology ex-  
13          penditure’ means, with respect to any taxable year, any  
14          direct or indirect costs incurred and properly taken into  
15          account with respect to the purchase or installation of  
16          equipment and facilities (including any upgrades thereto)  
17          relating to in-situ treatment (or processing), mining, con-  
18          version, recovery, and upgrading of oil shale or oil sands  
19          located in the United States for the purpose of creating  
20          fuels, fuels feedstocks, or other manufactured products.  
21          Such term shall include so much of the purchase price  
22          paid by the lessor or equipment and facilities subject to  
23          a lease described in subsection (c)(2) as is attributable to  
24          expenditures incurred by the lessee which would otherwise  
25          be described in the preceding sentence.

1       “(c) WHEN EXPENDITURES TAKEN INTO AC-  
2 COUNT.—For purposes of this section—

3           “(1) IN GENERAL.—Qualified oil shale and oil  
4 sands technology expenditures shall be taken into ac-  
5 count under this section only with respect to equip-  
6 ment and facilities—

7           “(A) the original use of which commences  
8 with the taxpayer, and

9           “(B) which are placed in service, after the  
10 date of the enactment of this Act.

11       “(2) SALE-LEASEBACKS.—For purposes of  
12 paragraph (1), if property—

13           “(A) is originally placed in service after  
14 the date of the enactment of this Act by any  
15 person, and

16           “(B) sold and leased back by such person  
17 within 3 months after the date such property  
18 was originally placed in service, such property  
19 shall be treated as originally placed in service  
20 not earlier than the date on which such prop-  
21 erty is used under the leaseback referred to in  
22 clause (ii).

23       “(d) SPECIAL RULES.—

24           “(1) PROPERTY USED OUTSIDE THE UNITED  
25 STATES, ETC., NOT QUALIFIED.—No expenditures

1 shall be taken into account under subsection (a)(1)  
2 with respect to the portion of the cost of any prop-  
3 erty referred to in section 50(b) or with respect to  
4 the portion of the cost of any property specified in  
5 an election under section 179.

6 “(2) BASIS REDUCTION.—

7 “(A) IN GENERAL.—For purposes of this  
8 title, the basis of any property shall be reduced  
9 by the portion of the cost of such property  
10 taken into account under subsection (a)(1).

11 “(B) ORDINARY INCOME RECAPTURE.—

12 For purposes of section 1245, the amount of  
13 the deduction allowable under subsection (a)(1)  
14 with respect to any property which is of a char-  
15 acter subject to the allowance for depreciation  
16 shall be treated as a deduction allowed for de-  
17 preciation under section 167.

18 “(3) COORDINATION WITH SECTION 38.—No

19 credit shall be allowed under section 38 with respect  
20 to any amount for which a deduction is allowed  
21 under subsection (a)(1).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 263(a)(1) of the Internal Revenue  
24 Code of 1986 (relating to capital expenditures) is  
25 amended by striking “or” at the end of subpara-

1 graph (H), by striking the period at the end of sub-  
2 paragraph (I) and inserting “, or”, and by adding  
3 at the end the following new subparagraph:

4 “(J) expenditures for which a deduction is  
5 allowed under section 191.”.

6 (2) Section 1016(a) of such Code is amended  
7 by striking “and” at the end of paragraph (30), by  
8 striking the period at the end of paragraph (31) and  
9 inserting “, and”, and by adding at the end the fol-  
10 lowing new paragraph:

11 “(32) to the extent provided in section  
12 191(d)(2).”.

13 (3) The table of sections for part VI of sub-  
14 chapter A of chapter 1 of such Code is amended by  
15 inserting after the item relating to section 190 the  
16 following new item:

Sec. 191. Oil shale and oil sands technology expenditures.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to expenditures incurred in taxable  
19 years beginning after December 31, 2005.

○