

107TH CONGRESS
1ST SESSION

S. 1529

To direct the Assistant to the President for Homeland Security to establish the National Energy Infrastructure Security Program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10, 2001

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

A BILL

To direct the Assistant to the President for Homeland Security to establish the National Energy Infrastructure Security Program.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Energy Infra-
5 structure Security Program Establishment Act”.

6 **SEC. 2. NATIONAL ENERGY INFRASTRUCTURE SECURITY**
7 **PROGRAM.**

8 (a) DEFINITIONS.—In this section:

1 (1) APPROVED STATE PLAN.—The term “ap-
2 proved State plan” means a State plan approved by
3 the Assistant under subsection (c)(3).

4 (2) ASSISTANT.—The term “Assistant” means
5 the Assistant to the President for Homeland Secu-
6 rity.

7 (3) COASTAL ZONE.—The term “coastal zone”
8 has the meaning given the term in section 304 of the
9 Coastal Zone Management Act of 1972 (16 U.S.C.
10 1453).

11 (4) COASTLINE.—The term “coastline” has the
12 meaning given the term “coast line” in section 2 of
13 the Submerged Lands Act (43 U.S.C. 1301).

14 (5) CRITICAL ENERGY INFRASTRUCTURE FACIL-
15 ITY.—The term “critical energy infrastructure facil-
16 ity” means—

17 (A) an electric generating facility;

18 (B) a hydroelectric facility;

19 (C) an electric transmission facility;

20 (D) a petroleum or natural gas pipeline;

21 (E) an energy production facility;

22 (F) a refinery or chemical processing
23 plant;

24 (G) a transportation or distribution facil-
25 ity;

1 (H) a port, rig, or platform;

2 (I) any other energy infrastructure facility
3 as determined by the Assistant; and

4 (J) a related facility that carries out a
5 public service or infrastructure activity critical
6 to the operation of an energy infrastructure fa-
7 cility described in any of subparagraphs (A)
8 through (I), as determined by the Assistant.

9 (6) DISTANCE.—The term “distance” means
10 the minimum great circle distance, measured in stat-
11 ute miles.

12 (7) FUND.—The term “Fund” means the Na-
13 tional Energy Infrastructure Security Trust Fund
14 established by subsection (d).

15 (8) LEASED TRACT.—

16 (A) IN GENERAL.—The term “leased
17 tract” means a tract that—

18 (i) is subject to a lease under section
19 6 or 8 of the Outer Continental Shelf
20 Lands Act (43 U.S.C. 1335, 1337) for the
21 purpose of drilling for, developing, and
22 producing oil or natural gas resources; and

23 (ii) consists of a block, a portion of a
24 block, a combination of blocks or portions

1 of blocks, or a combination of portions of
2 blocks, as—

3 (I) specified in the lease; and

4 (II) depicted on an outer Conti-
5 nental Shelf official protraction dia-
6 gram.

7 (B) EXCLUSION.—The term “leased tract”
8 does not include a tract described in subpara-
9 graph (A) that is located in a geographic area
10 subject to a leasing moratorium on January 1,
11 2001, unless the lease was in production on
12 that date.

13 (9) PRODUCING COASTAL STATE.—The term
14 “producing coastal State” means—

15 (A) the State of—

16 (i) Alaska;

17 (ii) Alabama;

18 (iii) California;

19 (iv) Florida;

20 (v) Louisiana;

21 (vi) Mississippi; or

22 (vii) Texas; and

23 (B) any other State with a coastal seaward
24 boundary within 200 miles of the geographic
25 center of a leased tract.

1 (10) PRODUCTION.—The term “production”
2 has the meaning given the term in section 2 of the
3 Outer Continental Shelf Lands Act (43 U.S.C.
4 1331).

5 (11) PROGRAM.—The term “program” means
6 the National Energy Infrastructure Security Pro-
7 gram established under subsection (b).

8 (12) QUALIFIED OUTER CONTINENTAL SHELF
9 REVENUES.—

10 (A) IN GENERAL.—The term “qualified
11 Outer Continental Shelf revenues” means all
12 funds received by the United States from each
13 leased tract—

14 (i) that lies—

15 (I) seaward of the zone covered
16 by section 8(g) of the Outer Conti-
17 nental Shelf Lands Act (43 U.S.C.
18 1337(g)); or

19 (II) within that zone, but to
20 which section 8(g) of that Act does
21 not apply; and

22 (ii) the geographic center of which lies
23 within a distance of 200 miles of any part
24 of the coastline of a producing coastal
25 State.

1 (B) INCLUSIONS.—The term “qualified
2 Outer Continental Shelf revenues” includes
3 bonus bids, rents, royalties (including payments
4 for royalty taken in kind and sold), net profit
5 share payments, and related late-payment inter-
6 est from natural gas and oil leases issued under
7 the Outer Continental Shelf Lands Act (43
8 U.S.C. 1331 et seq.).

9 (13) STATE.—The term “State” means any of
10 the States, the District of Columbia, the Common-
11 wealth of Puerto Rico, Guam, the Commonwealth of
12 the Northern Mariana Islands, the Virgin Islands of
13 the United States, and any territory of the United
14 States.

15 (14) STATE PLAN.—The term “State plan”
16 means a State plan described in subsection (b).

17 (b) ESTABLISHMENT.—The Assistant shall establish
18 a program, to be known as the “National Energy Infra-
19 structure Security Program”, under which the Assistant
20 shall provide funds to States to implement approved State
21 plans to provide security against hostile and natural
22 threats to critical energy infrastructure facilities.

23 (c) STATE PLANS.—

24 (1) INITIAL PLAN.—Not later than 180 days
25 after the date of enactment of this Act, to be eligible

1 to receive funds under the program, the Governor of
2 a State shall submit to the Assistant—

3 (A) a plan to provide security against hos-
4 tile and natural threats to critical energy infra-
5 structure facilities in the State; and

6 (B) a request for an amount of Federal
7 funds to carry out the State plan.

8 (2) REVISED PLANS.—

9 (A) FIRST REVISED PLAN.—Not later than
10 18 months after the date of enactment of this
11 Act, the Governor of a State shall submit to the
12 Assistant a revised State plan.

13 (B) ANNUAL REVIEWS.—Not later than 1
14 year after the date of submission of the revised
15 plan under subparagraph (A) and annually
16 thereafter, the Governor of a State shall—

17 (i) review the approved State plan;

18 and

19 (ii) submit to the Assistant any re-
20 vised State plan resulting from the review.

21 (3) APPROVAL OF PLANS.—

22 (A) IN GENERAL.—In consultation with
23 appropriate Federal security officials and the
24 Secretaries of Commerce, Energy and Interior,
25 the Assistant shall—

- 1 (i) approve each State plan; or
2 (ii) recommend changes to the State
3 plan.

4 (B) RESUBMISSION OF STATE PLANS.—If
5 the Assistant recommends changes to a State
6 plan under subparagraph (A)(ii), the Governor
7 of the State may resubmit a revised State plan
8 to the Assistant for approval.

9 (4) AVAILABILITY OF PLANS.—

10 (A) AVAILABILITY TO THE PUBLIC.—The
11 Assistant, in consultation with the Governor of
12 a State, shall determine whether and to what
13 extent the approved State plan shall be made
14 public.

15 (B) AVAILABILITY TO CONGRESS.—The
16 Assistant shall provide to Congress, on a con-
17 fidential basis, a copy of each approved State
18 plan.

19 (5) CONSULTATION AND PUBLIC COMMENT.—

20 (A) CONSULTATION.—The Governor of a
21 State shall develop the State plan in consulta-
22 tion with Federal, State, and local law enforce-
23 ment and public safety officials, industry, In-
24 dian tribes, the scientific community, and other
25 persons as appropriate.

1 (B) PUBLIC COMMENT.—The Governor of
2 a State may solicit public comments on the
3 State plan to the extent that the Governor de-
4 termines to be appropriate.

5 (d) NATIONAL ENERGY INFRASTRUCTURE SECURITY
6 TRUST FUND.—

7 (1) ESTABLISHMENT.—There is established in
8 the Treasury of the United States a fund to be used
9 in carrying out this section, to be known as the “Na-
10 tional Energy Infrastructure Security Trust Fund”,
11 consisting of—

12 (A) such amounts as are appropriated to
13 the Fund under paragraph (2); and

14 (B) any interest earned on investment of
15 amounts in the Fund under paragraph (4).

16 (2) TRANSFERS TO FUND.—There are appro-
17 priated to the Fund amounts equivalent to 50 per-
18 cent of qualified Outer Continental Shelf revenues.

19 (3) EXPENDITURES FROM FUND.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B), upon request by the Assistant or the
22 Secretary of the Interior and without further
23 appropriation, the Secretary of the Treasury
24 shall transfer from the Fund to the Assistant or
25 the Secretary of the Interior such amounts as

1 are necessary to make allocations to States
2 under subsection (g).

3 (B) ADMINISTRATIVE EXPENSES.—An
4 amount not exceeding 1 percent of the amounts
5 in the Fund shall be available in each fiscal
6 year to pay the administrative expenses nec-
7 essary to carry out the program.

8 (4) INVESTMENT OF AMOUNTS.—

9 (A) IN GENERAL.—The Secretary of the
10 Treasury shall invest such portion of the Fund
11 as is not, in the judgment of the Secretary of
12 the Treasury, required to meet current with-
13 drawals. Investments may be made only in in-
14 terest-bearing obligations of the United States.

15 (B) ACQUISITION OF OBLIGATIONS.—For
16 the purpose of investments under subparagraph
17 (A), obligations may be acquired—

18 (i) on original issue at the issue price;

19 or

20 (ii) by purchase of outstanding obliga-
21 tions at the market price.

22 (C) SALE OF OBLIGATIONS.—Any obliga-
23 tion acquired by the Fund may be sold by the
24 Secretary of the Treasury at the market price.

1 (D) CREDITS TO FUND.—The interest on,
2 and the proceeds from the sale or redemption
3 of, any obligations held in the Fund shall be
4 credited to and form a part of the Fund.

5 (5) TRANSFERS OF AMOUNTS.—

6 (A) IN GENERAL.—The amounts required
7 to be transferred to the Fund under this sub-
8 section shall be transferred at least monthly
9 from the general fund of the Treasury to the
10 Fund on the basis of estimates made by the
11 Secretary of the Treasury.

12 (B) ADJUSTMENTS.—Proper adjustment
13 shall be made in amounts subsequently trans-
14 ferred to the extent prior estimates were in ex-
15 cess of or less than the amounts required to be
16 transferred.

17 (e) ALLOCATION OF AMOUNTS FROM THE FUND.—

18 (1) IN GENERAL.—For each fiscal year, the As-
19 sistant shall allocate the amounts transferred to the
20 Fund for the preceding fiscal year as follows:

21 (A) 70 percent of the amounts shall be al-
22 located by the Assistant in accordance with
23 paragraph (2) to States to carry out activities
24 under approved State plans in areas that are
25 not coastal zones.

1 (B) 30 percent of the amounts shall be al-
2 located by the Secretary of the Interior in ac-
3 cordance with paragraph (3) to producing
4 coastal States to carry out activities under ap-
5 proved State coastal zone plans under sub-
6 section (f)(1) in coastal zones of the producing
7 coastal States.

8 (2) ALLOCATION OF AMOUNTS BY ASSISTANT.—
9 In determining what portion of the amounts de-
10 scribed in paragraph (1)(A) to allocate to each
11 State, the Assistant shall consider—

12 (A) the extent to which the State contains
13 infrastructure facilities that are most vulnerable
14 to human or natural threats;

15 (B) the extent to which the State contains
16 facilities that, if disrupted, would threaten—

17 (i) critical national security facilities;

18 (ii) the largest populations;

19 (iii) the national, regional, or local
20 economies;

21 (iv) pristine habitats; or

22 (v) national cultural, historical, or re-
23 ligious sites;

1 (C) other financial resources available to
2 the State assist in the implementation of the
3 approved State plan; and

4 (D) other appropriate factors.

5 (3) ALLOCATION OF AMOUNTS BY SECRETARY
6 OF THE INTERIOR.—The Secretary of the Interior
7 shall allocate the amounts described in paragraph
8 (1)(B) among producing coastal States as follows:

9 (A) 60 percent of the amounts shall be di-
10 vided equally among producing coastal States.

11 (B) 40 percent of the amounts shall be di-
12 vided among producing coastal States on the
13 basis of the proximity of each producing coastal
14 State to offshore locations at which oil and gas
15 are being produced.

16 (f) USE OF AMOUNTS ALLOCATED BY SECRETARY OF
17 THE INTERIOR.—

18 (1) COASTAL ZONE PLANS.—

19 (A) IN GENERAL.—Not later than 180
20 days after the date of enactment of this Act, to
21 be eligible to receive amounts allocated by the
22 Secretary of the Interior under subsection
23 (e)(3), the Governor of a producing coastal
24 State shall submit to the Secretary of the Inte-
25 rior and the Secretary of Commerce a plan to

1 provide security against human and natural
2 threats to critical energy infrastructure facili-
3 ties in coastal zones of the producing coastal
4 State.

5 (B) DEVELOPMENT OF PLANS.—Each
6 coastal zone plan under subparagraph (A) shall
7 be developed and approved in the same manner
8 as a State plan is developed under subsection
9 (c).

10 (2) USE OF AMOUNTS.—

11 (A) IN GENERAL.—Amounts allocated by
12 the Secretary of the Interior under subsection
13 (e)(3) may be used only for—

14 (i) activities to secure critical energy
15 infrastructure facilities in a coastal zone
16 from human or natural threats; and

17 (ii) support of any necessary public
18 service activities that are needed to main-
19 tain the safety and operation of critical en-
20 ergy infrastructure facilities.

21 (B) RESTORATION OF COASTAL WET-
22 LAND.—For the purpose of subparagraph
23 (A)(i), restoration of coastal wetland shall be
24 considered to be an activity that secures critical

1 energy infrastructure facilities in a coastal zone
2 from a natural threat.

3 (g) TERMINATION OF AUTHORITY.—The authority
4 provided by this section terminates effective on the date
5 that is 6 years after the date of enactment of this Act.

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