

# Union Calendar No. 781

115TH CONGRESS  
2D SESSION

# H. R. 4239

[Report No. 115–1000]

To distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal States, to require sale of approved offshore oil and gas leases, to promote offshore wind lease sales, and to empower States to manage the development and production of oil and gas on available Federal land, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2017

Mr. SCALISE (for himself, Mr. BISHOP of Utah, Mr. GONZALEZ of Texas, and Mr. CUELLAR) introduced the following bill; which was referred to the Committee on Natural Resources

NOVEMBER 2, 2018

Additional sponsors: Mr. GOSAR, Mr. CRAMER, Mr. PEARCE, Mr. LAMBORN, Mrs. RADEWAGEN, Mr. WEBER of Texas, Mr. LAMALFA, Mr. HUDSON, Mr. FLORES, Mr. DUNCAN of South Carolina, Mr. YOUNG of Alaska, Mr. ABRAHAM, and Mr. BRAT

NOVEMBER 2, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on November 3, 2017]

# **A BILL**

To distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal States, to require sale of approved offshore oil and gas leases, to promote offshore wind lease sales, and to empower States to manage the development and production of oil and gas on available Federal land, 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        *“Strengthening the Economy with Critical Untapped Re-*  
 6        *sources to Expand American Energy Act” or the “SECURE*  
 7        *American Energy Act”.*

8        (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 9        *this Act is the following:*

*Sec. 1. Short title; table of contents.*

**TITLE I—OFFSHORE**

*Sec. 101. Short title.*

*Sec. 102. Disposition of revenues from oil and gas leasing on the outer Conti-*  
*ental Shelf to producing States.*

*Sec. 103. Limitations on the amount of distributed qualified outer Continental*  
*Shelf revenues under the Gulf of Mexico Energy Security Act of*  
*2006.*

*Sec. 104. Limitation of authority of the President to withdraw areas of the outer*  
*Continental Shelf from oil and gas leasing.*

*Sec. 105. Modification to the outer Continental Shelf leasing program.*

*Sec. 106. Inspection fee collection.*

*Sec. 107. Arctic rule shall have no force or effect.*

*Sec. 108. Application of outer Continental Shelf Lands Act with respect to terri-*  
*tories of the United States.*

*Sec. 109. Wind lease sales for the outer Continental Shelf.*

*Sec. 110. Reducing permitting delays for taking of marine mammals.*

*Sec. 111. Effect.*

**TITLE II—ONSHORE**

*Sec. 201. Short title.*

*Sec. 202. Cooperative federalism in oil and gas permitting on available Federal*  
*land.*

*Sec. 203. Conveyance to certain States of property interest in State share of roy-*  
*alties and other payments.*

*Sec. 204. Permitting on non-Federal surface estate.*

*Sec. 205. State and Tribal authority for hydraulic fracturing regulation.*

*Sec. 206. Review of Integrated Activity Plan for the National Petroleum Reserve*  
*in Alaska.*

*Sec. 207. Protested lease sales.*

*Sec. 208. Clarification regarding liability under Migratory Bird Treaty Act.*

# **TITLE I—OFFSHORE**

## **SEC. 101. SHORT TITLE.**

*This title may be cited as the “Accessing Strategic Resources Offshore Act” or the “ASTRO” Act.*

## **SEC. 102. DISPOSITION OF REVENUES FROM OIL AND GAS**

### **LEASING ON THE OUTER CONTINENTAL SHELF TO PRODUCING STATES.**

*Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—*

*(1) by striking “All rentals” and inserting the following:*

*“(a) IN GENERAL.—Except as otherwise provided in this section, all rentals”; and*

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

*“(b) DISTRIBUTION OF REVENUE TO PRODUCING STATES.—*

*“(1) DEFINITIONS.—In this subsection:*

*“(A) COVERED PLANNING AREA.—*

*“(i) IN GENERAL.—Subject to clause (ii), the term ‘covered planning area’ means each of the following planning areas, as such planning areas are generally depicted in the later of the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program, dated November 2016, or a*

subsequent oil and gas leasing program developed under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344):

“(I) *Mid-Atlantic.*

“(II) *South Atlantic.*

“(III) *Any planning area located off the coast of Alaska.*

“(ii) *EXCLUSIONS.—The term ‘covered planning area’ does not include any area in the Atlantic—*

*“(I) north of the southernmost lateral seaward administrative boundary of the State of Maryland; or*

*“(II) south of the northernmost lateral seaward administrative boundary of the State of Florida.*

“(B) *PRODUCING STATE.—The term ‘producing State’ means each of the following States:*

*“(i) Virginia.*

*“(ii) North Carolina.*

*“(iii) South Carolina.*

*“(iv) Georgia.*

*“(v) Alaska.*

“(C) *QUALIFIED REVENUES.—*

1           “(i) *IN GENERAL.*—The term ‘qualified  
 2           *revenues*’ means revenues derived from rent-  
 3           *als, royalties, bonus bids, and other sums*  
 4           *due and payable to the United States under*  
 5           *oil and gas leases entered into on or after*  
 6           *the date of the enactment of this Act for an*  
 7           *area in a covered planning area.*

8           “(ii) *EXCLUSIONS.*—The term ‘quali-  
 9           *fied revenues*’ does not include—

10                   “(I) *revenues from the forfeiture of*  
 11                   *a bond or other surety securing obliga-*  
 12                   *tions other than royalties, civil pen-*  
 13                   *alties, or royalties taken by the Sec-*  
 14                   *retary in-kind and not sold;*

15                   “(II) *revenues generated from*  
 16                   *leases subject to section 8(g); and*

17                   “(III) *the portion of rental reve-*  
 18                   *nues in excess of those that would have*  
 19                   *been collected at the rental rates in ef-*  
 20                   *fect before August 5, 1993.*

21           “(2) *DEPOSIT OF QUALIFIED REVENUES.*—

22                   “(A) *PHASE I.*—With respect to qualified  
 23                   *revenues under leases awarded under the first*  
 24                   *leasing program approved under section 18(a)*  
 25                   *that takes effect after the date of the enactment*

1           *of this section, the Secretary of the Treasury*  
2           *shall deposit or allocate, as applicable—*

3                     “(i) 87.5 percent into the general fund  
4                     *of the Treasury; and*

5                     “(ii) 12.5 percent to States in accord-  
6                     *ance with paragraph (3).*

7                     “(B) *PHASE II.—With respect to qualified*  
8                     *revenues under leases awarded under the second*  
9                     *leasing program approved under section 18(a)*  
10                    *that takes effect after the date of the enactment*  
11                    *of this section, the Secretary of the Treasury*  
12                    *shall deposit or allocate, as applicable—*

13                     “(i) 75 percent into the general fund of  
14                     *the Treasury; and*

15                     “(ii) 25 percent to States in accord-  
16                     *ance with paragraph (3).*

17                     “(C) *PHASE III.—With respect to qualified*  
18                     *revenues under leases awarded under the third*  
19                     *leasing program approved under section 18(a)*  
20                     *that takes effect after the date of the enactment*  
21                     *of this section and under any such leasing pro-*  
22                     *gram subsequent to such third leasing program,*  
23                     *the Secretary of the Treasury shall deposit or al-*  
24                     *locate, as applicable—*

1                   “(i) 50 percent into the general fund of  
2                   the Treasury; and

3                   “(ii) 50 percent into a special account  
4                   in the Treasury from which the Secretary of  
5                   the Treasury shall disburse—

6                   “(I) 75 percent to States in ac-  
7                   cordance with paragraph (3);

8                   “(II) 12.5 percent to the Secretary  
9                   of Transportation for energy infra-  
10                  structure development in coastal ports;  
11                  and

12                  “(III) 12.5 percent to the Sec-  
13                  retary of the Interior for units of the  
14                  National Park System.

15                  “(3) ALLOCATION TO PRODUCING STATES.—

16                  “(A) IN GENERAL.—Subject to subpara-  
17                  graph (B), the Secretary of the Treasury shall  
18                  allocate the qualified revenues distributed to  
19                  States under paragraph (2) to each producing  
20                  State in an amount based on a formula estab-  
21                  lished by the Secretary of the Interior, by regula-  
22                  tion, that—

23                  “(i) is inversely proportional to the re-  
24                  spective distances between—

1                   “(I) the point on the coastline of  
2                   the producing State that is closest to  
3                   the geographical center of the applica-  
4                   ble leased tract; and

5                   “(II) the geographical center of  
6                   that leased tract;

7                   “(ii) does not allocate qualified reve-  
8                   nues to any producing State that is further  
9                   than 200 nautical miles from the leased  
10                  tract; and

11                  “(iii) allocates not less than 10 percent  
12                  of qualified revenues to each producing  
13                  State that is 200 or fewer nautical miles  
14                  from the leased tract.

15                  “(B) PAYMENTS TO COASTAL POLITICAL  
16                  SUBDIVISIONS.—

17                  “(i) IN GENERAL.—The Secretary of  
18                  the Treasury shall pay 20 percent of the al-  
19                  locable share of each producing State deter-  
20                  mined under this paragraph to the coastal  
21                  political subdivisions of the producing  
22                  State.

23                  “(ii) ALLOCATION.—The amount paid  
24                  by the Secretary of the Treasury to coastal  
25                  political subdivisions shall be allocated to

1 *each coastal political subdivision in accord-*  
2 *ance with subparagraphs (B) and (E) of*  
3 *section 31(b)(4).*

4 “(iii) *DEFINITION OF COASTAL POLIT-*  
5 *ICAL SUBDIVISION.—In this subparagraph,*  
6 *the term ‘coastal political subdivision’*  
7 *means—*

8 “(I) *with respect to a contiguous*  
9 *coastal State, a political subdivision of*  
10 *such State, any part of which is—*

11 “(aa) *within the coastal zone*  
12 *of the State (as defined in section*  
13 *304 of the Coastal Zone Manage-*  
14 *ment 2 Act of 1972 (16 U.S.C.*  
15 *1453)); and*

16 “(bb) *not more than 200*  
17 *nautical miles from the geo-*  
18 *graphic center of any leased tract;*  
19 *and*

20 “(II) *with respect to a noncontig-*  
21 *uous coastal State—*

22 “(aa) *a county-equivalent*  
23 *subdivision of the State for*  
24 *which—*

1                   “(AA) all or part lies  
2                   within the coastal zone of the  
3                   State (as defined in section  
4                   304 of the Coastal Zone  
5                   Management Act of 1972 (16  
6                   U.S.C. 1453)); and

7                   “(BB) the closest coastal  
8                   point is not more than 200  
9                   nautical miles from the geo-  
10                  graphical center of any  
11                  leased tract on the outer Con-  
12                  tinental Shelf; or

13                  “(bb) a municipal subdivi-  
14                  sion of the State for which—

15                  “(AA) the closest point  
16                  is more than 200 nautical  
17                  miles from the geographical  
18                  center of a leased tract on the  
19                  outer Continental Shelf; and

20                  “(BB) the State has de-  
21                  termined to be a significant  
22                  staging area for oil and gas  
23                  servicing, supply vessels, op-  
24                  erations, suppliers, or work-  
25                  ers.

1           “(4) *ADMINISTRATION.*—Amounts made avail-  
2           able under paragraph (2)(B) shall—

3                   “(A) be made available, without further ap-  
4                   propriation, in accordance with this subsection;

5                   “(B) remain available until expended;

6                   “(C) be in addition to any amounts appro-  
7                   priated under—

8                           “(i) chapter 2003 of title 54, United  
9                           States Code;

10                           “(ii) any other provision of this Act;  
11                           and

12                           “(iii) any other provision of law; and

13                   “(D) be made available during the fiscal  
14                   year immediately following the fiscal year in  
15                   which such amounts were received.”.

16 **SEC. 103. LIMITATIONS ON THE AMOUNT OF DISTRIBUTED**  
17 **QUALIFIED OUTER CONTINENTAL SHELF**  
18 **REVENUES UNDER THE GULF OF MEXICO EN-**  
19 **ERGY SECURITY ACT OF 2006.**

20           Section 105(f)(1) of the Gulf of Mexico Energy Secu-  
21           rity Act of 2006 (43 U.S.C. 1331 note) is amended to read  
22           as follows:

23                   “(1) *IN GENERAL.*—The total amount of quali-  
24                   fied outer Continental Shelf revenues described in sec-  
25                   tion 102(9)(A)(ii) that are made available under sub-

1        *section (a)(2) shall remain available until expended*  
 2        *and shall not exceed—*

3                *“(A) for each of fiscal years 2019 through*  
 4                *2028, \$500,000,000; and*

5                *“(B) for each of fiscal years 2029 through*  
 6                *2059, \$649,800,000.”.*

7    ***SEC. 104. LIMITATION OF AUTHORITY OF THE PRESIDENT***  
 8                ***TO WITHDRAW AREAS OF THE OUTER CONTI-***  
 9                ***NENTAL SHELF FROM OIL AND GAS LEASING.***

10        *(a) LIMITATION ON WITHDRAWAL FROM DISPOSITION*  
 11        *OF LANDS ON THE OUTER CONTINENTAL SHELF.—Section*  
 12        *12 of the Outer Continental Shelf Lands Act (43 U.S.C.*  
 13        *1341) is amended by amending subsection (a) to read as*  
 14        *follows:*

15        *“(a) LIMITATION ON WITHDRAWAL.—*

16                *“(1) IN GENERAL.—Except as otherwise provided*  
 17                *in this section, no lands of the outer Continental Shelf*  
 18                *may be withdrawn from disposition except by an Act*  
 19                *of Congress.*

20                *“(2) NATIONAL MARINE SANCTUARIES.—The*  
 21                *President may withdraw from disposition any of the*  
 22                *unleased lands of the outer Continental Shelf located*  
 23                *in a national marine sanctuary designated in accord-*  
 24                *ance with the National Marine Sanctuaries Act (16*  
 25                *U.S.C. 1431 et seq.) or otherwise by statute.*

1           “(3) *EXISTING WITHDRAWALS.*—

2                   “(A) *IN GENERAL.*—*Except for the with-*  
 3                   *drawals listed in subparagraph (B), any with-*  
 4                   *drawal from disposition of lands on the outer*  
 5                   *Continental Shelf before the date of the enact-*  
 6                   *ment of this subsection shall have no force or ef-*  
 7                   *fect.*

8                   “(B) *EXCEPTIONS.*—*Subparagraph (A)*  
 9                   *shall not apply to the following withdrawals:*

10                   “(i) *Any withdrawal in a national*  
 11                   *marine sanctuary designated in accordance*  
 12                   *with the National Marine Sanctuaries Act.*

13                   “(ii) *Any withdrawal in a national*  
 14                   *monument declared under section 320301 of*  
 15                   *title 54, United States Code, or the Act of*  
 16                   *June 8, 1906 (ch. 3060; 34 Stat. 225).*

17                   “(iii) *Any withdrawal in the North*  
 18                   *Aleutian Basin Planning Area, including*  
 19                   *Bristol Bay.”.*

20           (b) *TERMINATION OF AUTHORITY TO ESTABLISH MA-*  
 21           *RINE NATIONAL MONUMENTS.*—*Section 320301 of title 54,*  
 22           *United States Code, is amended by adding at the end the*  
 23           *following:*

24                   “(e) *LIMITATION ON MARINE NATIONAL MONU-*  
 25                   *MENTS.*—

1           “(1) *IN GENERAL.*—Notwithstanding subsections  
 2           (a) and (b), the President may not declare or reserve  
 3           any ocean waters (as such term is defined in section  
 4           3 of the Marine Protection, Research, and Sanctuaries  
 5           Act of 1972 (33 U.S.C. 1402)) or lands beneath ocean  
 6           waters as a national monument.

7           “(2) *MARINE NATIONAL MONUMENTS DES-*  
 8           *IGNATED BEFORE THE DATE OF THE ENACTMENT OF*  
 9           *THIS SUBSECTION.*—This subsection shall not affect  
 10          any national monument designated by the President  
 11          before the date of the enactment of this Act.”.

12 **SEC. 105. MODIFICATION TO THE OUTER CONTINENTAL**  
 13 **SHELF LEASING PROGRAM.**

14          Section 18(e) of the Outer Continental Shelf Lands Act  
 15          (43 U.S.C. 1344(e)) is amended by adding at the end the  
 16          following: “The Secretary shall include in any such revised  
 17          leasing program each unexecuted lease sale that was in-  
 18          cluded in the most recent leasing program and the Secretary  
 19          shall execute each such lease sale as close as practicable to  
 20          the time specified in the most recent leasing program. Sec-  
 21          tion 102(2)(C) of the National Environmental Policy Act  
 22          of 1969 (42 U.S.C. 4332) shall be deemed to have been satis-  
 23          fied with respect to the execution of such unexecuted lease  
 24          sales if the Secretary, in the Secretary’s sole discretion, de-

1 *termines that such section was satisfied with respect to such*  
 2 *unexecuted lease sales for the most recent leasing program.”.*

3 **SEC. 106. INSPECTION FEE COLLECTION.**

4 *Section 22 of the Outer Continental Shelf Lands Act*  
 5 *(43 U.S.C. 1348) is amended by adding at the end the fol-*  
 6 *lowing:*

7 “(g) *INSPECTION FEES.*—

8 “(1) *ESTABLISHMENT.*—*The Secretary of the In-*  
 9 *terior shall collect from the operators of facilities sub-*  
 10 *ject to inspection under subsection (c) non-refundable*  
 11 *fees for such inspections—*

12 “(A) *at an aggregate level equal to the*  
 13 *amount necessary to offset the annual expenses of*  
 14 *inspections of outer Continental Shelf facilities*  
 15 *(including mobile offshore drilling units) by the*  
 16 *Secretary of the Interior; and*

17 “(B) *using a schedule that reflects the dif-*  
 18 *ferences in complexity among the classes of fa-*  
 19 *cilities to be inspected.*

20 “(2) *OCEAN ENERGY SAFETY FUND.*—*There is es-*  
 21 *tablished in the Treasury a fund, to be known as the*  
 22 *‘Ocean Energy Safety Fund’ (referred to in this sub-*  
 23 *section as the ‘Fund’), into which shall be deposited*  
 24 *all amounts collected as fees under paragraph (1) and*

1       *which shall be available as provided under paragraph*  
2       *(3).*

3               “(3) *AVAILABILITY OF FEES.*—

4               “(A) *IN GENERAL.*—*Notwithstanding sec-*  
5       *tion 3302 of title 31, United States Code, all*  
6       *amounts deposited in the Fund—*

7               “(i) *shall be credited as offsetting col-*  
8       *lections;*

9               “(ii) *shall be available for expenditure*  
10       *for purposes of carrying out inspections of*  
11       *outer Continental Shelf facilities (including*  
12       *mobile offshore drilling units) and the ad-*  
13       *ministration of the inspection program*  
14       *under this section;*

15              “(iii) *shall be available only to the ex-*  
16       *tent provided for in advance in an appro-*  
17       *priations Act; and*

18              “(iv) *shall remain available until ex-*  
19       *pended.*

20              “(B) *USE FOR FIELD OFFICES.*—*Not less*  
21       *than 75 percent of amounts in the Fund may be*  
22       *appropriated for use only for the respective De-*  
23       *partment of the Interior field offices where the*  
24       *amounts were originally assessed as fees.*

1           “(4) *INITIAL FEES.*—*Fees shall be established*  
 2           *under this subsection for the fiscal year in which this*  
 3           *subsection takes effect and the subsequent 10 years,*  
 4           *and shall not be raised, except as determined by the*  
 5           *Secretary to be appropriate as an adjustment equal*  
 6           *to the percentage by which the Consumer Price Index*  
 7           *for the month of June of the calendar year preceding*  
 8           *the adjustment exceeds the Consumer Price Index for*  
 9           *the month of June of the calendar year in which the*  
 10           *fee was determined or last adjusted.*

11           “(5) *ANNUAL FEES.*—*Annual fees shall be col-*  
 12           *lected under this subsection for facilities that are*  
 13           *above the waterline, excluding drilling rigs, and are*  
 14           *in place at the start of the fiscal year. Fees for fiscal*  
 15           *year 2019 shall be—*

16                   “(A) *\$10,500 for facilities with no wells, but*  
 17                   *with processing equipment or gathering lines;*

18                   “(B) *\$17,000 for facilities with 1 to 10*  
 19                   *wells, with any combination of active or inactive*  
 20                   *wells; and*

21                   “(C) *\$31,500 for facilities with more than*  
 22                   *10 wells, with any combination of active or inac-*  
 23                   *tive wells.*

24           “(6) *FEES FOR DRILLING RIGS.*—*Fees shall be*  
 25           *collected under this subsection for drilling rigs on a*

1 *per inspection basis. Fees for fiscal year 2019 shall*  
2 *be—*

3 *“(A) \$30,500 per inspection for rigs oper-*  
4 *ating in water depths of 1,000 feet or more; and*

5 *“(B) \$16,700 per inspection for rigs oper-*  
6 *ating in water depths of less than 1,000 feet.*

7 *“(7) BILLING.—The Secretary shall bill des-*  
8 *ignated operators under paragraph (5) annually,*  
9 *with payment required within 30 days of billing. The*  
10 *Secretary shall bill designated operators under para-*  
11 *graph (6) within 30 days of the end of the month in*  
12 *which the inspection occurred, with payment required*  
13 *within 30 days after billing.*

14 *“(8) ANNUAL REPORTS.—*

15 *“(A) IN GENERAL.—Not later than 60 days*  
16 *after the end of each fiscal year beginning with*  
17 *fiscal year 2019 and ending with fiscal year*  
18 *2029, the Secretary shall submit to the Com-*  
19 *mittee on Energy and Natural Resources of the*  
20 *Senate and the Committee on Natural Resources*  
21 *of the House of Representatives a report on the*  
22 *operation of the Fund during the fiscal year.*

23 *“(B) CONTENTS.—Each report shall in-*  
24 *clude, for the fiscal year covered by the report,*  
25 *the following:*

1 “(i) *A statement of the amounts depos-*  
 2 *ited into the Fund.*

3 “(ii) *A description of the expenditures*  
 4 *made from the Fund for the fiscal year, in-*  
 5 *cluding the purpose of the expenditures and*  
 6 *the additional hiring of personnel.*

7 “(iii) *A statement of the balance re-*  
 8 *maining in the Fund at the end of the fiscal*  
 9 *year.*

10 “(iv) *An accounting of pace of permit*  
 11 *approvals.*

12 “(v) *If fee increases are proposed, a*  
 13 *proper accounting of the potential adverse*  
 14 *economic impacts such fee increases will*  
 15 *have on offshore economic activity and over-*  
 16 *all production.*

17 “(vi) *Recommendations to increase the*  
 18 *efficacy and efficiency of offshore inspec-*  
 19 *tions.*

20 “(vii) *Any corrective actions levied*  
 21 *upon offshore inspectors as a result of any*  
 22 *form of misconduct.”.*

23 **SEC. 107. ARCTIC RULE SHALL HAVE NO FORCE OR EFFECT.**

24 *The rule entitled “Oil and Gas and Sulfur Operations*  
 25 *on the Outer Continental Shelf – Requirements for Explor-*

1 *atory Drilling on the Arctic Outer Continental Shelf*” and  
 2 *published in the Federal Register on July 15, 2016 (81 Fed.*  
 3 *Reg. 46478), shall have no force or effect.*

4 **SEC. 108. APPLICATION OF OUTER CONTINENTAL SHELF**  
 5 **LANDS ACT WITH RESPECT TO TERRITORIES**  
 6 **OF THE UNITED STATES.**

7 *(a) IN GENERAL.—Section 2 of the Outer Continental*  
 8 *Shelf Lands Act (43 U.S.C. 1331) is amended—*

9 *(1) in paragraph (a), by inserting after “con-*  
 10 *trol” the following: “or lying within the exclusive eco-*  
 11 *nomie zone of the United States”;*

12 *(2) in paragraph (p), by striking “and” after the*  
 13 *semicolon at the end;*

14 *(3) in paragraph (q), by striking the period at*  
 15 *the end and inserting “; and”; and*

16 *(4) by adding at the end the following:*

17 *“(r) The term ‘State’ includes each territory of the*  
 18 *United States.”.*

19 *(b) EXCLUSIONS.—*

20 *(1) Section 4(a) of the Outer Continental Shelf*  
 21 *Lands Act (43 U.S.C. 1333) is amended by adding at*  
 22 *the end the following:*

23 *“(4) This section shall not apply to the territories and*  
 24 *possessions of the United States.”.*

1           (2) *Section 18 of the Outer Continental Shelf*  
 2           *Lands Act (43 U.S.C. 1344) is amended by adding at*  
 3           *the end the following:*

4           “(i) *This section shall not apply to the scheduling of*  
 5           *lease sales in the outer Continental Shelf adjacent to the*  
 6           *territories and possessions of the United States.”.*

7           (c) *EXPLORATION LICENSES AND LEASES.—Section*  
 8           *8(k) of the Outer Continental Shelf Lands Act (43 U.S.C.*  
 9           *1337) is amended by adding at the end the following:*

10           “(3) *EXPLORATION LICENSES AND LEASES ON*  
 11           *OUTER CONTINENTAL SHELF ADJACENT TO TERRI-*  
 12           *TORIES AND POSSESSIONS.—*

13           “(A) *IN GENERAL.—The Secretary is au-*  
 14           *thorized to grant to any qualified applicant an*  
 15           *exploration license which will provide the exclu-*  
 16           *sive right to explore for minerals, other than oil,*  
 17           *gas, and sulphur, in an area lying within the*  
 18           *United States exclusive economic zone and the*  
 19           *outer Continental Shelf adjacent to any territory*  
 20           *or possession of the United States.*

21           “(B) *APPLICATION.—Subsection (a) shall*  
 22           *not apply to any area conveyed by Congress to*  
 23           *a territorial government for administration.*

24           “(C) *EXPLORATION LICENSE DURATION.—*  
 25           *Exploration licenses granted under this para-*

1           *graph will be issued for a period pursuant to*  
 2           *regulations prescribed by the Secretary.*

3           “(D) *LEASE.*—*Upon showing to the satis-*  
 4           *faction of the Secretary that valuable mineral de-*  
 5           *posits have been discovered by the licensee within*  
 6           *the area described by the exploration license of*  
 7           *the licensee, the licensee will be entitled to a lease*  
 8           *for any or all of that area at a royalty rate es-*  
 9           *tablished by regulation and lease terms.*

10           “(E) *LEASE DURATION.*—*Leases under this*  
 11           *section will be issued for a period established by*  
 12           *regulation with a preferential right in the lessee*  
 13           *to renew.”.*

14   **SEC. 109. WIND LEASE SALES FOR THE OUTER CONTI-**  
 15           **NENTAL SHELF.**

16           *The Outer Continental Shelf Lands Act (43 U.S.C.*  
 17           *1331 et seq.) is amended by adding at the end the following:*

18   **“SEC. 33. WIND LEASE SALES FOR THE OUTER CONTI-**  
 19           **NENTAL SHELF.**

20           “(a) *AUTHORIZATION.*—*The Secretary may conduct*  
 21           *wind lease sales for the outer Continental Shelf.*

22           “(b) *WIND LEASE SALE PROCEDURE.*—*Any wind*  
 23           *lease sale conducted under this section shall be considered*  
 24           *a lease under section 8(p).*

1       “(c) *WIND LEASE SALE OFF COAST OF CALIFORNIA.*—  
 2       *The Secretary, in consultation with the Secretary of De-*  
 3       *fense, shall offer a wind lease sale for the outer Continental*  
 4       *Shelf off the coast of California as soon as practicable, but*  
 5       *not later than one year after the date of enactment of this*  
 6       *section.*

7       “(d) *WIND LEASE SALES OFF COAST OF PUERTO*  
 8       *RICO, VIRGIN ISLANDS OF THE UNITED STATES, GUAM,*  
 9       *AMERICAN SAMOA, AND THE COMMONWEALTH OF THE*  
 10       *NORTHERN MARIANA ISLANDS.*—

11               “(1) *STUDY ON FEASIBILITY OF CONDUCTING*  
 12       *WIND LEASE SALES OFF COAST OF PUERTO RICO, VIR-*  
 13       *GIN ISLANDS OF THE UNITED STATES, GUAM, AMER-*  
 14       *ICAN SAMOA, AND THE COMMONWEALTH OF THE*  
 15       *NORTHERN MARIANA ISLANDS.*—

16               “(A) *STUDY.*—*The Secretary shall conduct*  
 17       *a study on the feasibility, including the long*  
 18       *term economic feasibility, of conducting wind*  
 19       *lease sales for the outer Continental Shelf off the*  
 20       *coast of Puerto Rico, the Virgin Islands of the*  
 21       *United States, Guam, American Samoa, and the*  
 22       *Commonwealth of the Northern Mariana Islands.*

23               “(B) *SUBMISSION OF RESULTS.*—*Not later*  
 24       *than 180 days after the date of the enactment of*  
 25       *this section, the Secretary shall submit to Con-*

1       gress the results of the study conducted under  
2       subparagraph (A).

3       “(2) WIND LEASE SALES CONDITIONAL UPON RE-  
4       SULTS OF STUDY.—

5               “(A) WIND LEASE SALE OFF COAST OF  
6       PUERTO RICO.—If the study required under  
7       paragraph (1)(A) concludes that a wind lease  
8       sale for the outer Continental Shelf off the coast  
9       of Puerto Rico is feasible, then the Secretary  
10      shall offer a wind lease sale for the outer Conti-  
11      nental Shelf off the coast of Puerto Rico as soon  
12      as practicable, but not later than one year after  
13      the date of the enactment of this section.

14              “(B) WIND LEASE SALE OFF COAST OF VIR-  
15      GIN ISLANDS OF THE UNITED STATES.—If the  
16      study required under paragraph (1)(A) concludes  
17      that a wind lease sale for the outer Continental  
18      Shelf off the coast of the Virgin Islands of the  
19      United States is feasible, then the Secretary shall  
20      offer a wind lease sale for the outer Continental  
21      Shelf off the coast of the Virgin Islands of the  
22      United States as soon as practicable, but not  
23      later than one year after the date of the enact-  
24      ment of this section.

1           “(C) WIND LEASE SALE OFF COAST OF  
2           GUAM.—If the study required under paragraph  
3           (1)(A) concludes that a wind lease sale for the  
4           outer Continental Shelf off the coast of Guam is  
5           feasible, then the Secretary shall offer a wind  
6           lease sale for the outer Continental Shelf off the  
7           coast of Guam as soon as practicable, but not  
8           later than one year after the date of the enact-  
9           ment of this section.

10           “(D) WIND LEASE SALE OFF COAST OF  
11           AMERICAN SAMOA.—If the study required under  
12           paragraph (1)(A) concludes that a wind lease  
13           sale for the outer Continental Shelf off the coast  
14           of American Samoa is feasible, then the Sec-  
15           retary shall offer a wind lease sale for the outer  
16           Continental Shelf off the coast of American  
17           Samoa as soon as practicable, but not later than  
18           one year after the date of the enactment of this  
19           section.

20           “(E) WIND LEASE SALE OFF COAST OF THE  
21           COMMONWEALTH OF THE NORTHERN MARIANA  
22           ISLANDS.—If the study required under para-  
23           graph (1)(A) concludes that a wind lease sale for  
24           the outer Continental Shelf off the coast of the  
25           Commonwealth of the Northern Mariana Islands

1           *is feasible, then the Secretary shall offer a wind*  
 2           *lease sale for the outer Continental Shelf off the*  
 3           *coast of the Commonwealth of the Northern Mar-*  
 4           *iana Islands as soon as practicable, but not later*  
 5           *than one year after the date of the enactment of*  
 6           *this section.*

7           “(e) *WIND LEASE SALE OFF COAST OF HAWAII.*—

8                 “(1) *STUDY ON FEASIBILITY OF CONDUCTING*  
 9           *WIND LEASE SALES OFF COAST OF THE STATE OF HA-*  
 10          *WAI.*—

11                 “(A) *STUDY.*—*The Secretary, in consulta-*  
 12           *tion with the Secretary of Defense, shall conduct*  
 13           *a study on the feasibility of conducting wind*  
 14           *lease sales for the outer Continental Shelf off the*  
 15           *coast of the State of Hawaii.*

16                 “(B) *SUBMISSION OF RESULTS.*—*Not later*  
 17           *than 180 days after the date of the enactment of*  
 18           *this section, the Secretary shall submit to Con-*  
 19           *gress the results of the study conducted under*  
 20           *subparagraph (A).*

21                 “(2) *WIND LEASE SALES CONDITIONAL UPON RE-*  
 22           *SULTS OF STUDY.*—*If the study required under para-*  
 23           *graph (1)(A) concludes that a wind lease sale for the*  
 24           *outer Continental Shelf off the coast of the State of*  
 25           *Hawaii is feasible, then the Secretary shall offer a*

1        *wind lease sale for the outer Continental Shelf off the*  
 2        *coast of the State of Hawaii as soon as practicable,*  
 3        *but not later than one year after the date of the enact-*  
 4        *ment of this section.”.*

5    **SEC. 110. REDUCING PERMITTING DELAYS FOR TAKING OF**  
 6        **MARINE MAMMALS.**

7        (a) *ADDRESSING PERMITS FOR TAKING OF MARINE*  
 8    *MAMMALS.—Section 101(a)(5)(D) of the Marine Mammal*  
 9    *Protection Act of 1972 (16 U.S.C. 1371(a)(5)(D)) is amend-*  
 10   *ed as follows:*

11            (1) *In clause (i)—*

12                    (A) *by striking “citizens of the United*  
 13                    *States” and inserting “persons”;*

14                    (B) *by striking “within a specific geo-*  
 15                    *graphic region”;*

16                    (C) *by striking “of small numbers”;*

17                    (D) *by striking “such citizens” and insert-*  
 18                    *ing “such persons”; and*

19                    (E) *by striking “within that region”.*

20            (2) *In clause (ii)—*

21                    (A) *in subclause (I), by striking “, and*  
 22                    *other means of effecting the least practicable im-*  
 23                     *pact on such species or stock and its habitat”;*

24                    (B) *in subclause (III), by striking “require-*  
 25                    *ments pertaining to the monitoring and report-*

ing of such taking by harassment, including”  
 and inserting “efficient and practical require-  
 ments pertaining to the monitoring of such tak-  
 ing by harassment while the activity is being  
 conducted and the reporting of such taking, in-  
 cluding, as the Secretary determines necessary,”;  
 and

(C) by adding at the end the following:

“Any condition imposed pursuant to subclause (I),  
 (II), or (III) may not result in more than a minor  
 change to the specified activity and may not alter the  
 basic design, location, scope, duration, or timing of  
 the specified activity.”.

(3) In clause (iii), by striking “receiving an ap-  
 plication under this subparagraph” and inserting  
 “an application is accepted or required to be consid-  
 ered complete under subclause (I)(aa), (II)(aa), or  
 (IV) of clause (viii), as applicable,”.

(4) In clause (vi), by striking “a determination  
 of least practicable adverse impact on such species or  
 stock’ under clause (i)(I)” and inserting “conditions  
 imposed under subclause (I), (II), or (III) of clause  
 (ii)”.

(5) By adding at the end the following:

“(viii)(I) The Secretary shall—

1           “(aa) accept as complete a written request  
2           for authorization under this subparagraph for  
3           incidental taking described in clause (i), by not  
4           later than 45 days after the date of submission  
5           of the request; or

6           “(bb) provide to the requester, by not later  
7           than 15 days after the date of submission of the  
8           request, a written notice describing any addi-  
9           tional information required to complete the re-  
10          quest.

11          “(II) If the Secretary provides notice under sub-  
12          clause (I)(bb), the Secretary shall, by not later than  
13          30 days after the date of submission of the additional  
14          information described in the notice—

15               “(aa) accept the written request for author-  
16               ization under this subparagraph for incidental  
17               taking described in clause (i); or

18               “(bb) deny the request and provide the re-  
19               quester a written explanation of the reasons for  
20               the denial.

21          “(III) The Secretary may not under this sub-  
22          paragraph make a second request for information, re-  
23          quest that the requester withdraw and resubmit the  
24          request, or otherwise delay a decision on the request.

1           “(IV) *If the Secretary fails to respond to a re-*  
2           *quest for authorization under this subparagraph in*  
3           *the manner provided in subclause (I) or (II), the re-*  
4           *quest shall be considered to be complete.*

5           “(ix)(I) *At least 90 days before the date of the*  
6           *expiration of any authorization issued under this sub-*  
7           *paragraph, the holder of such authorization may*  
8           *apply for a one-year extension of such authorization.*  
9           *The Secretary shall grant such extension within 14*  
10          *days after the date of such request on the same terms*  
11          *and without further review if there has been no sub-*  
12          *stantial change in the activity carried out under such*  
13          *authorization nor in the status of the marine mam-*  
14          *mal species or stock, as applicable, as reported in the*  
15          *final annual stock assessment reports for such species*  
16          *or stock.*

17          “(II) *In subclause (I) the term ‘substantial*  
18          *change’ means a change that prevents the Secretary*  
19          *from making the required findings to issue an author-*  
20          *ization under clause (i) with respect to such species*  
21          *or stock.*

22          “(III) *The Secretary shall notify the applicant of*  
23          *such substantial changes with specificity and in writ-*  
24          *ing within 14 days after the applicant’s submittal of*  
25          *the extension request.*

1           “(x) If the Secretary fails to make the required  
 2       findings and, as appropriate, issue the authorization  
 3       within 120 days after the application is accepted or  
 4       required to be considered complete under subclause  
 5       (I)(aa), (II)(aa), or (III) of clause (viii), as applica-  
 6       ble, the authorization is deemed to have been issued  
 7       on the terms stated in the application and without  
 8       further process or restrictions under this Act.”.

9       (b) REMOVING DUPLICATIONS.—Section 101(a)(5)(D)  
 10     of the Marine Mammal Protection Act of 1972 (16 U.S.C.  
 11     1371(a)(5)(D)), as amended by subsection (a), is further  
 12     amended by adding at the end the following:

13           “(xi) Any taking of a marine mammal in com-  
 14       pliance with an authorization under this subpara-  
 15       graph is exempt from the prohibition on taking in  
 16       section 9 of the Endangered Species Act of 1973 (16  
 17       U.S.C. 1538). Any Federal agency authorizing, fund-  
 18       ing, or carrying out an action that results in such  
 19       taking, and any agency action authorizing such tak-  
 20       ing, is exempt from the requirement to consult regard-  
 21       ing potential impacts to marine mammal species or  
 22       designated critical habitat under section 7(a)(2) of  
 23       such Act (16 U.S.C. 1536(a)(2)).”.

24       (c) TRANSFER OF CERTAIN RESPONSIBILITIES TO THE  
 25     SECRETARY OF THE INTERIOR.—Section 3(12) of the Ma-

1 *rine Mammal Protection Act of 1972 (16 U.S.C. 1362(12))*  
 2 *is amended—*

3 *(1) in subparagraph (A), in the matter preceding*  
 4 *clause (i), by striking “subparagraph (B)” and in-*  
 5 *serting “subparagraphs (B) and (C)”;* and

6 *(2) by adding at the end the following:*

7 *“(C) In sections 101(a)(3), 101(a)(5), 103,*  
 8 *and 104 (16 U.S.C. 1371(a)(3), 1371(a)(5),*  
 9 *1373, and 1374), for activities associated with*  
 10 *operations authorized under the Outer Conti-*  
 11 *ental Shelf Lands Act (43 U.S.C. 1331 et seq.),*  
 12 *the term ‘Secretary’ means the Secretary of the*  
 13 *Interior with respect to all marine mammals.”.*

14 **SEC. 111. EFFECT.**

15 *Nothing in this Act, with respect to the State of Flor-*  
 16 *ida, shall be construed to modify—*

17 *(1) the moratorium imposed by section 104 of*  
 18 *the Gulf of Mexico Energy Security Act of 2006 (43*  
 19 *U.S.C. 1331 note); or*

20 *(2) the 2017–2022 leasing program prepared*  
 21 *under section 18 of the Outer Continental Shelf Lands*  
 22 *Act (43 U.S.C. 1344).*

## **TITLE II—ONSHORE**

### **SEC. 201. SHORT TITLE.**

*This title may be cited as the “Opportunities for the Nation and States to Harness Onshore Resources for Energy Act” or the “ONSHORE Act”.*

### **SEC. 202. COOPERATIVE FEDERALISM IN OIL AND GAS PERMITTING ON AVAILABLE FEDERAL LAND.**

*(a) IN GENERAL.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—*

*(1) by redesignating section 44 as section 47;*

*and*

*(2) by adding after section 43 the following new section:*

#### **“SEC. 44. COOPERATIVE FEDERALISM IN OIL AND GAS PERMITTING ON AVAILABLE FEDERAL LAND.**

**“(a) AUTHORIZATIONS.—**

*“(1) IN GENERAL.—Upon receipt of an application under subsection (b), the Secretary may delegate to a State exclusive authority—*

*“(A) to issue an APD on available Federal land; or*

*“(B) to approve drilling plans on available Federal land.*

1           “(2) *SUNDRY NOTICES.*—*Any authorization*  
 2           *under paragraph (1) may, upon the request of the*  
 3           *State, include authority to issue sundry notices.*

4           “(3) *INSPECTION AND ENFORCEMENT.*—*Any au-*  
 5           *thorization under paragraph (1) may, upon the re-*  
 6           *quest of the State, include authorization to inspect*  
 7           *and enforce an APD or drilling plan, as applicable.*  
 8           *An authorization under paragraph (1)(A) shall not*  
 9           *affect the ability of the Secretary to collect inspection*  
 10           *fees under section 108(d) of the Federal Oil and Gas*  
 11           *Royalty Management Act of 1982 (30 U.S.C.*  
 12           *1718(d)).*

13           “(b) *STATE APPLICATION PROCESS.*—

14           “(1) *SUBMISSION OF APPLICATION.*—*A State*  
 15           *may submit an application under subparagraph (A)*  
 16           *or (B) of subsection (a)(1) to the Secretary at such*  
 17           *time and in such manner as the Secretary may re-*  
 18           *quire.*

19           “(2) *CONTENT OF APPLICATION.*—*An application*  
 20           *submitted under this subsection shall include—*

21                   “(A) *a description of the State program*  
 22                   *that the State proposes to administer under*  
 23                   *State law; and*

24                   “(B) *a statement from the Governor or at-*  
 25                   *torney general of such State that the laws of such*

1           *State provide adequate authority to carry out*  
2           *the State program.*

3           “(3) *DEADLINE FOR APPROVAL OR DIS-*  
4           *APPROVAL.—Not later than 180 days after the date of*  
5           *receipt of an application under this subsection, the*  
6           *Secretary shall approve or disapprove such applica-*  
7           *tion.*

8           “(4) *CRITERIA FOR APPROVAL.—The Secretary*  
9           *may approve an application received under this sub-*  
10          *section only if the Secretary has—*

11               “(A) *determined that the State applicant*  
12               *would be at least as effective as the Secretary in*  
13               *issuing APDs or in approving drilling plans, as*  
14               *applicable;*

15               “(B) *determined that the State program of*  
16               *the State applicant—*

17                       “(i) *complies with this Act; and*

18                       “(ii) *provides for the termination or*  
19                       *modification of an issued APD or approved*  
20                       *drilling plan, as applicable, for cause, in-*  
21                       *cluding for—*

22                               “(I) *the violation of any condition*  
23                               *of the issued APD or approved drilling*  
24                               *plan;*

1                   “(II) obtaining the issued APD or  
2                   approved drilling plan by misrepresen-  
3                   tation; or

4                   “(III) failure to fully disclose in  
5                   the application all relevant facts;

6                   “(C) determined that the State applicant  
7                   has sufficient administrative and technical per-  
8                   sonnel and sufficient funding to carry out the  
9                   State program;

10                  “(D) provided notice to the public, solicited  
11                  public comment, and held a public hearing with-  
12                  in the State;

13                  “(E) determined that approval of the appli-  
14                  cation would not result in decreased royalty pay-  
15                  ments owed to the United States under section  
16                  35(a), except as provided in subsection (e) of  
17                  that section; and

18                  “(F) in the case of a State applicant seek-  
19                  ing authority under subsection (a)(3) to inspect  
20                  and enforce APDs or drilling plans, as applica-  
21                  ble, entered into a memorandum of under-  
22                  standing with a State applicant that delineates  
23                  the Federal and State responsibilities with re-  
24                  spect to such inspection and enforcement.

1           “(5) *DISAPPROVAL.—If the Secretary dis-*  
 2           *approves an application submitted under this sub-*  
 3           *section, then the Secretary shall—*

4                   “(A) *notify, in writing, the State applicant*  
 5                   *of the reason for the disapproval and any revi-*  
 6                   *sions or modifications necessary to obtain ap-*  
 7                   *proval; and*

8                   “(B) *provide any additional information,*  
 9                   *data, or analysis upon which the disapproval is*  
 10                  *based.*

11           “(6) *RESUBMITTAL OF APPLICATION.—A State*  
 12           *may resubmit an application under this subsection at*  
 13           *any time.*

14           “(7) *STATE MEMORANDUM OF UNDER-*  
 15           *STANDING.—Before a State submits an application*  
 16           *under this subsection, the Secretary may, at the re-*  
 17           *quest of a State, enter into a memorandum of under-*  
 18           *standing with the State regarding the proposed State*  
 19           *program—*

20                   “(A) *to delineate the Federal and State re-*  
 21                   *sponsibilities for oil and gas regulations;*

22                   “(B) *to provide technical assistance; and*

23                   “(C) *to share best management practices.*

24           “(c) *ADMINISTRATIVE FEES FOR APDS.—*

1           “(1) *IN GENERAL.*—A State for which authority  
2           has been delegated under subsection (a)(1)(A) may  
3           collect a fee for each application for an APD that is  
4           submitted to the State.

5           “(2) *NO COLLECTION OF FEE BY SECRETARY.*—  
6           The Secretary may not collect a fee from the appli-  
7           cant or from the State for an application for an APD  
8           that is submitted to a State for which authority has  
9           been delegated under subsection (a)(1)(A).

10          “(3) *FEE AMOUNT.*—The fee collected under  
11          paragraph (1) shall be less than or equal to the  
12          amount of the fee collected by the Secretary under sec-  
13          tion 35(d)(2) from States for which authority has not  
14          been delegated under subsection (a)(1)(A).

15          “(4) *USE.*—A State shall use 100 percent of the  
16          fees collected under this subsection for the administra-  
17          tion of the approved State program of the State.

18          “(d) *VOLUNTARY TERMINATION OF AUTHORITY.*—A  
19          State may voluntarily terminate any authority delegated  
20          to such State under subsection (a) upon providing written  
21          notice to the Secretary 60 days in advance. Upon expira-  
22          tion of such 60-day period, the Secretary shall resume any  
23          activities for which authority was delegated to the State  
24          under subsection (a).

1       “(e) *APPEAL OF DENIAL OF APPLICATION FOR APD*  
 2 *OR APPLICATION FOR APPROVAL OF DRILLING PLAN.*—

3               “(1) *IN GENERAL.*—*If a State for which the Sec-*  
 4 *retary has delegated authority under subsection (a)(1)*  
 5 *denies an application for an APD or an application*  
 6 *for approval of a drilling plan, the applicant may*  
 7 *appeal such decision to the Department of the Inte-*  
 8 *rior Office of Hearings and Appeals.*

9               “(2) *FEE ALLOWED.*—*The Secretary may charge*  
 10 *the applicant a fee for the appeal referred to in para-*  
 11 *graph (1).*

12       “(f) *FEDERAL ADMINISTRATION OF STATE PRO-*  
 13 *GRAM.*—

14               “(1) *NOTIFICATION.*—*If the Secretary has reason*  
 15 *to believe that a State is not administering or enforc-*  
 16 *ing an approved State program, the Secretary shall*  
 17 *notify the relevant State regulatory authority of any*  
 18 *possible deficiencies.*

19               “(2) *STATE RESPONSE.*—*Not later than 30 days*  
 20 *after the date on which a State receives notification*  
 21 *of a possible deficiency under paragraph (1), the*  
 22 *State shall—*

23                       “(A) *take appropriate action to correct the*  
 24 *possible deficiency; and*

1           “(B) *notify the Secretary of the action in*  
2           *writing.*

3           “(3) *DETERMINATION.*—

4           “(A) *IN GENERAL.*—*On expiration of the*  
5           *30-day period referred to in paragraph (2), if*  
6           *the Secretary determines that a violation of all*  
7           *or any part of an approved State program has*  
8           *resulted from a failure of the State to administer*  
9           *or enforce the approved State program of the*  
10          *State or that the State has not demonstrated its*  
11          *capability and intent to administer or enforce*  
12          *such a program, the Secretary shall issue public*  
13          *notice of such a determination.*

14          “(B) *APPEAL.*—*A State may appeal the de-*  
15          *termination of the Secretary under subpara-*  
16          *graph (A) in the applicable United States Dis-*  
17          *trict Court. The Secretary may not resume ac-*  
18          *tivities under paragraph (4) pending the resolu-*  
19          *tion of the appeal.*

20          “(4) *RESUMPTION BY SECRETARY.*—*If the Sec-*  
21          *retary has made a determination under paragraph*  
22          *(3), the Secretary shall resume any activities for*  
23          *which authority was delegated to the State during the*  
24          *period—*

1           “(A) beginning on the date on which the  
2           Secretary issues the public notice under para-  
3           graph (3); and

4           “(B) ending on the date on which the Sec-  
5           retary determines that the State will administer  
6           or enforce, as applicable, the approved State pro-  
7           gram of the State.

8           “(5) *STANDING*.—States with approved regu-  
9           latory programs shall have standing to sue the Sec-  
10          retary for any action taken under this subsection.

11          “(g) *DEFINITIONS*.—In this section:

12           “(1) *AVAILABLE FEDERAL LAND*.—The term  
13           ‘available Federal land’ means any Federal land  
14           that—

15           “(A) is located within the boundaries of a  
16           State;

17           “(B) is not held by the United States in  
18           trust for the benefit of a federally recognized In-  
19           dian Tribe or a member of such an Indian  
20           Tribe;

21           “(C) is not a unit of the National Park  
22           System;

23           “(D) is not a unit of the National Wildlife  
24           Refuge System, except for the portion of such

1           *unit for which oil and gas drilling is allowed*  
2           *under law;*

3           *“(E) is not a congressionally approved wil-*  
4           *derness area under the Wilderness Act (16 U.S.C.*  
5           *1131 et seq.); and*

6           *“(F) has been identified as land available*  
7           *for lease or has been leased for the exploration,*  
8           *development, and production of oil and gas—*

9           *“(i) by the Bureau of Land Manage-*  
10          *ment under—*

11           *“(I) a resource management plan*  
12           *under the process provided for in the*  
13           *Federal Land Policy and Management*  
14           *Act of 1976 (43 U.S.C. 1701 et seq.); or*

15           *“(II) an integrated activity plan*  
16           *with respect to the National Petroleum*  
17           *Reserve in Alaska; or*

18           *“(ii) by the Forest Service under a Na-*  
19           *tional Forest management plan under the*  
20           *Forest and Rangeland Renewable Resources*  
21           *Planning Act of 1974 (16 U.S.C. 1600 et*  
22           *seq.).*

23           *“(2) DRILLING PLAN.—The term ‘drilling plan’*  
24           *means a plan described under section 3162.3–1(e) of*

1 *title 43, Code of Federal Regulations (or successor reg-*  
2 *ulation).*

3 “(3) *APD.*—*The term ‘APD’ means a permit—*

4 “(A) *that grants authority to drill for oil*  
5 *and gas; and*

6 “(B) *for which an application has been re-*  
7 *ceived that contains—*

8 “(i) *a drilling plan;*

9 “(ii) *a surface use plan of operations*  
10 *described under section 3162.3–1(f) of title*  
11 *43, Code of Federal Regulations (or suc-*  
12 *cessor regulation);*

13 “(iii) *evidence of bond coverage; and*

14 “(iv) *such other information as may be*  
15 *required by applicable orders and notices.*

16 “(4) *SECRETARY.*—*The term ‘Secretary’ means*  
17 *the Secretary of the Interior.*

18 “(5) *STATE.*—*The term ‘State’ means each of the*  
19 *several States.*

20 “(6) *STATE APPLICANT.*—*The term ‘State appli-*  
21 *cant’ means a State that has submitted an applica-*  
22 *tion under subsection (b).*

23 “(7) *STATE PROGRAM.*—*The term ‘State pro-*  
24 *gram’ means a program that provides for a State*  
25 *to—*

1           “(A) issue APDs or approve drilling plans,  
2           as applicable, on available Federal land; and

3           “(B) impose sanctions for violations of  
4           State laws, regulations, or any condition of an  
5           issued APD or approved drilling plan, as appli-  
6           cable.

7           “(8) *SUNDRY NOTICE*.—The term ‘sundry notice’  
8           means a written request—

9           “(A) to perform work not covered under an  
10          APD or drilling plan; or

11          “(B) for a change to operations covered  
12          under a an APD or drilling plan.”.

13          (b) *INSPECTION FEES*.—Section 108 of the Federal Oil  
14          and Gas Royalty Management Act of 1982 (30 U.S.C. 1718)  
15          is amended by adding at the end the following:

16          “(d) *INSPECTION FEES FOR CERTAIN STATES*.—

17                 “(1) *IN GENERAL*.—The Secretary shall conduct  
18                 inspections of operations under each oil and gas lease.

19                 The Secretary shall collect annual nonrefundable in-  
20                 spection fees in the amount specified in paragraph

21                 (2), from each designated operator under each oil and  
22                 gas lease on Federal or Indian land that is subject to

23                 inspection under subsection (b) and that is located in  
24                 a State for which the Secretary has delegated author-

1        *ity under section 44(a)(1)(A) of the Mineral Leasing*  
 2        *Act.*

3                “(2) *AMOUNT.—The amount of the fees collected*  
 4        *under paragraph (1) shall be—*

5                        “(A) *\$700 for each lease or unit or*  
 6        *communitization agreement with no active or in-*  
 7        *active wells, but with surface use, disturbance or*  
 8        *reclamation;*

9                        “(B) *\$1,225 for each lease or unit or*  
 10        *communitization agreement with 1 to 10 wells,*  
 11        *with any combination of active or inactive wells;*

12                        “(C) *\$4,900 for each lease or unit or*  
 13        *communitization agreement with 11 to 50 wells,*  
 14        *with any combination of active or inactive wells;*  
 15        *and*

16                        “(D) *\$9,800 for each lease or unit or*  
 17        *communitization agreement with more than 50*  
 18        *wells, with any combination of active or inactive*  
 19        *wells.*

20                “(3) *ONSHORE ENERGY SAFETY FUND.—There is*  
 21        *established in the Treasury a fund, to be known as the*  
 22        *‘Onshore Energy Safety Fund’ (referred to in this*  
 23        *subsection as the ‘Fund’), into which shall be depos-*  
 24        *ited all amounts collected as fees under paragraph (1)*

1       *and which shall be available as provided under para-*  
2       *graph (4).*

3               “(4) *AVAILABILITY OF FEES.*—*Notwithstanding*  
4       *section 3302 of title 31, United States Code, all*  
5       *amounts deposited in the Fund—*

6               “(A) *shall be credited as offsetting collec-*  
7       *tions;*

8               “(B) *shall be available for expenditure for*  
9       *purposes of carrying out inspections of onshore*  
10       *oil and gas operations in those States for which*  
11       *the Secretary has delegated authority under sec-*  
12       *tion 44(a)(1)(A) of the Mineral Leasing Act;*

13               “(C) *shall be available only to the extent*  
14       *provided for in advance in an appropriations*  
15       *Act; and*

16               “(D) *shall remain available until expended.*

17               “(5) *PAYMENT DUE DATE.*—*The Secretary shall*  
18       *require payment of any fee assessed under this sub-*  
19       *section within 30 days after the Secretary provides*  
20       *notice of the assessment of the fee after the completion*  
21       *of an inspection.*

22               “(6) *PENALTY.*—*If a designated operator as-*  
23       *essed a fee under this subsection fails to pay the full*  
24       *amount of the fee as prescribed in this subsection, the*  
25       *Secretary may, in addition to utilizing any other ap-*

1        *plicable enforcement authority, assess civil penalties*  
 2        *against the operator under section 109 in the same*  
 3        *manner as if this section were a mineral leasing law.*

4                “(7) *NOTIFICATION TO STATE OF NONCOMPLI-*  
 5        *ANCE.—If, on the basis of any inspection under sub-*  
 6        *section (b), the Secretary determines that an operator*  
 7        *is in noncompliance with the requirements of mineral*  
 8        *leasing laws and this chapter, the Secretary shall no-*  
 9        *tify the State of such noncompliance immediately.”.*

10        (c) *EXISTING AUTHORITIES.—Section 390(a) of the*  
 11        *Energy Policy Act of 2005 (42 U.S.C. 15942(a)) is amend-*  
 12        *ed—*

13                (1) *by striking “Action by the Secretary” and*  
 14        *inserting “The Secretary”;*

15                (2) *by striking “with respect to any of the activi-*  
 16        *ties described in subsection (b) shall be subject to a re-*  
 17        *buttable presumption that the use of” and inserting*  
 18        *“shall apply”; and*

19                (3) *by striking “would apply if the activity” and*  
 20        *inserting “for each action described in subsection (b)*  
 21        *if the action”.*

1 **SEC. 203. CONVEYANCE TO CERTAIN STATES OF PROPERTY**  
 2 **INTEREST IN STATE SHARE OF ROYALTIES**  
 3 **AND OTHER PAYMENTS.**

4 (a) *IN GENERAL.*—Section 35 of the Mineral Leasing  
 5 Act (30 U.S.C. 191) is amended—

6 (1) *in the first sentence of subsection (a), by*  
 7 *striking “shall be paid into the Treasury” and insert-*  
 8 *ing “shall, except as provided in subsection (e), be*  
 9 *paid into the Treasury”;*

10 (2) *in subsection (c)(1), by inserting “and except*  
 11 *as provided in subsection (e)” before “, any rentals”;*  
 12 *and*

13 (3) *by adding at the end the following:*

14 “(e) *CONVEYANCE TO CERTAIN STATES OF PROPERTY*  
 15 *INTEREST IN STATE SHARE.*—

16 “(1) *IN GENERAL.*—Notwithstanding any other  
 17 provision of law, on request of a State and in lieu of  
 18 any payments to the State under subsection (a), the  
 19 Secretary of the Interior shall convey to the State all  
 20 right, title, and interest in and to the percentage spec-  
 21 ified in that subsection for that State that would oth-  
 22 erwise be required to be paid into the Treasury under  
 23 that subsection.

24 “(2) *AMOUNT.*—Notwithstanding any other pro-  
 25 vision of law, after a conveyance to a State under  
 26 paragraph (1), any person shall pay directly to the

1     *State any amount owed by the person for which the*  
 2     *right, title, and interest has been conveyed to the*  
 3     *State under this subsection.*

4             “(3) *NOTICE.*—*The Secretary of the Interior*  
 5     *shall promptly provide to each holder of a lease of*  
 6     *public land to which subsection (a) applies that is lo-*  
 7     *cated in a State to which right, title, and interest is*  
 8     *conveyed under this subsection notice that—*

9             “(A) *the Secretary of the Interior has con-*  
 10     *veyed to the State all right, title, and interest in*  
 11     *and to the amounts referred to in paragraph (1);*  
 12     *and*

13             “(B) *the leaseholder is required to pay the*  
 14     *amounts directly to the State.*

15             “(4) *REPORT.*—*A State that has received a con-*  
 16     *veyance under this subsection shall report monthly to*  
 17     *the Office of Natural Resources Revenue of the De-*  
 18     *partment of the Interior the amount paid to such*  
 19     *State pursuant to this subsection.*

20             “(5) *APPLICATION WITH RESPECT TO FOGRMA.*—  
 21     *With respect to the interest conveyed to a State under*  
 22     *this subsection from sales, bonuses, royalties (includ-*  
 23     *ing interest charges), and rentals collected under the*  
 24     *Federal Oil and Gas Royalty Management Act of*  
 25     *1983 (30 U.S.C. 1701 et seq.), this subsection shall*

1        *only apply with respect to States for which the Sec-*  
 2        *retary has delegated any authority under section*  
 3        *44(a)(1).”.*

4        (b) *ADMINISTRATIVE COSTS.*—Section 35(b) of the  
 5        *Mineral Leasing Act (30 U.S.C. 191(b)) is amended by*  
 6        *striking “In determining” and inserting “Except with re-*  
 7        *spect to States for which the Secretary has delegated any*  
 8        *authority under section 44(a)(1), in determining”.*

9        (c) *CONFORMING AMENDMENT.*—Section 205(f) of the  
 10        *Federal Oil and Gas Royalty Management Act of 1982 (30*  
 11        *U.S.C. 1735(f)) is amended by striking “All” in the seventh*  
 12        *sentence and inserting “Subject to subsection (e) of section*  
 13        *35 of the Mineral Leasing Act (30 U.S.C. 191), all”.*

14        **SEC. 204. PERMITTING ON NON-FEDERAL SURFACE ESTATE.**

15        *The Mineral Leasing Act (30 U.S.C. 181 et seq.) is*  
 16        *amended by inserting after section 44 (as added by section*  
 17        *202(a)(2)) the following:*

18        **“SEC. 45. PERMITTING ON NON-FEDERAL SURFACE ESTATE.**

19        *“(a) PERMITS NOT REQUIRED FOR CERTAIN ACTIVI-*  
 20        *TIES ON NON-FEDERAL SURFACE ESTATE.*—*The following*  
 21        *activities conducted on non-Federal surface estate shall not*  
 22        *require a Bureau of Land Management drilling permit*  
 23        *under the Federal Oil and Gas Royalty Management Act*  
 24        *of 1982 (30 U.S.C. 1701 et seq.) or section 3164.1 of title*  
 25        *43, Code of Federal Regulations (or successor regulation)*

1 *and shall not be considered a major Federal action under*  
2 *the National Environmental Policy Act of 1969 (42 U.S.C.*  
3 *4321 et seq.):*

4           “(1) *Oil and gas operations for the exploration*  
5 *for or development or production of oil and gas in a*  
6 *lease or unit or communitization agreement in which*  
7 *the United States holds a mineral ownership interest*  
8 *of 50 percent or less.*

9           “(2) *Oil and gas operations that may have po-*  
10 *tential drainage impacts, as determined by the Bu-*  
11 *reau of Land Management, on oil and gas in which*  
12 *the United States holds a mineral ownership interest.*

13           “(b) *DOI NOTIFICATION.—The Secretary of the Inte-*  
14 *rior shall provide to each State a map or list indicating*  
15 *Federal mineral ownership within that State.*

16           “(c) *STATE NOTIFICATION.—Each State that has*  
17 *issued an APD or approved a drilling plan that would im-*  
18 *pact or extract oil and gas owned by the United States shall*  
19 *notify the Secretary of the Interior within 7 days of issuing*  
20 *an APD.*

21           “(d) *ROYALTIES.—Nothing in this section shall affect*  
22 *the amount of royalties due to the United States under this*  
23 *Act from the production of oil and gas or alter the Sec-*  
24 *retary’s authority to conduct audits and collect civil pen-*

1 *alties pursuant to the Federal Oil and Gas Royalty Man-*  
 2 *agement Act of 1982 (30 U.S.C. 1711 et seq.).*

3 “(e) *APPLICATION.—This section shall only apply with*  
 4 *respect to States for which the Secretary has delegated any*  
 5 *authority under section 44(a)(1).”.*

6 **SEC. 205. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**  
 7 **FRACTURING REGULATION.**

8 *The Mineral Leasing Act (30 U.S.C. 181 et seq.) is*  
 9 *amended by inserting after section 45 (as added by section*  
 10 *204) the following:*

11 **“SEC. 46. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**  
 12 **FRACTURING REGULATION.**

13 “(a) *IN GENERAL.—The Secretary of the Interior shall*  
 14 *not enforce any Federal regulation, guidance, or permit re-*  
 15 *quirement regarding hydraulic fracturing relating to oil,*  
 16 *gas, or geothermal production activities on or under any*  
 17 *land in any State that has regulations, guidance, or permit*  
 18 *requirements for that activity.*

19 “(b) *STATE AUTHORITY.—The Secretary of the Inte-*  
 20 *rior shall defer to State regulations, guidance, and permit*  
 21 *requirements for all activities regarding hydraulic frac-*  
 22 *turing relating to oil, gas, or geothermal production activi-*  
 23 *ties on Federal land.*

24 “(c) *TRANSPARENCY OF STATE REGULATIONS.—*

1           “(1) *IN GENERAL.*—Each State shall submit to  
2           the Bureau of Land Management a copy of the regu-  
3           lations of such State that apply to hydraulic frac-  
4           turing operations on Federal land, including those  
5           that require disclosure of chemicals used in hydraulic  
6           fracturing operations.

7           “(2) *AVAILABILITY.*—The Secretary of the Inte-  
8           rior shall make available to the public on the website  
9           of the Secretary the regulations submitted under  
10          paragraph (1).

11          “(d) *TRIBAL AUTHORITY ON TRUST LAND.*—The Sec-  
12         retary of the Interior shall not enforce any Federal regula-  
13         tion, guidance, or permit requirement with respect to hy-  
14         draulic fracturing on any land held in trust or restricted  
15         status for the benefit of a federally recognized Indian Tribe  
16         or a member of such an Indian Tribe, except with the ex-  
17         press consent of the beneficiary on whose behalf such land  
18         is held in trust or restricted status.

19          “(e) *HYDRAULIC FRACTURING DEFINED.*—In this sec-  
20         tion the term ‘hydraulic fracturing’ means the process of  
21         creating small cracks, or fractures, in underground geologi-  
22         cal formations for well stimulation purposes of bringing hy-  
23         drocarbons into the wellbore and to the surface for cap-  
24         ture.”.

1 **SEC. 206. REVIEW OF INTEGRATED ACTIVITY PLAN FOR THE**  
2 **NATIONAL PETROLEUM RESERVE IN ALASKA.**

3 *The Secretary of the Interior shall—*

4 *(1) conduct a review of the National Petroleum*  
5 *Reserve–Alaska Final Integrated Activity Plan/Envi-*  
6 *ronmental Impact Statement, for which notice of*  
7 *availability was published in the Federal Register on*  
8 *December 28, 2012 (77 Fed. Reg. 76515), to deter-*  
9 *mine which lands within the National Petroleum Re-*  
10 *serve in Alaska should be made available for oil and*  
11 *gas leasing; and*

12 *(2) make available the lands described in para-*  
13 *graph (1) for oil and gas leasing.*

14 **SEC. 207. PROTESTED LEASE SALES.**

15 *Section 17(b)(1)(A) of the Mineral Leasing Act (30*  
16 *U.S.C. 226(b)(1)(A)) is amended by inserting “The Sec-*  
17 *retary shall resolve any protest to a lease sale within 60*  
18 *days following such payment.” after “annual rental for the*  
19 *first lease year.”.*

20 **SEC. 208. CLARIFICATION REGARDING LIABILITY UNDER**  
21 **MIGRATORY BIRD TREATY ACT.**

22 *Section 6 of the Migratory Bird Treaty Act (16 U.S.C.*  
23 *707) is amended by adding at the end the following:*

24 *“(e) This Act shall not be construed to prohibit any*  
25 *activity proscribed by section 2 of this Act that is accidental*

- 1 *or incidental to the presence or operation of an otherwise*
- 2 *lawful activity.”.*



Union Calendar No. 781

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 4239**

[Report No. 115-1000]

**A BILL**

To distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal States, to require sale of approved offshore oil and gas leases, to promote offshore wind lease sales, and to empower States to manage the development and production of oil and gas on available Federal land, and for other purposes.

NOVEMBER 2, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed